

## SB0186S01 compared with SB0186

~~deleted text~~ shows text that was in SB0186 but was deleted in SB0186S01.

inserted text shows text that was not in SB0186 but was inserted into SB0186S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

### AIR QUALITY INCENTIVES

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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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

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

Section 1. Section **63N-3-102** is amended to read:

#### **63N-3-102. Definitions.**

As used in this part:

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

(2) "Best available control technology" means a pollution control method that is approved by the United States Environmental Protection Agency or the Department of Environmental Quality to control a certain pollutant type to a specified degree.

~~(2)~~ (3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

- (a) odors;
- (b) noise;
- (c) pollution;
- (d) health hazards; or
- (e) other activities similar to those described in Subsections ~~(2)~~ (3)(a) through (d).

~~(3)~~ (4) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic

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impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

~~[(4)]~~ (5) "Economically disadvantaged rural area" means a geographic area designated by the board under Section 63N-3-111.

(6) "Nonattainment area" means a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub.L. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

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

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

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

Section 2. Section **63N-3-105** is amended to read:

### **63N-3-105. Qualification for assistance.**

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

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

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

(c) satisfy other criteria the administrator considers appropriate.

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

(i) the financial assistance is provided to an applicant for the purpose of locating all or

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any portion of its operations to an economically disadvantaged rural area;

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

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

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

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

(3) The administrator shall:

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

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

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

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

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

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

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

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

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

(b) A company creating an economic impediment that qualifies under Section

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63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:

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

and

(ii) the siting of a replacement company.

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

may:

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

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

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

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

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

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

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors

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determined by the administrator, including:

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; or
- (C) other events and activities that occur as a result of the restricted account assistance.

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

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

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; or
- (C) other events and activities that occur as a result of the restricted account assistance.

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

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

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

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

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

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

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

(iii) to the State Disaster Recovery Restricted Account, as provided in Section

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63J-1-314.

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

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

**63N-3-109.5. Financial assistance to entities offering economic opportunities in the non-attainment area.**

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

(a) applies to the administrator; and

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

(2) An entity applicant shall:

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

~~{ (b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;~~

~~— (c) demonstrate how the funding request will act in concert with free market principles;~~

~~‡ (f)d) demonstrate that the applicant does not currently qualify for another grant program:~~

(i) for a small business; or

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

(f)c) provide satisfactory documentation showing that the equipment to be purchased and installed with funds provided under this section meets design requirements corresponding to the best available control technology for the relevant emissions profile of the applicant; and

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

(3) Subject to the duties and powers of the board under Section 63N-1-402, the administrator shall:

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

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

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

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

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

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**Legislative Review Note**

**~~Office of Legislative Research and General Counsel~~**