

**AIR QUALITY INCENTIVES**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: V. Lowry Snow

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**LONG TITLE**

**General Description:**

This bill authorizes the use of funds from the Industrial Assistance Account to help a company purchase and install air quality control technology.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ describes the requirements for an entity located in the nonattainment area to qualify for financial assistance for expenses related to the purchase and installation of best available control technology for air quality; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63N-3-102**, as last amended by Laws of Utah 2015, Chapter 115 and renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-3-105**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-3-106**, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

**63N-3-109.5**, Utah Code Annotated 1953

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31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **63N-3-102** is amended to read:33 **63N-3-102. Definitions.**

34 As used in this part:

35 (1) "Administrator" means the executive director or the executive director's designee.

36 (2) "Best available control technology" means a pollution control method that is37 approved by the United States Environmental Protection Agency or the Department of38 Environmental Quality to control a certain pollutant type to a specified degree.39 [~~2~~] (3) "Company creating an economic impediment" means a company that

40 discourages economic development within a reasonable radius of its location because of:

41 (a) odors;

42 (b) noise;

43 (c) pollution;

44 (d) health hazards; or

45 (e) other activities similar to those described in Subsections [~~2~~] (3)(a) through (d).46 [~~3~~] (4) "Economic opportunities" means unique business situations or community

47 circumstances, including the development of recreation infrastructure, which lend themselves

48 to the furtherance of the economic interests of the state by providing a catalyst or stimulus to

49 the growth or retention, or both, of commerce and industry in the state, including retention of

50 companies whose relocation outside the state would have a significant detrimental economic

51 impact on the state as a whole, regions of the state, or specific components of the state as

52 determined by the board.

53 [~~4~~] (5) "Economically disadvantaged rural area" means a geographic area designated54 by the board under Section [63N-3-111](#).55 (6) "Nonattainment area" means a part of the state where air quality is determined to56 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act57 Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

58           ~~[(5)]~~ (7) "Replacement company" means a company locating its business or part of its  
59 business in a location vacated by a company creating an economic impediment.

60           ~~[(6)]~~ (8) "Restricted Account" means the restricted account known as the Industrial  
61 Assistance Account created in Section [63N-3-103](#).

62           ~~[(7)]~~ (9) "Targeted industry" means an industry or group of industries targeted by the  
63 board under Section [63N-3-111](#), for economic development in the state.

64           Section 2. Section [63N-3-105](#) is amended to read:

65           **[63N-3-105](#). Qualification for assistance.**

66           (1) Except as provided in Section [63N-3-108](#), [63N-3-109](#), [63N-3-109.5](#), or [63N-3-110](#),  
67 the administrator shall determine which industries, companies, and individuals qualify to  
68 receive money from the Industrial Assistance Account. Except as provided by Subsection (2),  
69 to qualify for financial assistance from the restricted account, an applicant shall:

70           (a) demonstrate to the satisfaction of the administrator that the applicant will expend  
71 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount  
72 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per  
73 year or other more stringent requirements as established from time to time by the board for a  
74 minimum period of five years beginning with the date the loan or grant was approved;

75           (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain  
76 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the  
77 loan provided by the restricted account; and

78           (c) satisfy other criteria the administrator considers appropriate.

79           (2) (a) The administrator may exempt an applicant from the requirements of Subsection  
80 (1)(a) or (b) if:

81           (i) the financial assistance is provided to an applicant for the purpose of locating all or  
82 any portion of its operations to an economically disadvantaged rural area;

83           (ii) the applicant is part of a targeted industry;

84           (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,  
85 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations

86 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide  
87 significant economic stimulus to the growth of commerce and industry in the state; or

88 (iv) the applicant is an entity offering an economic opportunity under Section  
89 63N-3-109.

90 (b) The administrator may not exempt the applicant from the requirement under  
91 Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the  
92 state equals at least the amount of the assistance together with an annual interest charge.

93 (3) The administrator shall:

94 (a) for applicants not described in Subsection (2)(a):

95 (i) make findings as to whether or not each applicant has satisfied each of the  
96 conditions set forth in Subsection (1); and

97 (ii) monitor the continued compliance by each applicant with each of the conditions set  
98 forth in Subsection (1) for five years;

99 (b) for applicants described in Subsection (2)(a), make findings as to whether the  
100 economic activities of each applicant has resulted in the creation of new jobs on a per capita  
101 basis in the economically disadvantaged rural area or targeted industry in which the applicant is  
102 located;

103 (c) monitor the compliance by each applicant with the provisions of any contract or  
104 agreement entered into between the applicant and the state as provided in Section 63N-3-107;  
105 and

106 (d) make funding decisions based upon appropriate findings and compliance.

107 Section 3. Section 63N-3-106 is amended to read:

108 **63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.**

109 (1) (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or  
110 other financial assistance from the Industrial Assistance Account for expenses related to  
111 establishment, relocation, or development of industry in Utah.

