

CLEAN AIR FUNDS

2014 GENERAL SESSION

STATE OF UTAH

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 Fund Act.

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;
- ▶ enacts the Clean Air Retrofit, Replacement, and Off-road Technology Fund Act;
- ▶ creates the Clean Air Retrofit, Replacement, and Off-road Technology Fund;
- ▶ authorizes the Division of Air Quality to accept contributions from public and private sources to deposit into the Clean Air Retrofit, Replacement, and Off-road Technology Fund;
- ▶ describes the requirements for receiving a grant from the Clean Air Retrofit, Replacement, and Off-road Technology Fund;
- ▶ authorizes the Air Quality Board to make rules regarding the Clean Air Retrofit, Replacement, and Off-road Technology Fund; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates:

- ▶ to the Clean Air Retrofit, Replacement, and Off-road Technology Fund, as an ongoing appropriation for fiscal year 2014-2015:
 - \$200,000.

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **19-1-402**, as last amended by Laws of Utah 2006, Chapter 13638 **19-1-403**, as last amended by Laws of Utah 2011, Chapter 30339 **19-1-404**, as last amended by Laws of Utah 2008, Chapter 38240 **19-1-405**, as last amended by Laws of Utah 2008, Chapter 382

41 ENACTS:

42 **19-2-201**, Utah Code Annotated 195343 **19-2-202**, Utah Code Annotated 195344 **19-2-203**, Utah Code Annotated 195345 **19-2-204**, Utah Code Annotated 1953

46

47 *Be it enacted by the Legislature of the state of Utah:*48 Section 1. Section **19-1-402** is amended to read:49 **19-1-402. Definitions.**

50 As used in this part:

51 (1) "Clean fuel" means:

52 (a) propane, natural gas, or electricity; or53 ~~[(b) other fuel the Air Quality Board certifies, as authorized by Subsection~~54 ~~19-1-405(1)(d), to be at least as effective in reducing air pollution as fuels under Subsection~~55 ~~(1)(a); or]~~56 ~~[(c)]~~ (b) other fuel that meets the clean fuel vehicle standards in the federal Clean Air

57 Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

58 (2) "Clean [~~fuel~~] vehicle" means a vehicle that:59 (a) uses a clean fuel; ~~[and]~~ or60 ~~[(b) meets clean fuel vehicle standards in the federal Clean Air Act Amendments of~~61 ~~1990, 42 U.S.C. Sec. 7521 et seq.]~~62 (b) is an electric-hybrid vehicle.

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

- 64 (a) primarily powered by an electric motor that draws current from:
65 (i) rechargeable storage batteries;
66 (ii) fuel cells; or
67 (iii) other sources of electric current; and
68 (b) also operates on or is capable of operating on a nonelectrical source of power.

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

71 ~~[(5)]~~ (4) "Fund" means the Clean Fuels and Vehicle Technology Fund created in
72 Section 19-1-403.

73 ~~[(6)]~~ (5) (a) "Government vehicle" means a motor vehicle:

- 74 (i) registered in Utah; and
75 (ii) owned and operated by:
76 (A) the state;
77 (B) a public trust authority;
78 (C) a school district;
79 (D) a county; or
80 (E) a municipality.

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

83 ~~[(7)]~~ (6) "Incremental cost" means the difference between the cost of the OEM vehicle
84 and the same vehicle model manufactured without the clean fuel fueling system.

85 ~~[(8)]~~ (7) "OEM vehicle" means a vehicle manufactured by the original vehicle
86 manufacturer or its contractor ~~[to use a clean fuel]~~ as a clean vehicle.

87 ~~[(9)]~~ (8) "Private sector business vehicle" means a motor vehicle registered in Utah that
88 is owned and operated solely in the conduct of a private business enterprise.

89 ~~[(10)]~~ (9) "Refueling equipment" means compressors when used separately,
90 compressors used in combination with cascade tanks, and other equipment that constitute a
91 central refueling system capable of dispensing vehicle fuel.

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

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

95 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**
 96 **grants made with fund money.**

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

99 (b) The fund consists of:

100 (i) appropriations to the fund;

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

102 (iii) interest earnings on cash balances; and

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

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

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

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

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

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

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

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

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

120 (b) The amount of a loan for any vehicle under Subsection (2)(a)[~~(i) or (2)(a)(ii)(A)~~]
 121 may not exceed:

122 (i) the actual cost of the vehicle conversion;

123 (ii) the incremental cost of purchasing the OEM vehicle; or

124 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental
 125 cost.

126 (c) The amount of a grant for any vehicle under Subsection (2)(a)[(i) or (2)(a)(ii)(A)]
 127 may not exceed:

128 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit
 129 claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested;
 130 or

131 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of
 132 any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant
 133 is requested.

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

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

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

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

145 [~~(4)~~] (3) The department may:

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

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

149 (i) the fund; or

150 (ii) application fees[~~;~~ and] established under Subsection (3)(a).

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

153 [~~(5)~~] (4) (a) The fund balance may not exceed \$10,000,000.

154 (b) Interest on cash balances and repayment of loans in excess of the amount necessary
 155 to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

156 [~~(6)~~] (5) (a) Loans made from money in the fund shall be supported by loan documents

157 evidencing the intent of the borrower to repay the loan.

158 (b) The original loan documents shall be filed with the Division of Finance and a copy
159 shall be filed with the department.

