

1 **COMMUNITY AND ECONOMIC DEVELOPMENT**

2 **AMENDMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Wayne A. Harper**

6 AN ACT RELATING TO COMMUNITY AND ECONOMIC DEVELOPMENT; REPEALING
7 THE CAPITAL ACCESS FUND; EXPANDING SCOPE OF THE COMMUNITY ECONOMIC
8 DEVELOPMENT PROJECT FUND; AMENDING ~~h [THE] h~~ ALLOCATION ~~h PROVISIONS h~~
8a OF THE PRIVATE
9 ACTIVITY BOND VOLUME CAP; PROVIDING FOR THE DISPOSITION OF MONEYS IN
10 THE CAPITAL ACCESS FUND; TRANSFERRING UP TO ~~§ [\$100,000] \$200,000 §~~ FROM THE CAPITAL
11 ACCESS FUND TO THE COMMUNITY ECONOMIC DEVELOPMENT FUND;
12 TRANSFERRING BALANCE OF THE FUND TO THE DEPARTMENT OF COMMUNITY
13 AND ECONOMIC DEVELOPMENT FOR USE IN THE CUSTOM FIT TRAINING
14 PROGRAM; AND MAKING TECHNICAL CHANGES.

15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

16a **§ 9-2-1203, as last amended by Chapter 335, Laws of Utah 1997 §**

17 **9-2-1501**, as enacted by Chapter 301, Laws of Utah 1996

18 **9-2-1502**, as last amended by Chapter 391, Laws of Utah 1998

19 **9-2-1504**, as last amended by Chapter 391, Laws of Utah 1998

20 **9-2-1505**, as enacted by Chapter 301, Laws of Utah 1996

21 **9-2-1506**, as last amended by Chapter 391, Laws of Utah 1998

21a ~~h~~ **9-4-505**, as last amended by Chapter 24, Laws of Utah 1999 ~~h~~

22 **9-4-506**, as last amended by Chapters 192 and 208, Laws of Utah 1997

23 REPEALS:

24 **9-2-1301**, as renumbered and amended by Chapter 241, Laws of Utah 1992

25 **9-2-1302**, as last amended by Chapter 206, Laws of Utah 1993

26 **9-2-1303**, as last amended by Chapter 76, Laws of Utah 1999

27 **9-2-1304**, as last amended by Chapter 6, Laws of Utah 1996

- 28 **9-2-1305**, as last amended by Chapter 206, Laws of Utah 1993
 29 **9-2-1306**, as last amended by Chapter 76, Laws of Utah 1999
 30 **9-2-1307**, as repealed and reenacted by Chapter 206, Laws of Utah 1993
 31 **9-2-1308**, as repealed and reenacted by Chapter 206, Laws of Utah 1993
 32 **9-2-1309**, as renumbered and amended by Chapter 241, Laws of Utah 1992
 33 **9-2-1310**, as last amended by Chapter 6, Laws of Utah 1996
 34 **9-2-1311**, as last amended by Chapter 76, Laws of Utah 1999
 35 **9-2-1312**, as last amended by Chapter 206, Laws of Utah 1993

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

36a **§ Section 1. Section 9-2-1203 is amended to read:**

36b **9-2-1203. Industrial Assistance Fund created.**

36c **There is created within the General Fund a restricted account known as the Industrial**
 36d **Assistance Fund of which up to 50% shall be used in economically disadvantaged rural areas. The**
 36e **fund shall be administered by the administrator under the direction of the board. Interest accrued**
 36f **from investment of monies in the fund shall remain in the fund. [Up to \$375,000 from the fund shall**
be

36g **deposited in the Utah Capital Access Fund.] The administrator may hire appropriate support staff.**

36h **The cost of administering the fund shall be paid from monies in the fund. §**

37 Section § [~~1~~] **2** § . Section **9-2-1501** is amended to read:

38 **9-2-1501. Title.**

39 (1) This part is known as the "Community Economic Development Project Fund."

40 (2) The purpose of this part is to achieve the critical public purposes of fostering growth
 41 of the state's economy and creating jobs throughout the state by encouraging:

42 (a) local governments and nonprofit economic development organizations to develop
 43 projects that enhance the economic strengths of their communities; and

44 (b) the development of small businesses in Utah.

