

1 **CLEAN FUEL VEHICLE FUND AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James R. Gowans**

5 Senate Sponsor: Brent H. Goodfellow

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Clean Fuels Conversion Program Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ changes the name of the Clean Fuels Vehicle Fund;
- 13 ▶ defines terms;
- 14 ▶ expands the items for which loans or grants from the fund may be given;
- 15 ▶ authorizes the department to charge fees for applications to off-set administration
- 16 costs;
- 17 ▶ authorizes the Air Quality Board to:
 - 18 • certify a fuel, vehicle, fuel system, or conversion equipment which reduces
 - 19 emissions; and
 - 20 • recognize other state certification standards and emission reduction tests; and
 - 21 ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 19-1-401, as renumbered and amended by Chapter 294, Laws of Utah 2005

29 19-1-402, as last amended by Chapter 108 and renumbered and amended by Chapter
30 294, Laws of Utah 2005

31 19-1-403, as last amended by Chapter 108 and renumbered and amended by Chapter
32 294, Laws of Utah 2005

33 19-1-404, as renumbered and amended by Chapter 294, Laws of Utah 2005

34 ENACTS:

35 19-1-405, Utah Code Annotated 1953

36 **Uncodified Material Affected:**

37 ENACTS UNCODIFIED MATERIAL



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section 19-1-401 is amended to read:

41 **Part 4. Clean Fuels and Vehicle Technology Program Act**

42 **19-1-401. Title.**

43 This part is known as the "Clean Fuels [~~Conversion~~] and Vehicle Technology Program
44 Act."

45 Section 2. Section 19-1-402 is amended to read:

46 **19-1-402. Definitions.**

47 As used in this part:

48 [~~(1) "Certified by the Air Quality Board" means that a motor vehicle on which
49 conversion equipment has been installed meets the following criteria:]~~

50 [~~(a) before the installation of conversion equipment, the motor vehicle does not exceed
51 the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix
52 E to Subpart S, or an equivalent test for the make, model, and year of the motor vehicle;]~~

53 [~~(b) the motor vehicle's emissions of regulated pollutants, when operating with clean
54 fuel, is less than the emissions were before the installation of conversion equipment; and]~~

55 [~~(c) a reduction in emissions under Subsection (1)(b) is demonstrated by:]~~

56 [~~(i) certification of the conversion equipment by the federal Environmental Protection
57 Agency or by a state whose certification standards are recognized by the Air Quality Board;]~~

58 [~~(ii) testing the motor vehicle, before and after the installation of the conversion~~

59 equipment, in accordance with ~~40 CFR 86, Control of Air Pollution from New and In-use~~
 60 ~~Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is~~
 61 ~~capable of using; or]~~

62 [~~(iii) any other test or standard recognized by Air Quality Board rule.]~~

63 [~~(2)~~] (1) "Clean fuel" means:

64 (a) propane, [~~compressed~~] natural gas, or electricity;

65 (b) other fuel the Air Quality Board [~~determines~~] certifies, as authorized by Subsection
 66 19-1-405(1)(d), to be at least as effective in reducing air pollution as fuels under Subsection

67 [~~(2)~~] (1)(a) [~~in reducing air pollution~~]; or

68 (c) other fuel that meets the [~~clean-fuel~~] clean fuel vehicle standards in the federal
 69 Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

70 [~~(3) "Clean-fuel"~~] (2) "Clean fuel vehicle" means a vehicle that:

71 (a) uses a clean fuel; and

72 (b) meets [~~clean-fuel~~] clean fuel vehicle standards in the federal Clean Air Act
 73 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

74 [~~(4)~~] (3) "Electric-hybrid vehicle" [~~is as defined in 42 U.S.C. Sec. 13435.~~] means a
 75 vehicle:

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

77 (i) rechargeable storage batteries;

78 (ii) fuel cells; or

79 (iii) other sources of electric current; and

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

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

83 (5) "Fund" means the Clean Fuels and Vehicle Technology Fund created in Section
 84 19-1-403.

85 (6) (a) "Government vehicle" means a motor vehicle;

86 (i) registered in Utah; and

87 (ii) owned and operated by:

88 (A) the state[;];

89 (B) a public trust authority[;];

90 (C) a school district[;];

91 (D) a county[;]; or

92 (E) a municipality[, a town, or a city, including].

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

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

97 (8) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer
98 or its contractor to use a clean fuel.

99 (9) "Private sector business vehicle" means a motor vehicle registered in Utah that is
100 owned and operated solely in the conduct of a private business enterprise.

101 (10) "Refueling equipment" means compressors when used separately, compressors
102 used in combination with cascade tanks, and other equipment that constitute a central refueling
103 system capable of dispensing vehicle fuel.

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

106 Section 3. Section **19-1-403** is amended to read:

107 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**
108 **grants made with fund monies.**

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

111 (b) The fund consists of:

112 (i) appropriations to the fund;

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

114 (iii) interest earnings on cash balances; and

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

116 (c) All money appropriated to the fund is nonlapsing.