160 Section 3. Section **19-1-404** is amended to read:

161 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

162 (1) The department shall:

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

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

168 (i) specifying the amount of money in the fund to be dedicated annually for grants;

169 (ii) limiting the amount of a grant given to any person claiming a tax credit under
170 Section 59-7-605 or 59-10-1009 for the motor vehicle for which a grant is requested to assure
171 that the sum of the tax credit and grant does not exceed:

172 (A) 50% of the incremental cost of the OEM vehicle; or

173 (B) 50% of the cost of conversion equipment;

174 (iii) limiting the number of motor vehicles per fleet operator that may be eligible for a
175 grant in a year;

176 (iv) specifying criteria the department shall consider in prioritizing and awarding loans
177 and grants;

178 (v) specifying repayment periods;

179 (vi) specifying procedures for:

180 (A) awarding loans and grants; and

181 (B) collecting loans;

182 (vii) requiring all loan and grant applicants to:

183 (A) apply on forms provided by the department;

184 (B) agree in writing to use the clean fuel for which each vehicle is converted or
185 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
186 beginning from the time of conversion or purchase of the vehicle;

187 (C) agree in writing to notify the department if a vehicle converted or purchased using

188 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
189 pursue a remedy outlined in department rules;

190 (D) provide reasonable data to the department on a vehicle converted or purchased
191 with loan or grant proceeds; and

192 (E) submit a vehicle converted or purchased with loan or grant proceeds to inspections
193 by the department as required in department rules and as necessary for administration of the
194 loan and grant program; and

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

196 (2) (a) When developing repayment schedules for the loans, the department shall
197 consider the projected savings from use of the clean [~~fuel~~] vehicle.

198 (b) A repayment schedule may not exceed 10 years.

199 (c) The department shall make a loan from the fund for a private sector vehicle at an
200 interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as
201 determined the month immediately preceding the closing date of the loan.

202 (d) The department shall make a loan from the fund for a government vehicle with no
203 interest rate.

204 (3) The Division of Finance shall:

205 (a) collect and account for the loans; and

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

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

209 **19-1-405. Air Quality Board duties -- Rulemaking.**

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

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

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

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

216 or

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

218 (ii) the motor vehicle's emissions of regulated pollutants, when operating with clean

219 fuel, is less than the emissions were before the installation of conversion equipment;
 220 (b) recognize a test or standard that demonstrates a reduction in emissions; or
 221 (c) recognize a certification standard from another state[;].
 222 [~~(d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing~~
 223 ~~air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection~~
 224 ~~19-1-402(2); or]~~

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

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

228 (a) certification of the conversion equipment by the federal Environmental Protection
 229 Agency or by a state whose certification standards are recognized by the Air Quality Board;

230 (b) testing the motor vehicle, before and after the installation of the conversion
 231 equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use
 232 Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is
 233 capable of using; or

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

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

236 **Part 2. Clean Air Retrofit, Replacement, and Off-road Technology Fund Act**

237 **19-2-201. Title.**

238 This part is known as the "Clean Air Retrofit, Replacement, and Off-road Technology
 239 Fund Act."

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

241 **19-2-202. Definitions.**

242 As used in this part:

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

244 (2) "Certified" means certified by the U.S. Environmental Protection Agency or the
 245 California Air Resources Board to meet appropriate emission standards.

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

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

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

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

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

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

255 (b) a school bus as defined in Subsection 53-3-102(33); or

256 (c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least
257 16,001 GVWR;

258 (d) a locomotive; or

259 (e) another type of vehicle identified by the board in rule as being a significant
260 potential source of air pollution, as defined in Subsection 19-2-102(3).

261 (8) "Fund" means the Clean Air Retrofit, Replacement, and Off-road Technology Fund
262 created in Section 19-2-203.

263 (9) "Verified" means verified by the U.S. Environmental Protection Agency or the
264 California Air Resources Board to reduce air emissions and meet durability requirements.

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

266 **19-2-203. Clean Air Retrofit, Replacement, and Off-road Technology Fund --**
267 **Contents - Grants and rebates made with fund money.**

268 (1) (a) There is created a revolving fund known as the Clean Air Retrofit, Replacement,
269 and Off-road Technology Fund.

270 (b) The fund consists of:

271 (i) appropriations to the fund;

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

273 (iii) interest earnings on cash balances.

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

276 (2) The director may use money from the fund to make grants for implementing:

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

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

279 (3) (a) Using money from the fund, the division may develop programs, including
280 exchange, rebate or low-cost purchase programs, to encourage replacement of:

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

283 (ii) other equipment or products identified by the board in rule as being a significant
284 potential source of air pollution, as defined in Subsection 19-2-102(3).

285 (b) The division may enter into agreements with local health departments to administer
286 the programs described in Subsection (3)(a).

287 (4) As a condition for receiving the grant, a person receiving a grant under Subsection
288 (2) or receiving a grant under Subsection (3) shall agree to:

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

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

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

293 (d) comply with the conditions for the grant.

294 (5) Grants under Subsections (2) and (3) may be administered using a rebate program.

295 (6) Grants issued under Subsections (2) and (3) may not exceed the actual cost of the
296 project.

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

298 **19-2-204. Duties and authorities -- Rulemaking.**

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

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

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

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

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

307 (c) specifying the terms of a grant or exchange under Subsections 19-2-203(2), (3) and
308 (4);

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

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