45 Section § [~~2~~] **3** § . Section **9-2-1502** is amended to read:

46 **9-2-1502. Definitions.**

47 As used in this part:

48 (1) "Administrator" means the Department of Community and Economic Development.

49 (2) "Board" means the Board of Business and Economic Development.

50 (3) "Fund" means the Community Economic Development Project Fund created in Section

51 9-2-1503.

- 52 (4) "Qualified small business" means a small business that:
53 (a) has one or more locations within Utah;
54 (b) is of a size that may be eligible for Small Business Administration loans under 13
55 C.F.R. 121.101 et seq.; and
56 (c) (i) prior to application for a loan or grant under this chapter, has not engaged in
57 business activities in Utah except for activities incidental to starting a business; or
58 (ii) intends to expand its operations in Utah.

59 ~~[(4)]~~ (5) "Rural" means those communities located in the areas of the state defined by the
60 board in Title 9, Chapter 2, Part 12, Industrial Assistance Fund, as economically disadvantaged
61 rural ~~[targeted]~~ areas.

62 ~~[(5)]~~ (6) "Urban" means communities located within a standard metropolitan statistical
63 area, as designated by the United States Bureau of the Census.

64 Section § ~~[3]~~ 4 § . Section **9-2-1504** is amended to read:

65 **9-2-1504. Distribution of fund moneys.**

66 (1) The administrator shall:

67 (a) establish criteria and procedures for the grant and loan process as provided in Title 63,
68 Chapter 46a, Utah Administrative Rulemaking Act;

69 (b) determine the order in which ~~[projects will be funded]~~ grants or loans will be issued;
70 and

71 (c) make grants and loans from the fund:

72 (i) to any of the entities authorized by Section 9-2-1505; and

73 (ii) in accordance with Subsection (3).

74 (2) Two percent of the fund moneys may be used by the executive director for purposes
75 consistent with this chapter, including the payment of reasonable loan processing fees, but may not
76 be used to offset department or board administrative expenses.

77 (3) (a) Fund moneys remaining after distribution as provided in Subsection (2) shall be
78 distributed as follows:

79 (i) at least 50% of the moneys shall be distributed as loans to be repaid to the fund by the
80 entity receiving ~~[them, with]~~ the moneys;

81 (ii) at least 50% of [those] the required amount of loans under Subsection (3)(a)(i) shall
82 be distributed to;

83 (A) § RURAL § communities § [meeting the requirements for enterprise zones in Section
83a 9-2-404] § ; or

84 (B) a qualified small business located in § [an enterprise zone under Section 9-2-404; and] A
84a RURAL COMMUNITY; AND §

85 ~~[(ii)]~~ (iii) moneys not distributed as loans under Subsection (3)(a)(i) shall be distributed
86 as grants with:

87 (A) ~~[fifty percent]~~ 50% distributed to:

88 (I) § RURAL § communities § [meeting the requirements for enterprise zones in Section
9-2-404] § ; [and]

89 or

90 (II) a qualified small business located in § [an enterprise zone under Section 9-2-404; and] A
 90a RURAL COMMUNITY; AND §

91 (B) [fifty percent] 50% distributed to communities [not meeting the requirements for
 92 enterprise zones in Section 9-2-404] or entities that do not meet the requirements of Subsection
 93 (3)(a)(iii)(A).

94 (b) No more than 50% of the fund [monies] moneys distributed as grants or loans under
 95 Subsection (3)(a) may be distributed to urban areas of the state.

96 Section § [4] 5 § . Section **9-2-1505** is amended to read:

97 **9-2-1505. Entities authorized to receive fund moneys.**

98 The administrator, with advice of the board, may make [grants] a grant or [loans] loan to:

99 (1) a local [governments] government; [and]

100 (2) a regional or statewide nonprofit economic development [organizations:] organization;

101 or

102 (3) a qualified small business.

