

1 **AMENDMENTS TO DEPARTMENT OF**
2 **COMMUNITY AND ECONOMIC DEVELOPMENT**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Peter C. Knudson**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Industrial Assistance Fund and the Olene
10 Walker Housing Loan Fund within the Department of Community and Economic
11 Development.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides that the Division of Finance shall transfer from the General Fund to the
- 15 Industrial Assistance Fund each fiscal year sufficient money to offset earned credits;
- 16 ▶ provides that the Olene Walker Housing Loan Fund Board shall be an advisory
- 17 rather than policy board to the department's executive director on matters related to
- 18 the Olene Walker Housing Loan Fund;
- 19 ▶ changes the membership of the board from 11 to nine voting members; and
- 20 ▶ provides that the board shall advise the executive director on matters related to
- 21 housing needs in the state and the use, allocation, and distribution of fund moneys
- 22 to assist in meeting those needs.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **9-2-1204**, as last amended by Chapter 182, Laws of Utah 2004

30 **9-4-703**, as last amended by Chapter 185, Laws of Utah 2002

31 **9-4-704**, as last amended by Chapter 90, Laws of Utah 2004

32 **9-4-706**, as last amended by Chapter 159, Laws of Utah 2002

33 **9-4-707**, as last amended by Chapter 95, Laws of Utah 2003



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

36 Section 1. Section **9-2-1204** is amended to read:

37 **9-2-1204. Loans, grants, and assistance -- Repayment -- Earned credits.**

38 (1) (a) A company that qualifies under Section 9-2-1205 may receive loans, grants, or
39 other financial assistance from the fund for expenses related to establishment, relocation, or
40 development of industry in Utah.

41 (b) A company creating an economic impediment that qualifies under Section
42 9-2-1205.5 may in accordance with this part receive loans, grants, or other financial assistance
43 from the fund for the expenses of the company creating an economic impediment related to:

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

46 (ii) the siting of a replacement company.

47 (c) An entity offering an economic opportunity that qualifies under Section 9-2-1205.8
48 may:

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

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

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

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

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

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

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

67 (A) the number of Utah jobs created;

68 (B) the increased economic activity in Utah; or

69 (C) other events and activities that occur as a result of the fund assistance.

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

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

75 (A) the number of Utah jobs created;

76 (B) the increased economic activity in Utah; or

77 (C) other events and activities that occur as a result of the fund assistance.

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

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

83 (5) ~~[(a) At the end of]~~ The Division of Finance shall transfer each fiscal year ~~[, after the~~
84 ~~transfer of surplus General Fund revenues has been made to the General Fund Budget Reserve~~
85 ~~Account as provided in Section 63-38-2.5, any additional unrestricted, undesignated]~~ from the
86 General Fund ~~[balance shall be earmarked]~~ to the Industrial Assistance Fund ~~[in]~~ an amount
87 equal to any credit that has accrued under this part.

88 ~~[(b) These credit amounts may not be used for purposes of the fund as provided in this~~
89 ~~part until appropriated by the Legislature.]~~

90 Section 2. Section **9-4-703** is amended to read:

91 **9-4-703. Housing loan fund board -- Duties -- Expenses.**

92 (1) There is created the Olene Walker Housing Loan Fund Board to advise the
93 executive director in determining how loan fund monies shall be allocated and distributed.

94 (2) The board shall be composed of [~~11~~] nine voting members.

95 (a) The governor shall appoint the following members to four-year terms:

96 (i) two members from local governments, one of which shall be representative of the
97 rural areas of the state;

98 (ii) [~~two members~~] one member from the mortgage lending community;

99 (iii) one member from real estate sales interests;

100 (iv) one member from home builders interests;

101 (v) one member from rental housing interests;

102 (vi) one member from housing advocacy interests; and

103 [~~(vii) one member of the manufactured housing interest; and]~~

104 [~~(viii)] (vii) two members of the general public.~~

105 (b) The director or [~~his~~] the director's designee is a nonvoting member of the board and
106 shall serve as the [secretary of the] committee chair.

107 [~~(c) The members of the board shall annually elect a chair from among the voting~~
108 ~~membership of the board.]~~

109 (3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the
110 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
111 board members are staggered so that approximately half of the board is appointed every two
112 years.

113 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
114 appointed for the unexpired term.

115 (4) (a) The board shall:

116 (i) meet regularly, at least quarterly, on dates fixed by the board;

117 (ii) keep minutes of its meetings; and

118 (iii) comply with the procedures and requirements of Title 52, Chapter 4, Open and
119 Public Meetings.

120 (b) [~~Seven~~] Five voting members of the board constitute a quorum, and the governor,

121 the chair, or a majority of the board may call a meeting of the board.

122 (5) The board shall:

123 (a) ~~[review]~~ advise the director on the housing needs in the state;

124 (b) ~~[determine]~~ advise the director on the relevant operational aspects of any grant,
125 loan, or revenue collection program established under the authority of this chapter;

126 (c) ~~[determine]~~ advise the director on the means to implement the policies and goals of
127 this chapter;

128 (d) ~~[determine]~~ recommend specific projects to the director that the board considers
129 should receive grant or loan moneys; and

130 (e) ~~[determine]~~ recommend to the director how fund moneys shall be allocated and
131 distributed.

132 (6) (a) ~~(i)~~ Members who are not government employees shall receive no
133 compensation or benefits for their services, but may receive per diem and expenses incurred in
134 the performance of the member's official duties at the rates established by the Division of
135 Finance under Sections 63A-3-106 and 63A-3-107.

