

FREIGHT SWITCHER EMISSIONS MITIGATION

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill amends requirements for grants issued under the Clean Air Retrofit, Replacement, and Off-road Technology Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates procedures for grants issued for the reduction of freight switcher locomotive emissions;
- ▶ creates terms for grants issued for the reduction of freight switcher locomotive emissions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology, as a one-time appropriation:
 - from the General Fund, One-time, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [19-2-202](#), as last amended by Laws of Utah 2016, Chapter 321
 29 [19-2-203](#), as enacted by Laws of Utah 2014, Chapter 295
 30 [19-2-204](#), as enacted by Laws of Utah 2014, Chapter 295
 31 [63I-1-263](#), as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321,
 32 338, 340, 347, 369, 428, 430, and 469
 33 [63J-1-602.1](#), as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and
 34 repealed and reenacted by Laws of Utah 2018, Chapter 469

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

37 Section 1. Section **19-2-202** is amended to read:

38 **19-2-202. Definitions.**

39 As used in this part:

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

41 (2) "Certified" means certified by the United States Environmental Protection Agency
 42 or the California Air Resources Board to meet appropriate emission standards.

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

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

46 (5) "Division" means the Division of Air Quality, created in Subsection [19-1-105\(1\)\(a\)](#).

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

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

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

52 (b) a school bus as defined in Section [53-3-102](#);

53 (c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least
 54 16,001 GVWR;

55 (d) a locomotive; or

56 (e) another type of vehicle identified by the board in rule as being a significant
 57 potential source of air pollution, as defined in Section [19-2-102](#).

58 (8) "Freight switcher" means a locomotive that is powered by an engine or combination

59 of engines with a maximum total rated power of 2,300 horsepower or less, based on a
 60 calculation of total power that:

61 (a) includes auxiliary engines that are permanently installed on the locomotive and can
 62 be operated while the main propulsion engine is operating; and

63 (b) does not include auxiliary engines that operate only to reduce idling time of the
 64 propulsion engine.

65 [~~(8)~~] (9) "Verified" means verified by the United States Environmental Protection
 66 Agency or the California Air Resources Board to reduce air emissions and meet durability
 67 requirements.

68 Section 2. Section **19-2-203** is amended to read:

69 **19-2-203. Grants and programs -- Conditions.**

70 (1) The director may make grants for implementing:

- 71 (a) verified technologies for eligible vehicles or equipment; and
 72 (b) certified vehicles, engines, or equipment.

73 (2) (a) Pursuant to Subsection (1), the director may make grants for the reduction of
 74 freight switcher emissions.

75 (b) The division shall seek sources of funding in addition to appropriations when
 76 making grants for the reduction of freight switcher emissions, including from the Diesel
 77 Emissions Reduction Act program.

78 (c) Pursuant to Subsection (2)(b), if other money is received, a grant made for the
 79 reduction of freight switcher emissions shall be made using the money first, up to the
 80 maximum amount allowed by funding terms and conditions, and then may be supplemented by
 81 appropriated funds pursuant to Subsection (6)(b).

82 [~~(2)~~] (3) (a) The division may develop programs, including exchange, rebate, or
 83 low-cost purchase programs, to encourage replacement of:

84 (i) landscaping and maintenance equipment with equipment that is lower in emissions;
 85 and

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

88 (b) The division may enter into agreements with local health departments to administer
 89 the programs described in Subsection [~~(2)~~] (3)(a).

90 ~~[(3)]~~ (4) As a condition for receiving the grant, a person receiving a grant under
91 ~~[Subsection (1) or receiving a grant under this Subsection (3)]~~ Subsection (1), (2), or this
92 Subsection (4), shall agree to:

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

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

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

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

98 ~~[(4)]~~ (5) Grants and programs under Subsections (1) and ~~[(2)]~~ (3) may be administered
99 using a rebate program.

100 ~~[(5) Grants]~~ (6) (a) Subject to Subsection (6)(b), grants issued under this section may
101 not exceed the actual cost of the project.

102 (b) For grants issued under Subsection (2), appropriated money may not exceed 35% of
103 the actual cost of the project.

104 Section 3. Section **19-2-204** is amended to read:

105 **19-2-204. Duties and authorities -- Rulemaking.**

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

108 (a) specifying the amount of money to be dedicated annually for grants, for
109 appropriations that allow both grants and programs;

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

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

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

115 (c) specifying the terms of a grant or exchange under Subsections 19-2-203(2), (3),
116 ~~[and]~~ (4), and (5);

117 (d) specifying the procedures to be used in the grant and exchange programs authorized
118 in Subsections 19-2-203(2), (3), ~~[and (5)]~~ (4), and (6); and

119 (e) requiring ~~[a] a grant [applicants]~~ applicant to apply on ~~[forms]~~ a form provided by
120 the division.