103 Section § [5] 6 § . Section **9-2-1506** is amended to read:

104 **9-2-1506. Application process and priorities.**

105 (1) For a grant or loan to a qualified small business, the administrator:

106 (a) may accept applications for a loan or grant from a qualified small business at any time;

107 (b) may not issue a grant or loan to a qualified small business in excess of \$15,000; and

108 (c) as a condition of issuing the grant or loan, shall require that the qualified small business
 109 use the grant or loan solely for the acquisition of any of the following intended to have long-term
 110 beneficial use:

111 (i) furniture;

112 (ii) fixtures; or

113 (iii) equipment.

114 (2) For a grant or loan to a local government or regional or statewide nonprofit economic
 115 development organization, the administrator shall:

116 [(1)] (a) (i) [At] at least once in each calendar year that moneys are available from the fund
 117 for use by the administrator, [the administrator shall] provide notice of a grant and loan application
 118 period to interested entities[-]; and

119 [(b)] (ii) [The administrator shall] accept applications for at least § [90] 45 § days[-]; and

120 [(2)] (b) [The administrator shall] give preference to applications that demonstrate:

- 121 ~~[(a)]~~ (i) substantial leverage with other sources of financing;
- 122 ~~[(b)]~~ (ii) substantial contributions to total project costs, including allied contributions from
123 other sources, such as professional, craft and trade services, and community organizations;
- 124 ~~[(c)]~~ (iii) substantial local government project contributions in the form of infrastructure
125 improvements or other assistance;
- 126 ~~[(d)]~~ (iv) projects that encourage ownership, management, and other project-related
127 opportunities;
- 128 ~~[(e)]~~ (v) projects that demonstrate a strong probability of serving the original target group
129 or income level for a period of at least 15 years;
- 130 ~~[(f)]~~ (vi) projects where the applicant has demonstrated the ability, stability, and resources
131 to complete the project;
- 132 ~~[(g)]~~ (vii) projects that appear to serve the greatest need of the target group;
- 133 ~~[(h)]~~ (viii) projects that demonstrate economic development benefits for the state;
- 134 ~~[(i)]~~ (ix) projects that allow integration into a local government economic development
135 plan;
- 136 ~~[(j)]~~ (x) projects or businesses located in any part of the state that create new jobs in or
137 measurable positive economic impact on a rural area;
- 138 ~~[(k)]~~ (xi) projects or programs ~~[which]~~ that require specialized training; and
- 139 ~~[(l)]~~ (xii) recreational or cultural projects ~~[which]~~ that enhance the economic vitality of or
140 tourism in a community.

140a **h Section 6. Section 9-4-505 is amended to read:**

140b **9-4-505. Allocation of volume cap.**

140c **(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the**
140d **board of review to the various allotment accounts as set forth in Section 9-4-506.**

140e **(b) The board of review may distribute up to 50% of each increase in the volume cap that**
140f **occurs after the effective date of this Subsection (1)(b) for use in development that occurs in quality**
140g **growth areas, depending upon the board's analysis of the relative need for additional volume cap**
140h **between development in quality growth areas and the allotment accounts under Section 9-4-506.**

140i **(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of**
140j **review an application containing information required by the procedures and processes of the board**
140k **of review.**

140l **(3) The board of review shall establish criteria for making allocations of volume cap that are**
140m **consistent with the purposes of the code and this part. In making an allocation of volume cap the h**

140n **h** board of review shall consider the following:

140o (a) the principal amount of the bonds proposed to be issued;

140p (b) the nature and the location of the project or the type of program;

140q (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;

140r (d) whether the project or program could obtain adequate financing without an allocation of
140s volume cap;

140t (e) the degree to which an allocation of volume cap is required for the project or program to
140u proceed or continue;

140v (f) the social, health, economic, and educational effects of the project or program on the local
140w community and state as a whole;

140x **(g) THE ANTICIPATED ECONOMIC DEVELOPMENT CREATED OR RETAINED WITHIN THE**
140y **LOCAL COMMUNITY AND THE STATE AS A WHOLE;**

140z ~~[(g)]~~ **(h)** the anticipated number of jobs, both temporary and permanent, created or retained
140aa within the local community and the state as a whole;

140ab ~~[(h)]~~ **(i)** if the project is a residential rental project, the degree to which the residential rental
140ac project targets lower income populations; and

140ad ~~[(i)]~~ **(j)** whether the project meets the principles of quality growth recommended by the
Quality

140ae Growth Commission created under Section 11-38-201.

