

CLEAN AIR PROGRAMS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies Title 19, Environmental Quality Code, by modifying the Clean Fuels and Vehicle Technology Program Act and enacting the Clean Air Retrofit, Replacement, and Off-road Technology Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends definitions;
- ▶ modifies the process for the Department of Environmental Quality to make a loan or grant from the Clean Fuels and Vehicle Technology Program, including:
 - allowing electric-hybrids to be eligible for the program; and
 - removing the state match requirements for a grant for refueling infrastructure;
- ▶ describes the requirements for receiving a grant from the Division of Air Quality;
- ▶ authorizes the Air Quality Board to make rules; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology, as ~~an ongoing~~ a one-time appropriation:
 - from the General Fund, \$200,000.



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **19-1-402**, as last amended by Laws of Utah 2006, Chapter 13633 **19-1-403**, as last amended by Laws of Utah 2011, Chapter 30334 **19-1-404**, as last amended by Laws of Utah 2008, Chapter 38235 **19-1-405**, as last amended by Laws of Utah 2008, Chapter 382

36 ENACTS:

37 **19-2-201**, Utah Code Annotated 195338 **19-2-202**, Utah Code Annotated 195339 **19-2-203**, Utah Code Annotated 195340 **19-2-204**, Utah Code Annotated 195342 *Be it enacted by the Legislature of the state of Utah:*43 Section 1. Section **19-1-402** is amended to read:44 **19-1-402. Definitions.**

45 As used in this part:

46 (1) "Clean fuel" means:

47 (a) propane, natural gas, or electricity; or48 ~~[(b) other fuel the Air Quality Board certifies, as authorized by Subsection~~49 ~~**19-1-405**(1)(d), to be at least as effective in reducing air pollution as fuels under Subsection~~
50 ~~**(1)(a); or**~~51 ~~[(c)]~~ (b) other fuel that meets the clean fuel vehicle standards in the federal Clean Air
52 Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.53 (2) "Clean ~~fuel~~ vehicle" means a vehicle that:54 (a) uses a clean fuel; ~~[and]~~ or55 ~~[(b) meets clean fuel vehicle standards in the federal Clean Air Act Amendments of~~
56 ~~1990, 42 U.S.C. Sec. 7521 et seq.]~~57 (b) is an electric-hybrid vehicle.

58 (3) "Electric-hybrid vehicle" means a vehicle:

(a) primarily powered by an electric motor that draws current from:

(i) rechargeable storage batteries;

(ii) fuel cells; or

(iii) other sources of electric current; and

(b) that also operates on or is capable of operating on a nonelectrical source of power.

~~[(4) "Fuel system" means tanks, pumps, hoses, injectors, electronic controls, and related components that deliver fuel or energy or both to a motor used to propel a vehicle.]~~

~~[(5)]~~ (4) "Fund" means the Clean Fuels and Vehicle Technology Fund created in Section ~~19-1-403~~.

~~[(6)]~~ (5) (a) "Government vehicle" means a motor vehicle:

(i) registered in Utah; and

(ii) owned and operated by:

(A) the state;

(B) a public trust authority;

(C) a school district;

(D) a county; or

(E) a municipality.

(b) "Government vehicle" includes a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

~~[(7)]~~ (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.

~~[(8)]~~ (7) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor ~~[to use a clean fuel]~~ as a clean vehicle.

~~[(9)]~~ (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.

~~[(10)]~~ (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.

~~[(11)]~~ "Retrofit" means conversion or augmentation of an existing motor, fuel system, exhaust system, or related components to systems that lead to a reduction in air pollution.]

Section 2. Section **19-1-403** is amended to read:

19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or grants made with fund money.

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

(b) The fund consists of:

(i) appropriations to the fund;

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

(iii) interest earnings on cash balances; and

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

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

(2) (a) ~~[Except as provided in Subsection (3), the]~~ The department may make a loan or a grant with money available in the fund for:

(i) the conversion of a private sector business vehicle or a government vehicle to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); or

(ii) the purchase of~~[(A)]~~ an OEM vehicle for use as a private sector business vehicle or government vehicle~~[-or]~~.