- 121 (2) The division shall:
- 122 (a) administer funds to encourage vehicle and equipment owners and operators to
- 123 reduce emissions from vehicles and equipment;
- 124 (b) provide forms for application for a grant or exchange under Subsection 19-2-203(2)
- 125 [~~or (3)~~], (3), or (4); and
- 126 (c) provide information about which vehicles, engines, or equipment are certified and
- 127 which technology is verified as provided in this part.
- 128 (3) The division may inspect vehicles, equipment, or technology for which a grant was
- 129 made to ensure compliance with the terms of the grant.
- 130 Section 4. Section 63I-1-263 is amended to read:
- 131 **63I-1-263. Repeal dates, Titles 63A to 63N.**
- 132 (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.
- 133 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- 134 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
- 135 1, 2028.
- 136 (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is
- 137 repealed November 30, 2019.
- 138 (5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
- 139 2020.
- 140 (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
- 141 repealed July 1, 2021.
- 142 (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,
- 143 2023.
- 144 (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
- 145 2025.
- 146 (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
- 147 2020.
- 148 (10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 149 (11) On July 1, 2025:
- 150 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource
- 151 Development Coordinating Committee," is repealed;

152 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed
153 sites for the transplant of species to local government officials having jurisdiction over areas
154 that may be affected by a transplant.";

155 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development
156 Coordinating Committee" is repealed;

157 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development
158 Coordinating Committee created in Section 63J-4-501 and" is repealed;

159 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development
160 Coordinating Committee and" is repealed;

161 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered
162 accordingly;

163 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

164 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the
165 word "and" is inserted immediately after the semicolon;

166 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

167 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

168 and

169 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
170 renumbered accordingly.

171 (12) Subsection 63J-1-602.1~~[(13)]~~(14), Nurse Home Visiting Restricted Account is
172 repealed July 1, 2026.

173 (13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage
174 Commission, is repealed July 1, 2023.

175 (14) (a) Subsection 63J-1-602.1~~[(51)]~~(52), relating to the Utah Statewide Radio System
176 Restricted Account, is repealed July 1, 2022.

177 (b) When repealing Subsection 63J-1-602.1~~[(51)]~~(52), the Office of Legislative
178 Research and General Counsel shall, in addition to the office's authority under Subsection
179 36-12-12(3), make necessary changes to subsection numbering and cross references.

180 (15) The Crime Victim Reparations and Assistance Board, created in Section
181 63M-7-504, is repealed July 1, 2027.

182 (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

183 (17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

184 (18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is
185 repealed January 1, 2021.

186 (b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax
187 credits for certain persons in recycling market development zones, are repealed for taxable
188 years beginning on or after January 1, 2021.

189 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

190 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
191 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

192 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
193 the expenditure is made on or after January 1, 2021.

194 (d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax
195 credit in accordance with Section 59-7-610 or 59-10-1007 if:

196 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

197 (ii) (A) for the purchase price of machinery or equipment described in Section
198 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
199 2020; or

200 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
201 expenditure is made on or before December 31, 2020.

202 (19) Section 63N-2-512 is repealed on July 1, 2021.

203 (20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
204 January 1, 2021.

205 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
206 calendar years beginning on or after January 1, 2021.

207 (c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in
208 accordance with Section 59-9-107 if:

209 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
210 31, 2020; and

211 (ii) the qualified equity investment that is the basis of the tax credit is certified under
212 Section 63N-2-603 on or before December 31, 2023.

213 (21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

214 (22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed
215 July 1, 2023.

216 (23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
217 is repealed January 1, 2023.

218 (24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed
219 July 1, 2018.

220 Section 5. Section **63J-1-602.1** is amended to read:

221 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

222 Appropriations made from the following accounts or funds are nonlapsing:

223 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
224 and Leadership Restricted Account created in Section [4-42-102](#).

225 (2) The Native American Repatriation Restricted Account created in Section [9-9-407](#).

226 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
227 Section [9-18-102](#).

228 (4) The National Professional Men's Soccer Team Support of Building Communities
229 Restricted Account created in Section [9-19-102](#).

230 (5) Funds collected for directing and administering the C-PACE district created in
231 Section [11-42a-302](#).

232 (6) An appropriation made to the Division of Air Quality for grants for the reduction of
233 freight switcher locomotive emissions under the Clean Air Retrofit, Replacement, and Off-road
234 Technology Program, as provided in Section [19-2-203](#).

235 [~~6~~] (7) Award money under the State Asset Forfeiture Grant Program, as provided
236 under Section [24-4-117](#).

237 [~~7~~] (8) Funds collected from the program fund for local health department expenses
238 incurred in responding to a local health emergency under Section [26-1-38](#).

239 [~~8~~] (9) Funds collected from the emergency medical services grant program, as
240 provided in Section [26-8a-207](#).

241 [~~9~~] (10) The Prostate Cancer Support Restricted Account created in Section
242 [26-21a-303](#).

243 [~~10~~] (11) The Children with Cancer Support Restricted Account created in Section
244 [26-21a-304](#).

245 ~~[(11)]~~ (12) State funds for matching federal funds in the Children's Health Insurance
246 Program as provided in Section [26-40-108](#).

247 ~~[(12)]~~ (13) The Children with Heart Disease Support Restricted Account created in
248 Section [26-58-102](#).

249 ~~[(13)]~~ (14) The Nurse Home Visiting Restricted Account created in Section [26-62-601](#).

250 ~~[(14)]~~ (15) The Technology Development Restricted Account created in Section
251 [31A-3-104](#).

252 ~~[(15)]~~ (16) The Criminal Background Check Restricted Account created in Section
253 [31A-3-105](#).

254 ~~[(16)]~~ (17) The Captive Insurance Restricted Account created in Section [31A-3-304](#),
255 except to the extent that Section [31A-3-304](#) makes the money received under that section free
256 revenue.

257 ~~[(17)]~~ (18) The Title Licensee Enforcement Restricted Account created in Section
258 [31A-23a-415](#).

259 ~~[(18)]~~ (19) The Health Insurance Actuarial Review Restricted Account created in
260 Section [31A-30-115](#).

261 ~~[(19)]~~ (20) The Insurance Fraud Investigation Restricted Account created in Section
262 [31A-31-108](#).

263 ~~[(20)]~~ (21) The Underage Drinking Prevention Media and Education Campaign
264 Restricted Account created in Section [32B-2-306](#).

265 ~~[(21)]~~ (22) The School Readiness Restricted Account created in Section [35A-3-210](#).

266 ~~[(22)]~~ (23) The Youth Development Organization Restricted Account created in
267 Section [35A-8-1903](#).

268 ~~[(23)]~~ (24) The Youth Character Organization Restricted Account created in Section
269 [35A-8-2003](#).

270 ~~[(24)]~~ (25) Money received by the Utah State Office of Rehabilitation for the sale of
271 certain products or services, as provided in Section [35A-13-202](#).

272 ~~[(25)]~~ (26) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).

273 ~~[(26)]~~ (27) The Electronic Payment Fee Restricted Account created by Section
274 [41-1a-121](#) to the Motor Vehicle Division.

275 ~~[(27)]~~ (28) The Motor Vehicle Enforcement Division Temporary Permit Restricted

276 Account created by Section [41-3-110](#) to the State Tax Commission.
277 ~~[(28)]~~ (29) The Utah Law Enforcement Memorial Support Restricted Account created
278 in Section [53-1-120](#).
279 ~~[(29)]~~ (30) The State Disaster Recovery Restricted Account to the Division of
280 Emergency Management, as provided in Section [53-2a-603](#).
281 ~~[(30)]~~ (31) The Department of Public Safety Restricted Account to the Department of
282 Public Safety, as provided in Section [53-3-106](#).
283 ~~[(31)]~~ (32) The Utah Highway Patrol Aero Bureau Restricted Account created in
284 Section [53-8-303](#).
285 ~~[(32)]~~ (33) The DNA Specimen Restricted Account created in Section [53-10-407](#).
286 ~~[(33)]~~ (34) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
287 ~~[(34)]~~ (35) A certain portion of money collected for administrative costs under the
288 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
289 ~~[(35)]~~ (36) The Public Utility Regulatory Restricted Account created in Section
290 [54-5-1.5](#), subject to Subsection [54-5-1.5\(4\)\(d\)](#).
291 ~~[(36)]~~ (37) Certain fines collected by the Division of Occupational and Professional
292 Licensing for violation of unlawful or unprofessional conduct that are used for education and
293 enforcement purposes, as provided in Section [58-17b-505](#).
294 ~~[(37)]~~ (38) Certain fines collected by the Division of Occupational and Professional
295 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
296 provided in Section [58-63-103](#).
297 ~~[(38)]~~ (39) The Relative Value Study Restricted Account created in Section [59-9-105](#).
298 ~~[(39)]~~ (40) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
299 ~~[(40)]~~ (41) Funds paid to the Division of Real Estate for the cost of a criminal
300 background check for a mortgage loan license, as provided in Section [61-2c-202](#).
301 ~~[(41)]~~ (42) Funds paid to the Division of Real Estate for the cost of a criminal
302 background check for principal broker, associate broker, and sales agent licenses, as provided
303 in Section [61-2f-204](#).
304 ~~[(42)]~~ (43) Certain funds donated to the Department of Human Services, as provided in
305 Section [62A-1-111](#).
306 ~~[(43)]~~ (44) The National Professional Men's Basketball Team Support of Women and