140af (4) The board of review shall evidence an allocation of volume cap by issuing a certificate in
140ag accordance with Section 9-4-507.

140ah **(5) (a) FROM JANUARY 1 TO JUNE 30, THE BOARD SHALL § [ALLOEGATE] SET ASIDE § AT LEAST 50% OF**
140ai **THE SMALL ISSUE BOND ACCOUNT § THAT MAY BE ALLOCATED ONLY § TO MANUFACTURING PROJECTS.**

140aj **(b) FROM JULY 1 TO § [SEPTEMBER 30] AUGUST 15 § , THE BOARD SHALL**
140aja **§ [ALLOEGATE] SET ASIDE § AT LEAST 50% OF**
140ak **THE POOL ACCOUNT § THAT MAY BE ALLOCATED ONLY § TO MANUFACTURING PROJECTS.** **h**

141 Section **h** ~~[-6.]~~ **§ [7] 8 § h** Section 9-4-506 is amended to read:

142 **9-4-506. Allotment accounts.**

143 (1) There are created the following allotment accounts:

144 (a) the Single Family Housing Account, for which eligible issuing authorities are those
145 authorized under the code and state statute to issue qualified mortgage bonds under Section 143
146 of the code;

147 (b) the Student Loan Account, for which eligible issuing authorities are those authorized
148 under the code and state statute to issue qualified student loan bonds under Section 144(b) of the
149 code;

150 (c) the Small Issue Bond Account, for which eligible issuing authorities are those
151 authorized under the code and state statute to issue;

152 (i) qualified small issue bonds under Section 144(a) of the code; or

153 (ii) qualified exempt facility bonds for qualified residential rental projects under Section
154 142(d) of the code;

155 (d) the Exempt Facilities Account, for which eligible issuing authorities are those
156 authorized under the code and state statute to issue bonds requiring an allocation of volume cap
157 other than for purposes described in Subsections (1)(a), (b), or (c);

158 (e) the Pool Account, for which eligible issuing authorities are those authorized under the
159 code and state statute to issue bonds requiring an allocation of volume cap; and

160 (f) the Carryforward Account, for which eligible issuing authorities are those with projects
161 or programs qualifying under Section 146(f) of the code.

162 (2) (a) The volume cap shall be distributed to the various allotment accounts on January
163 1 of each year on the following basis:

164 (i) ~~h~~ ~~[f] 42%~~ ~~[f] 40%~~ ~~h~~ to the Single Family Housing Account;

165 (ii) ~~h~~ ~~[f] 33%~~ ~~[f] 31%~~ ~~h~~ to the Student Loan Account;

166 (iii) 1% to the Exempt Facilities Account; and

167 (iv) ~~h~~ ~~[f] 24%~~ ~~[f] 28%~~ ~~h~~ to the Small Issue Bond Account.

168 (b) From July 1 to September 30 of each year, the board of review may transfer any
169 unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to
170 the Pool Account.

171 (c) The board of review, upon written notification by the issuing authorities eligible for
172 volume cap allocation from the Single Family Housing Account or the Student Loan Account that
173 all or a portion of volume cap distributed into that allotment account will not be used, may transfer
174 the unused volume cap between the Single Family Housing Account and the Student Loan
175 Account.

176 (d) From October 1 to the third Friday of December of each year, all unallocated volume
177 cap shall be transferred into the Pool Account.

178 (e) Unallocated volume cap or allocated volume cap for which bonds have not been issued
179 prior to the third Saturday of December shall be transferred on that date into the Carryforward
180 Account.

181 (f) If the authority to issue bonds designated in any allotment account is rescinded by
182 amendment to the code, the board of review may transfer any unallocated volume cap from [such]

183 that allotment account to any other allotment account.