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

119 (2) (a) Except as provided in Subsection (3), the department may make [~~loans~~] a loan
120 or [~~grants~~] a grant with monies available in the fund for:

- 121 (i) the conversion of a private sector business [vehicles and] vehicle or a government
122 [vehicles] vehicle to use a clean fuel, if certified by the Air Quality Board[; or] under
123 Subsection 19-1-405(1)(a);
- 124 (ii) the purchase of:
- 125 (A) an OEM [vehicles] vehicle for use as a private sector business [vehicles] vehicle or
126 government [vehicles:] vehicle; or
- 127 (B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for
128 use as a private sector business vehicle or government vehicle;
- 129 (iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of
130 a private sector business vehicle or government vehicle;
- 131 (iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d),
132 for a private sector business vehicle or government vehicle; or
- 133 (v) a state match of a federal or nonfederal grant for any item under this Subsection
134 (2)(a).
- 135 (b) The amount of a loan for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A) may
136 not exceed:
- 137 (i) the actual cost of the vehicle conversion;
- 138 (ii) the incremental cost of purchasing the OEM vehicle; or
- 139 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental
140 cost.
- 141 (c) The amount of a grant for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A)
142 may not exceed:
- 143 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit
144 claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested; or
- 145 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of
146 any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is
147 requested.
- 148 (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in
149 the fund, the department may make [~~loans~~] a loan for the purchase of vehicle refueling
150 equipment for a private sector business [vehicles and] vehicle or a government [vehicles]
151 vehicle.

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

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

158 (3) [~~Notwithstanding Subsection (2)(a) or (2)(d), the~~] The department may not make a
159 loan or grant under this part [~~with respect to~~] for an electric-hybrid vehicle.

160 [~~(4) Administrative costs of the fund shall be paid from the fund.~~]

161 (4) The department may:

162 (a) reimburse itself for the costs incurred in administering the fund from:

163 (i) the fund; or

164 (ii) application fees; and

165 (b) establish an application fee for a loan or grant from the fund by following the
166 procedures and requirements of Section 63-38-3.2.

167 (5) (a) The fund balance may not exceed \$10,000,000.

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

170 (6) (a) Loans made from monies in the fund shall be supported by loan documents
171 evidencing the intent of the borrower to repay the loan.

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

174 Section 4. Section **19-1-404** is amended to read:

175 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

176 (1) The department shall:

177 (a) [~~establish and~~] administer the [~~loan and grant program~~] fund created in Section
178 19-1-403 to encourage government officials and private sector business vehicle owners and
179 operators to obtain and use [~~clean-fuel~~] clean fuel vehicles; and

180 [~~(b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative~~
181 ~~Rulemaking Act.~~]

182 (b) by following the procedures and requirements of Title 63, Chapter 46a, Utah

183 Administrative Rulemaking Act, make rules:

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

185 (ii) limiting the amount of a grant given to any person claiming a tax credit under

186 Section 59-7-605 or 59-10-127 for the motor vehicle for which a grant is requested to assure

187 that the sum of the tax credit and grant does not exceed:

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

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

190 (iii) limiting the number of motor vehicles per fleet operator that may be eligible for a

191 grant in a year;

192 (iv) specifying criteria the department shall consider in prioritizing and awarding loans

193 and grants;

194 (v) specifying repayment periods;

195 (vi) specifying procedures for:

196 (A) awarding loans and grants; and

197 (B) collecting loans; [~~and~~]

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

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

200 (B) agree in writing to use the clean fuel for which each vehicle is converted or

201 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled

202 beginning from the time of conversion or purchase of the vehicle;

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

204 loan or grant proceeds becomes inoperable through mechanical failure or accident and to

205 pursue a remedy outlined in department rules;

206 (D) provide reasonable data to the department on [~~vehicles~~] a vehicle converted or

207 purchased with loan or grant proceeds; and

208 (E) submit [~~vehicles~~] a vehicle converted or purchased with loan or grant proceeds to

209 inspections by the department as required in department rules and as necessary for

210 administration of the loan and grant program[-]; and

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

212 (2) (a) When developing repayment schedules for the loans, the department shall

213 consider the projected savings from use of the [~~clean-fuel~~] clean fuel vehicle.

214 (b) A repayment schedule may not exceed ten years.

215 (c) ~~[Loans made]~~ The department shall make a loan from the fund for a private sector
216 ~~[vehicles shall be made]~~ vehicle at an interest rate equal to the annual return earned in the state
217 treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing
218 date of the loan.

219 (d) ~~[Loans made]~~ The department shall make a loan from the fund for a government
220 ~~[vehicles shall be made at a zero]~~ vehicle with no interest rate.

221 (3) The Division of Finance ~~[is responsible for collection of and accounting]~~ shall:

222 (a) collect and account for the loans; and [has]

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

225 Section 5. Section **19-1-405** is enacted to read:

226 **19-1-405. Air Quality Board duties -- Rulemaking.**

227 (1) By following the procedures and requirements of Title 63, Chapter 46a, Utah
228 Administrative Rulemaking Act, the Air Quality Board may make rules to:

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

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

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

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

235 (ii) the motor vehicle's emissions of regulated pollutants, when operating with clean
236 fuel, is less than the emissions were before the installation of conversion equipment;

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

238 (c) recognize a certification standard from another state;

239 (d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing
240 air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection
241 19-1-402(2); or

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

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

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

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

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

252 Section 6. **Fee and repeal date.**

253 (1) The department may initially establish and assess the new application fee
254 authorized under Section 19-1-403 without legislative approval by following the procedures
255 and requirements for setting regulatory fees for a new program under Subsection 63-38-3.2(5).

256 (2) This section is repealed July 1, 2007.

Legislative Review Note

as of 12-30-05 7:41 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill allows the establishment of a fee to administer the program. It is estimated that \$48,000 will be collected in FY 2007 and FY 2008 through the established fee. An expenditure of \$47,900 is expected to fund one half FTE and other direct costs to administer the program during those fiscal years.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
Dedicated Credits	\$47,900	\$47,900	\$48,000	\$48,000
TOTAL	\$47,900	\$47,900	\$48,000	\$48,000

Individual and Business Impact

Individuals and businesses applying for participation in the Clean Fuel Vehicle Program will be required to pay fees.

Office of the Legislative Fiscal Analyst