

## CHAPTER 32

### CHAPTER 32, LAWS 2002

#### AN ACT

RELATING TO ENERGY; AMENDING THE DEFINITION OF ALTERNATIVE FUEL; REQUIRING STATE AGENCIES AND EDUCATIONAL INSTITUTIONS TO ACQUIRE VEHICLES CAPABLE OF OPERATING ON ALTERNATIVE FUEL; REQUIRING REPORTING OF ALTERNATIVE FUEL VEHICLE ACQUISITIONS BY STATE AGENCIES; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-188 NMSA 1978 (being Laws 1984, Chapter 65, Section 161) is amended to read:

"13-1-188. PUBLIC ACQUISITION OF AMERICAN-MADE MOTOR VEHICLES REQUIRED.--A state agency shall only acquire motor vehicles assembled in North America except for gas-electric hybrid vehicles until these vehicles are assembled in North America. For the purposes of this section, "motor vehicle" means a light duty vehicle under 8,500 pounds."

Section 2. Section 13-1B-1 NMSA 1978 (being Laws 1992, Chapter 58, Section 1) is amended to read:

"13-1B-1. SHORT TITLE.--Chapter 13, Article 1B NMSA 1978 may be cited as the "Alternative Fuel Acquisition Act"."

Section 3. Section 13-1B-2 NMSA 1978 (being Laws 1992, Chapter 58, Section 2, as amended) is amended to read:

"13-1B-2. DEFINITIONS.--As used in the Alternative Fuel Acquisition Act:

A. "alternative fuel" means natural gas, liquefied petroleum gas, electricity, hydrogen, a fuel mixture containing not less than eighty-five percent ethanol or methanol, a fuel mixture containing not less than twenty percent vegetable oil or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion;

B. "conventional fuel" means gasoline or diesel fuel;

C. "department" means the energy, minerals and natural resources department;

D. "fund" means the alternative fuel acquisition loan fund;

E. "political subdivision" means a county, municipality or school district; and

F. "vehicle" means a light duty vehicle under 8,500 pounds."

Section 4. Section 13-1B-3 NMSA 1978 (being Laws 1992, Chapter 58, Section 3, as amended) is amended to read:

"13-1B-3. ACQUISITION OF VEHICLES--EXEMPTIONS.--

A. Seventy-five percent of vehicles acquired in fiscal year 2003 and each fiscal year thereafter by the agencies and departments of state government and educational institutions shall be vehicles that are capable of operating on alternative fuel or are gas-electric hybrid vehicles. Vehicles capable of operating on alternative fuel may have either bi-fuel capability or dedicated engine configurations.

B. Certified law enforcement pursuit vehicles and emergency vehicles are exempt from the provisions of the Alternative Fuel Acquisition Act. The department may exempt additional vehicles from the requirements of Subsection A of this section upon demonstration by the acquiring entity that:

(1) alternative fuels are unavailable at a cost within fifteen percent of the cost of conventional fuel within the normal driving range of these vehicles; or

(2) a vehicle suitable for its intended use and capable of operating on alternative fuel or a gas-electric hybrid is not available from an original equipment manufacturer.

C. Equipment and installation procedures shall conform to all applicable state and federal safety and environmental regulations and standards.

D. The agencies and departments of state government, political subdivisions and educational institutions may submit loan applications to the department to acquire loans to facilitate the acquisition of their vehicles.

E. Agencies and departments of state government and educational institutions shall provide to the department by September 1, 2003 and by September 1 of each year thereafter the total number of vehicles acquired in the preceding fiscal year, the number of those vehicles that are capable of operating on alternative fuel or that are gas-electric hybrid vehicles and the make, model and fuel

type of each of the alternative fuel or gas-electric hybrid vehicles."