184 Section 7. **Repealer.**

185 This act repeals:

186 Section **9-2-1301, Short title.**

187 Section **9-2-1302, Definitions.**

188 Section **9-2-1303, Utah Capital Access Fund.**

189 Section **9-2-1304, Lender's fund reserve accounts.**

190 Section **9-2-1305, Conditions for match -- Special loan portfolios.**

191 Section **9-2-1306, Premiums -- Administrative costs -- Transfers.**

192 Section **9-2-1307, Enrolling.**

193 Section **9-2-1308, Loan losses -- Claims.**

194 Section **9-2-1309, Restrictions on loans.**

195 Section **9-2-1310, Termination -- Withdrawal.**

196 Section **9-2-1311, Reports -- Audits.**

197 Section **9-2-1312, State agency support.**

198 Section 8. **Disposition of the Capital Access Fund.**

199 (1) As used in this section:

200 (a) "Capital Access Act" means Title 9, Chapter 2, Part 13, Utah Capital Access Act;

201 (b) "corporation" means the Utah Technology Finance Corporation;

202 (c) "fund" means the Capital Access Fund;

203 (d) "fund balance" means an amount calculated by subtracting from the total amount in

204 the fund as of the last day of the state's fiscal year 1999-2000, the monies obligated under

205 Subsection (3) for pre-repeal loans;

206 (e) "participating lender" has the same meaning as under Section 9-2-1302; and

207 (f) "pre-repeal loan" means a loan enrolled by the corporation under the Capital Access

208 Act:

209 (i) before May 1, 2000; or

210 (ii) in accordance with Subsection (2)(b).

211 (2) (a) Except as provided in Subsection (2)(b) and notwithstanding the notice

212 requirements of Section 9-2-1310, the corporation may not enroll a loan under the Capital Access

213 Act on or after May 1, 2000.

214 (b) The corporation may enroll a loan under the Capital Access Act on or after May 1,
215 2000 but no later than June 30, 2000 if:
216 (i) the loan is issued by a participating lender who is a participating lender on or before
217 June 30, 2000;
218 (ii) the application for the loan is filed with the participating lender on or before May 10,
219 2000; and
220 (iii) the participating lender shows that it did not receive notice of the termination of the
221 corporation's authority to enroll a loan prior to the date the loan was issued.
222 (c) The corporation shall notify each participating lender by no later than May 10, 2000
223 of the termination of the corporation's authority under the Capital Access Act to enroll loans.
224 (3) (a) Notwithstanding the repeal of the Capital Access Act and the termination of the
225 corporation's authority to enroll a loan, for each participating lender that holds a pre-repeal loan:
226 (i) the Capital Access Act in effect as of April 30, 1999, shall apply to the pre-repeal loan;
227 (ii) the corporation shall maintain the participating lender's fund reserve account for the
228 life of the pre-repeal loan; and
229 (iii) the state treasurer shall maintain a separate state fund reserve account within the fund
230 in accordance with the Capital Access Act for the life of the pre-repeal loans held by the
231 participating lender.
232 (b) Notwithstanding Subsection (3)(a), if a loan described in Subsection (3)(a) is
233 refinanced, the amount of the loan covered under the Capital Access Act may not be increased
234 beyond the amount of the loan on the later of:
235 (i) May 1, 2000; or
236 (ii) the date the loan is enrolled by the corporation.
237 (4) By no later than 90 days after fiscal year 1999-2000, the Division of Finance shall
238 transfer from the fund:
239 (a) to the Community Economic Development Project Fund created in Section 9-2-1503,
240 an amount equal to the lesser of:
241 (i) the fund balance; or
242 (ii) \$ ~~[\$100,000] \$200,000~~ ; and
243 (b) if the fund balance exceeds \$ ~~[\$100,000] \$200,000~~ , to the Department of Community and Economic
244 Development for use in the custom-fit-training program that the Department of Community and

245 Economic Development administers, an amount equal to the difference between:
246 (i) the fund balance; and
247 (ii) the funds transferred under Subsection (4)(a).
248 (5) The Division of Finance shall notify the Business, Labor, and Economic Development
249 Interim Committee by no later than the committee's November interim meeting:
250 (a) that the transfers required under Subsection (4) have been made; and
251 (b) the amount of each transfer required under Subsection (4).
252 (6) When moneys obligated under Subsection (3) are no longer obligated under the Capital
253 Access Act, the state treasurer shall transfer the moneys including any interest on the moneys to
254 the corporation.

Legislative Review Note
as of 1-13-00 9:38 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel