

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-413
SENATE BILL 1149**

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.
- (8) 'Incremental fuel cost' means the difference in cost between an alternative fuel and conventional petroleum fuel at the time the fuel is purchased.
- (9) 'Incremental vehicle cost' means the difference in cost between an AFV and conventional vehicle of the same make and model. For vehicles with no comparable conventional model, incremental vehicle cost means the generally accepted difference in cost between an AFV and a similar conventional model.

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

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

"§ 143-58.5. Alternative Fuel Revolving Fund.

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

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

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

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

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

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

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

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

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

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

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

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

2a. To participate in the energy credit banking and selling program under G.S. 143-58.4. The Division of Motor Fleet Management of the Department of Administration is eligible to receive proceeds from the Alternative Fuel Revolving Fund under G.S. 143-58.5 to purchase alternative fuel, develop alternative fuel refueling

infrastructure, or purchase AFVs as defined in G.S. 143-58.4.

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

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

- (6) Renewable biomass resources. – Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, spent pulping liquor, landfill wastes, and animal wastes.
- (7) Renewable energy property. – Any of the following machinery and equipment or real property:
 - a. Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical ~~generation from renewable energy crops or wood waste materials generation~~. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.
 - b. Hydroelectric generators located at existing dams or in free-flowing waterways, and related devices for water supply and control, and converting, conditioning, and storing the electricity generated.
 - c. Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.
 - d. Wind equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity produced.

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

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

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

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

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

- (1) Nonresidential Property. – A ceiling of two ~~hundred fifty million five hundred thousand~~ hundred thousand dollars ~~(\$250,000)~~ (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential.
- (2) Residential Property. – The following ceilings apply to renewable energy property placed in service for residential purposes:
 - a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar energy equipment for domestic water ~~heating~~ heating, including pool heating.
 - b. Three thousand five hundred dollars (\$3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.
 - c. Ten thousand five hundred dollars (\$10,500) per installation for any other renewable energy property for residential purposes.

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

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

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

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

SECTION 8. G.S. 105-129.16C is amended by adding a new subsection to

read:

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

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

In the General Assembly read three times and ratified this the 24th day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:26 p.m. this 20th day of September, 2005