Section 5. Section 13-1B-4 NMSA 1978 (being Laws 1992, Chapter 58, Section 4) is amended to read:

"13-1B-4. REVOLVING LOAN FUND CREATED--  
ADMINISTRATION.--

A. The "alternative fuel acquisition loan fund" is created in the state treasury as a revolving loan fund. The department shall administer the fund and make loans from the fund in accordance with the Alternative Fuel Acquisition Act.

B. The fund shall consist of earnings on balances in the fund, receipts from the repayment of loans made pursuant to the Alternative Fuel Acquisition Act and appropriations made by the legislature.

C. The fund balance shall not exceed five million dollars (\$5,000,000), and any balance in the fund of five million dollars (\$5,000,000) or less shall not revert to the general fund at the end of any fiscal year. Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at five million dollars (\$5,000,000) shall be deposited in the general fund.

D. Administrative costs of the fund shall be paid by the department until interest revenues in the fund are sufficient to cover administrative costs, at which time administrative costs may be paid from the fund.

E. Expenditures from the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan. The original loan documents shall be filed with the department of finance and administration, and a copy shall be filed with the department."

Section 6. Section 13-1B-5 NMSA 1978 (being Laws 1992, Chapter 58, Section 5, as amended) is amended to read:

"13-1B-5. REVOLVING LOAN FUND--LOANS MADE FROM THE  
FUND.--

A. Money available in the fund may be loaned by the department to reimburse the expenses incurred in acquiring vehicles of the agencies and departments of state government, political subdivisions and educational institutions from gasoline to alternative fuel.

B. A state agency or department, a political subdivision or an educational institution to which a loan is made shall demonstrate the ability to pay back the loan

within seven years of the date that its vehicles are acquired.

C. The maximum amount loaned to acquire a vehicle shall not exceed the actual cost of acquiring the vehicle or three thousand dollars (\$3,000), whichever is less."

Section 7. Section 13-1B-6 NMSA 1978 (being Laws 1992, Chapter 58, Section 6, as amended) is amended to read:

"13-1B-6. LOAN PROGRAM--DUTIES OF THE DEPARTMENT.--

A. The department shall:

(1) administer the provisions of the Alternative Fuel Acquisition Act, except that the provisions of Section 13-1B-3 NMSA 1978 shall be administered by the commission on higher education and the state department of public education for their respective programs;

(2) establish a program to make loans to the agencies and departments of state government, political subdivisions and educational institutions, individually or jointly, to facilitate the acquisition of vehicles of the agencies and departments of state government, political subdivisions and educational institutions in accordance with the Alternative Fuel Acquisition Act;

(3) review, evaluate and approve or reject all loan applications submitted to obtain loans from the fund;

(4) submit an annual report to the governor and the legislature evaluating the status and the effectiveness of the Alternative Fuel Acquisition Act; and

(5) have an annual audit performed on the administration of the fund.

B. The department shall adopt rules and regulations necessary to carry out the purposes of the Alternative Fuel Acquisition Act, including rules and regulations governing:

(1) the procedures and format for submitting loan applications to the department to obtain a loan from the fund;

(2) the criteria to review, evaluate and approve loan applications;

(3) the procedure to determine the distribution of money in the fund; and

(4) the procedure to determine and notify an applicant of the progress on a loan application."

Section 8. Section 13-1B-7 NMSA 1978 (being Laws 1992, Chapter 58, Section 7) is amended to read:

"13-1B-7. REPAYMENT OF LOANS TO THE FUND.--

A. When developing the repayment schedule for loans from the fund, the department shall consider the projected savings from alternative fuel.

B. The department of finance and administration shall collect and account for the loans made from the fund, and it shall have custody of all of the original loan documents, including all notes and contracts evidencing the amounts owed to the fund.

C. Loans shall be made for a period of time not to exceed seven years, with an annual interest rate of five percent. A loan shall be repaid in equal annual installments, with the first annual installment due within one year of the date on which the loan is issued.

D. Loans shall be made only for eligible items."

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2002.

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SENATE BILL 18, AS AMENDED