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**CLEAN AIR PROGRAMS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrice M. Arent**

Senate Sponsor: Ralph Okerlund

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**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 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 136

33 **19-1-403**, as last amended by Laws of Utah 2011, Chapter 303

34 **19-1-404**, as last amended by Laws of Utah 2008, Chapter 382

35 **19-1-405**, as last amended by Laws of Utah 2008, Chapter 382

36 ENACTS:

37 **19-2-201**, Utah Code Annotated 1953

38 **19-2-202**, Utah Code Annotated 1953

39 **19-2-203**, Utah Code Annotated 1953

40 **19-2-204**, Utah Code Annotated 1953



42 *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; or

48 ~~[(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]~~ or

55 ~~[(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:

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

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

66 [(5)] (4) "Fund" means the Clean Fuels and Vehicle Technology Fund created in  
 67 Section 19-1-403.

68 [(6)] (5) (a) "Government vehicle" means a motor vehicle:

- 69 (i) registered in Utah; and
- 70 (ii) owned and operated by:
  - 71 (A) the state;
  - 72 (B) a public trust authority;
  - 73 (C) a school district;
  - 74 (D) a county; or
  - 75 (E) a municipality.

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

78 [(7)] (6) "Incremental cost" means the difference between the cost of the OEM vehicle  
 79 and the same vehicle model manufactured without the clean fuel fueling system.

80 [(8)] (7) "OEM vehicle" means a vehicle manufactured by the original vehicle  
 81 manufacturer or its contractor ~~[to use a clean fuel]~~ as a clean vehicle.

82 [(9)] (8) "Private sector business vehicle" means a motor vehicle registered in Utah that  
 83 is owned and operated solely in the conduct of a private business enterprise.

84 [(10)] (9) "Refueling equipment" means compressors when used separately,  
 85 compressors used in combination with cascade tanks, and other equipment that constitute a  
 86 central refueling system capable of dispensing vehicle fuel.

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

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

90 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**  
91 **grants made with fund money.**

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

94 (b) The fund consists of:

95 (i) appropriations to the fund;

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

97 (iii) interest earnings on cash balances; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

140 [(4)] (3) The department may:

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

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

144 (i) the fund; or

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

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

148 [(5)] (4) (a) The fund balance may not exceed \$10,000,000.

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

151 [(6)] (5) (a) Loans made from money in the fund shall be supported by loan documents

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

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

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

156 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

157 (1) The department shall:

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

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

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

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

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

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

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

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

173 (v) specifying repayment periods;

174 (vi) specifying procedures for:

175 (A) awarding loans and grants; and

176 (B) collecting loans; and

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

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

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

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

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

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

187 (E) submit a vehicle converted or purchased with loan or grant proceeds to inspections  
188 by the department as required in department rules and as necessary for administration of the  
189 loan and grant program[; and].

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

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

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

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

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

199 (3) The Division of Finance shall:

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

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

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

204 **19-1-405. Air Quality Board duties -- Rulemaking.**

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

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

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

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

211 or

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

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

- 214 fuel, is less than the emissions were before the installation of conversion equipment;
- 215 (b) recognize a test or standard that demonstrates a reduction in emissions; or
- 216 (c) recognize a certification standard from another state[;].
- 217 [~~(d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing~~
- 218 ~~air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection~~
- 219 ~~19-1-402(2); or]~~
- 220 [~~(e) establish criteria for determining the effectiveness of a fuel, vehicle, retrofit, or~~
- 221 ~~fuel system in reducing air pollution.]~~
- 222 (2) A reduction in emissions under Subsection (1)(a)(ii) is demonstrated by:
- 223 (a) certification of the conversion equipment by the federal Environmental Protection
- 224 Agency or by a state whose certification standards are recognized by the Air Quality Board;
- 225 (b) testing the motor vehicle, before and after the installation of the conversion
- 226 equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use
- 227 Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is
- 228 capable of using; or
- 229 (c) any other test or standard recognized by the Air Quality Board in rule.

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

231 **Part 2. Clean Air Retrofit, Replacement, and Off-road Technology Program**  
 232 **19-2-201. Title.**

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

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

236 **19-2-202. Definitions.**

237 As used in this part:

- 238 (1) "Board" means the Air Quality Board.
- 239 (2) "Certified" means certified by the United States Environmental Protection Agency  
 240 or the California Air Resources Board to meet appropriate emission standards.
- 241 (3) "Cost" means the total reasonable cost of a project eligible for a grant under the  
 242 fund, including the cost of labor.
- 243 (4) "Director" means the director of the Division of Air Quality.
- 244 (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;

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

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

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

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

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

282 **19-2-204. Duties and authorities -- Rulemaking.**

283 (1) The board may, by following the procedures and requirements of Title 63G,

284 Chapter 3, Utah Administrative Rulemaking Act, make rules:

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

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

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

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

291 (c) specifying the terms of a grant or exchange under Subsections [19-2-203](#)(2), (3), and  
292 (4);

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

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

296 (2) The division shall:

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

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

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

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

305 Section 9. **Appropriation.**

306 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 \$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**