307 Children Issues Restricted Account created in Section [62A-1-202](#).
308 ~~[(44)]~~ [\(45\)](#) Certain funds donated to the Division of Child and Family Services, as
309 provided in Section [62A-4a-110](#).
310 ~~[(45)]~~ [\(46\)](#) The Choose Life Adoption Support Restricted Account created in Section
311 [62A-4a-608](#).
312 ~~[(46)]~~ [\(47\)](#) Funds collected by the Office of Administrative Rules for publishing, as
313 provided in Section [63G-3-402](#).
314 ~~[(47)]~~ [\(48\)](#) The Immigration Act Restricted Account created in Section [63G-12-103](#).
315 ~~[(48)]~~ [\(49\)](#) Money received by the military installation development authority, as
316 provided in Section [63H-1-504](#).
317 ~~[(49)]~~ [\(50\)](#) The Computer Aided Dispatch Restricted Account created in Section
318 [63H-7a-303](#).
319 ~~[(50)]~~ [\(51\)](#) The Unified Statewide 911 Emergency Service Account created in Section
320 [63H-7a-304](#).
321 ~~[(51)]~~ [\(52\)](#) The Utah Statewide Radio System Restricted Account created in Section
322 [63H-7a-403](#).
323 ~~[(52)]~~ [\(53\)](#) The Employability to Careers Program Restricted Account created in
324 Section [63J-4-703](#).
325 ~~[(53)]~~ [\(54\)](#) The Motion Picture Incentive Account created in Section [63N-8-103](#).
326 ~~[(54)]~~ [\(55\)](#) Certain money payable for expenses of the Pete Suazo Utah Athletic
327 Commission, as provided under Section [63N-10-301](#).
328 ~~[(55)]~~ [\(56\)](#) Funds collected by the housing of state probationary inmates or state parole
329 inmates, as provided in Subsection [64-13e-104\(2\)](#).
330 ~~[(56)]~~ [\(57\)](#) Certain forestry and fire control funds utilized by the Division of Forestry,
331 Fire, and State Lands, as provided in Section [65A-8-103](#).
332 ~~[(57)]~~ [\(58\)](#) Certain funds received by the Office of the State Engineer for well drilling
333 fines or bonds, as provided in Section [73-3-25](#).
334 ~~[(58)]~~ [\(59\)](#) The Water Resources Conservation and Development Fund, as provided in
335 Section [73-23-2](#).
336 ~~[(59)]~~ [\(60\)](#) Funds donated or paid to a juvenile court by private sources, as provided in
337 Subsection [78A-6-203\(1\)\(c\)](#).

338 [~~(60)~~] (61) Fees for certificate of admission created under Section 78A-9-102.

339 [~~(61)~~] (62) Funds collected for adoption document access as provided in Sections
340 78B-6-141, 78B-6-144, and 78B-6-144.5.

341 [~~(62)~~] (63) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades
342 State Park, Jordan River State Park, and Green River State Park, as provided under Section
343 79-4-403.

344 [~~(63)~~] (64) Certain funds received by the Division of Parks and Recreation from the
345 sale or disposal of buffalo, as provided under Section 79-4-1001.

346 [~~(64)~~] (65) Funds collected for indigent defense as provided in Title 77, Chapter 32,
347 Part 8, Utah Indigent Defense Commission.

348 Section 6. **Appropriation.**

349 The following sums of money are appropriated for the fiscal year beginning July 1,
350 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
351 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
352 Act, the Legislature appropriates the following sums of money from the funds or accounts
353 indicated for the use and support of the government of the state of Utah.

354 To Department of Environmental Quality - Clean Air Retrofit, Replacement,
355 and Off-road Technology

356 From General Fund, One-time \$2,000,000

357 Schedule of Programs:

358 Clean Air Retrofit, Replacement, and \$2,000,000

359 Off-road Technology

360 The Legislature intends that:

361 (1) the Division of Air Quality use appropriations under this section to issue grants for
362 the reduction of freight switcher locomotive emissions pursuant to Section 19-2-203;

363 (2) the Division of Air Quality expend appropriations under this section in fiscal years
364 2020, 2021, 2022, and 2023;

365 (3) appropriations provided under this section for the reduction of freight switcher
366 locomotive emissions may not lapse at the close of fiscal year 2020; and

367 (4) the use of any nonlapsing funds is limited to issuing grants for the reduction of
368 freight switcher locomotive emissions pursuant to Section 19-2-203.