~~[(B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for use as a private sector business vehicle or government vehicle;]~~

~~[(iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of a private sector business vehicle or government vehicle;]~~

~~[(iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for a private sector business vehicle or government vehicle; or]~~

~~[(v) a state match of a federal or nonfederal grant for any item under this Subsection (2)(a);]~~

(b) The amount of a loan for any vehicle under Subsection (2)(a)~~[(i) or (2)(a)(ii)(A)]~~ 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 under Subsection (2)(a)~~[(i) or (2)(a)(ii)(A)]~~ 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 59-10-1009 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 59-10-1009 for the vehicle for which a grant is requested.

~~(d) (i) [Except as provided in Subsection (3) and subject]~~ Subject to the availability of money in the fund, the department may make a loan or grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.

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

~~[(iii) Except as provided in Subsection (3) and subject to the availability of money in the fund, the department may make a grant for a state match of a federal or nonfederal grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.]~~

~~[(3) The department may not make a loan or grant under this part for an electric-hybrid vehicle.]~~

~~[(4)]~~ (3) The department may:

(a) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504; and

~~[(a)]~~ (b) reimburse itself for the costs incurred in administering the fund from:

(i) the fund; or

(ii) application fees[, and] established under Subsection (3)(a).

~~[(b) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504.]~~

~~[(5)]~~ (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.

~~[(6)]~~ (5) (a) Loans made from money 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 3. Section **19-1-404** is amended to read:

19-1-404. Department duties -- Rulemaking -- Loan repayment.

(1) The department shall:

(a) administer the fund created in Section [19-1-403](#) to encourage government officials and private sector business vehicle owners and operators to obtain and use clean fuel vehicles; and

(b) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(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 [59-10-1009](#) 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 a vehicle converted or purchased with loan or grant proceeds; and

(E) submit a vehicle 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[; and].

~~[(viii) specifying the criteria for awarding a state match under Subsection 19-1-403(2).]~~

(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 10 years.

(c) The department shall make a loan from the fund for a private sector vehicle 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) The department shall make a loan from the fund for a government vehicle with no interest rate.

(3) The Division of Finance shall:

(a) collect and account for the loans; and

(b) have custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

Section 4. Section **19-1-405** is amended to read:

19-1-405. Air Quality Board duties -- Rulemaking.

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Air Quality Board may make rules to:

(a) certify a motor vehicle on which conversion equipment has been installed if:

(i) before the installation of conversion equipment, the motor vehicle does not exceed the emission cut points for:

(A) a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S;

or

(B) an equivalent test for the make, model, and year of the motor vehicle; and

(ii) 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;

(b) recognize a test or standard that demonstrates a reduction in emissions; or

(c) recognize a certification standard from another state[;].

~~[(d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection 19-1-402(2); or]~~

~~[(e) establish criteria for determining the effectiveness of a fuel, vehicle, retrofit, or fuel system in reducing air pollution.]~~

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

(a) 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;

(b) 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

(c) any other test or standard recognized by the Air Quality Board in rule.

Section 5. Section 19-2-201 is enacted to read:

Part 2. Clean Air Retrofit, Replacement, and Off-road Technology Program

19-2-201. Title.

This part is known as the "Clean Air Retrofit, Replacement, and Off-road Technology Program."

Section 6. Section 19-2-202 is enacted to read:

19-2-202. Definitions.

As used in this part:

(1) "Board" means the Air Quality Board.

(2) "Certified" means certified by the United States Environmental Protection Agency or the California Air Resources Board to meet appropriate emission standards.

(3) "Cost" means the total reasonable cost of a project eligible for a grant under the fund, including the cost of labor.

(4) "Director" means the director of the Division of Air Quality.

(5) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

245 (6) "Eligible equipment" means equipment with engines, including stationary
246 generators and pumps, operated and, if applicable, permitted in Utah.