112 (b) A company creating an economic impediment that qualifies under Section  
113 63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance

114 from the restricted account for the expenses of the company creating an economic impediment  
115 related to:

116 (i) relocation to a rural area in Utah of the company creating an economic impediment;

117 and

118 (ii) the siting of a replacement company.

119 (c) An entity offering an economic opportunity that qualifies under Section 63N-3-109

120 may:

121 (i) receive loans, grants, or other financial assistance from the restricted account for  
122 expenses related to the establishment, relocation, retention, or development of industry in the  
123 state; and

124 (ii) include infrastructure or other economic development precursor activities that act  
125 as a catalyst and stimulus for economic activity likely to lead to the maintenance or  
126 enlargement of the state's tax base.

127 (d) An entity located in a nonattainment area that qualifies for assistance under Section  
128 63N-3-109.5 may receive loans, grants, or other financial assistance from the restricted account  
129 for expenses related to the purchase and installation of best available control technology for air  
130 quality, including related financing and interest costs at the discretion of the administrator.

131 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the  
132 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted  
133 account.

134 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment  
135 or return to the state, including cash or credit, equals at least the amount of the assistance  
136 together with an annual interest charge as negotiated by the administrator.

137 (c) Payments resulting from grants awarded from the restricted account shall be made  
138 only after the administrator has determined that the company has satisfied the conditions upon  
139 which the payment or earned credit was based.

140 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a  
141 system of earned credits that may be used to support grant payments or in lieu of cash

142 repayment of a restricted account loan obligation.

143 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors  
144 determined by the administrator, including:

145 (A) the number of Utah jobs created;

146 (B) the increased economic activity in Utah; or

147 (C) other events and activities that occur as a result of the restricted account assistance.

148 (b) (i) The administrator shall provide for a system of credits to be used to support  
149 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to  
150 a company creating an economic impediment.

151 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors  
152 determined by the administrator, including:

153 (A) the number of Utah jobs created;

154 (B) the increased economic activity in Utah; or

155 (C) other events and activities that occur as a result of the restricted account assistance.

156 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
157 assistance under this section, including interest, shall be deposited into the restricted account.

158 (b) The administrator and the Division of Finance shall determine the manner of  
159 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
160 grant payments as provided in Subsection (3).

161 (5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the  
162 balance of the General Fund revenue surplus as defined in Section [63J-1-312](#) after the transfers  
163 of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance  
164 Account in an amount equal to any credit that has accrued under this part.

165 (ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which  
166 time no subsequent contributions may be made and any interest accrued above the \$50,000,000  
167 cap shall be deposited into the General Fund.

168 (b) The set aside required by Subsection (5)(a) shall be made after the transfer of  
169 surplus General Fund revenue surplus is made:

170 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as  
171 provided in Section [63J-1-315](#);

172 (ii) to the General Fund Budget Reserve Account, as provided in Section [63J-1-312](#);  
173 and

174 (iii) to the State Disaster Recovery Restricted Account, as provided in Section  
175 [63J-1-314](#).

176 (c) These credit amounts may not be used for purposes of the restricted account as  
177 provided in this part until appropriated by the Legislature.

178 Section 4. Section **63N-3-109.5** is enacted to read:

179 **63N-3-109.5. Financial assistance to entities offering economic opportunities in**  
180 **the nonattainment area.**

181 (1) Subject to the duties and powers of the board under Section [63N-1-402](#), the  
182 administrator may provide money from the Industrial Assistance Account to an entity located  
183 in a nonattainment area to purchase and install best available control technology for air quality  
184 if that entity:

185 (a) applies to the administrator; and

186 (b) meets the conditions of Subsection (2).

187 (2) An entity applicant shall:

188 (a) demonstrate to the satisfaction of the administrator that the purchase and  
189 installation of the best available control technology for air quality will result in new jobs with  
190 wages that exceed 110% of the county median wage of the county in which the entity is  
191 located;

192 (b) demonstrate that the applicant does not currently qualify for another grant program:

193 (i) for a small business; or

194 (ii) that would cover the cost of the equipment to be purchased and installed with funds  
195 provided under this section;

196 (c) provide satisfactory documentation showing that the equipment to be purchased and  
197 installed with funds provided under this section meets design requirements corresponding to

198 the best available control technology for the relevant emissions profile of the applicant; and

199 (d) satisfy other criteria the administrator considers appropriate.

200 (3) Subject to the duties and powers of the board under Section [63N-1-402](#), the

201 administrator shall:

202 (a) make findings as to whether an applicant has satisfied each of the conditions set  
203 forth in Subsection (2);

204 (b) establish benchmarks and time frames in which progress toward the completion of  
205 the agreed upon activity is to occur;

206 (c) monitor compliance by an applicant with any contract or agreement entered into by  
207 the applicant and the state as provided by Section [63N-3-107](#);

208 (d) make funding decisions based upon appropriate findings and compliance; and

209 (e) consult with the Department of Environmental Quality, created in Section  
210 [19-1-104](#), to determine whether the applicant has satisfied the conditions set forth in  
211 Subsection (2).