247 (7) "Eligible vehicle" means a vehicle operated and, if applicable, registered in Utah
248 that is:

249 (a) a medium-duty or heavy-duty transit bus;

250 (b) a school bus as defined in Subsection [53-3-102\(33\)](#);

251 (c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least
252 16,001 GVWR;

253 (d) a locomotive; or

254 (e) another type of vehicle identified by the board in rule as being a significant
255 potential source of air pollution, as defined in Subsection [19-2-102\(3\)](#).

256 (8) "Verified" means verified by the United States Environmental Protection Agency or
257 the California Air Resources Board to reduce air emissions and meet durability requirements.

258 Section 7. Section **19-2-203** is enacted to read:

259 **19-2-203. Grants and programs -- Conditions.**

260 (1) The director may make grants for implementing:

261 (a) verified technologies for eligible vehicles or equipment; and

262 (b) certified vehicles, engines, or equipment.

263 (2) (a) The division may develop programs, including exchange, rebate, or low-cost
264 purchase programs, to encourage replacement of:

265 (i) landscaping and maintenance equipment with equipment that is lower in emissions;

266 and

267 (ii) other equipment or products identified by the board in rule as being a significant
268 potential source of air pollution, as defined in Subsection [19-2-102\(3\)](#).

269 (b) The division may enter into agreements with local health departments to administer
270 the programs described in Subsection (2)(a).

271 (3) As a condition for receiving the grant, a person receiving a grant under Subsection
272 (1) or receiving a grant under this Subsection (3) shall agree to:

273 (a) provide information to the division about the vehicles, equipment, or technology
274 acquired with the grant proceeds;

275 (b) allow inspections by the division to ensure compliance with the terms of the grant;

(c) permanently disable replaced vehicles, engines, and equipment from use; and

(d) comply with the conditions for the grant.

(4) Grants and programs under Subsections (1) and (2) may be administered using a rebate program.

(5) Grants issued under this section may not exceed the actual cost of the project.

Section 8. Section **19-2-204** is enacted to read:

19-2-204. Duties and authorities -- Rulemaking.

(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) specifying the amount of money to be dedicated annually for grants;

(b) specifying criteria the director shall consider in prioritizing and awarding grants, including:

(i) a preference for awarding a grant to an individual who has already secured some other source of funding; and

(ii) a limitation on the types of vehicles that are eligible for funds;

(c) specifying the terms of a grant or exchange under Subsections [19-2-203](#)(2), (3), and (4);

(d) specifying the procedures to be used in the grant and exchange programs authorized in Subsections [19-2-203](#)(2), (3), and (5); and

(e) requiring all grant applicants to apply on forms provided by the division.

(2) The division shall:

(a) administer funds to encourage vehicle and equipment owners and operators to reduce emissions from vehicles and equipment;

(b) provide forms for application for a grant or exchange under Subsection [19-2-203](#)(2) or (3); and

(c) provide information about which vehicles, engines, or equipment are certified and which technology is verified as provided in this part.

(3) The division may inspect vehicles, equipment, or technology for which a grant was made to ensure compliance with the terms of the grant.

Section 9. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the

307 following sums of money are appropriated from resources not otherwise appropriated, or
 308 reduced from amounts previously appropriated, out of the funds or fund accounts indicated for
 309 the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are in addition to
 310 amounts previously appropriated for fiscal year 2015.

311 To the Department of Environmental Quality - Clean Air Retrofit, Replacement, and
 312 Off-road Technology

313 From General Fund \$→ , One-time ←\$ \$200,000

314 Schedule of Programs:

315 Clean Air Retrofit, Replacement, and

316 Off-road Technology \$200,000

317 The Legislature intends that the appropriation under this section is ongoing, subject to
 318 availability of funds, for fiscal years 2015, 2016, and 2017, to be used by the Division of Air
 319 Quality to provide grants for clean air projects, consistent with Title 19, Chapter 2, Part 2,
 320 Clean Air Retrofit, Replacement, and Off-road Technology Program.

Legislative Review Note
 as of 1-16-14 1:03 PM

Office of Legislative Research and General Counsel