136 ~~[(ii) Members may decline to receive per diem and expenses for their service.]~~

137 (b) ~~(i)~~ State government employee members who do not receive salary, per diem, or
138 expenses from their agency for their service may receive per diem and expenses incurred in the
139 performance of their official duties from the board at the rates established by the Division of
140 Finance under Sections 63A-3-106 and 63A-3-107.

141 ~~[(ii) State government employee members may decline to receive per diem and
142 expenses for their service.]~~

143 (c) ~~(i)~~ Local government members who do not receive salary, per diem, or expenses
144 from the entity that they represent for their service may receive per diem and expenses incurred
145 in the performance of their official duties at the rates established by the Division of Finance
146 under Sections 63A-3-106 and 63A-3-107.

147 ~~[(ii) Local government members]~~

148 (d) Members identified in Subsection (6)(a), (b), or (c) may decline to receive per diem
149 and expenses for their service.

150 Section 3. Section **9-4-704** is amended to read:

151 **9-4-704. Distribution of fund moneys.**

- 152 (1) The executive director shall:
- 153 (a) make grants and loans from the fund for any of the activities authorized by Section
154 9-4-705, as [~~directed~~] advised by the board;
- 155 (b) establish the criteria with the [~~approval~~] recommendation of the board by which
156 loans and grants will be made; and
- 157 (c) determine with the [~~approval~~] advice of the board the order in which projects will
158 be funded.
- 159 (2) The executive director shall distribute[~~, as directed by the board,~~] any federal
160 moneys contained in the fund according to the procedures, conditions, and restrictions placed
161 upon the use of those moneys by the federal government.
- 162 (3) (a) The executive director shall distribute[~~, as directed by the board,~~] any funds
163 received pursuant to Section 17B-4-1010 to pay the costs of providing income targeted housing
164 within the community that created the redevelopment agency under Title 17B, Chapter 4,
165 Redevelopment Agencies Act.
- 166 (b) As used in Subsection (3)(a):
- 167 (i) "Community" has the meaning as defined in Subsection 17B-4-102(10).
- 168 (ii) "Income targeted housing" has the meaning as defined in Subsection
169 17B-4-1010(1).
- 170 (4) Except federal money and money received under Section 17B-4-1010, the
171 executive director shall distribute[~~, as directed by the board,~~] all other moneys from the fund
172 according to the following requirements:
- 173 (a) Not less than 30% of all fund moneys shall be distributed to rural areas of the state.
- 174 (b) At least 50% of the moneys in the fund shall be distributed as loans to be repaid to
175 the fund by the entity receiving them.
- 176 (i) (A) Of the fund moneys distributed as loans, at least 50% shall be distributed to
177 benefit persons whose annual income is at or below 50% of the median family income for the
178 state.
- 179 (B) The remaining loan moneys shall be distributed to benefit persons whose annual
180 income is at or below 80% of the median family income for the state.
- 181 (ii) The executive director or [~~his~~] the director's designee shall lend moneys in
182 accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.

183 (c) Any fund moneys not distributed as loans shall be distributed as grants.

184 (i) At least 90% of the fund moneys distributed as grants shall be distributed to benefit
185 persons whose annual income is at or below 50% of the median family income for the state.

186 (ii) The remaining fund moneys distributed as grants may be used by the executive
187 director to obtain federal matching funds or for other uses consistent with the intent of this part,
188 including the payment of reasonable loan servicing costs, but no more than 3% of the revenues
189 of the fund may be used to offset other department or board administrative expenses.

190 (5) The executive director may [~~with the approval of~~] as advised by the board:

191 (a) enact rules to establish procedures for the grant and loan process by following the
192 procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act;
193 and

194 (b) service or contract, pursuant to Title 63, Chapter 56, Utah Procurement Code, for
195 the servicing of loans made by the fund.

196 Section 4. Section **9-4-706** is amended to read:

197 **9-4-706. Entities authorized to receive fund moneys.**

198 (1) The executive director[~~, with the approval of the board,~~] may grant or lend fund
199 moneys to housing sponsors.

200 (2) (a) "Housing sponsor" includes a person who constructs, develops, rehabilitates,
201 purchases, or owns a housing development that is or will be subject to legally enforceable
202 restrictive covenants that require the housing development to provide, at least in part,
203 residential housing to low and moderate income persons.

204 (b) A housing sponsor includes:

205 [~~(1)~~] (i) a local public body;

206 [~~(2)~~] (ii) a nonprofit, limited profit, or for profit corporation;

207 [~~(3)~~] (iii) a limited partnership;

208 [~~(4)~~] (iv) a limited liability company;

209 [~~(5)~~] (v) a joint venture;

210 [~~(6)~~] (vi) a subsidiary of the Utah Housing Corporation or [~~any~~] a subsidiary of the
211 subsidiary of the Utah Housing Corporation;

212 [~~(7)~~] (vii) a cooperative;

213 [~~(8)~~] (viii) a mutual housing organization;

- 214 [~~(9)~~] (ix) a local government;
- 215 [~~(10)~~] (x) a local housing authority;
- 216 [~~(11)~~] (xi) a regional or statewide nonprofit housing or assistance organization; or
- 217 [~~(12)~~] (xii) any other type of entity or arrangement that helps provide affordable
- 218 housing for low and moderate income persons.

219 Section 5. Section **9-4-707** is amended to read:

220 **9-4-707. Application process and priorities.**

221 (1) (a) In each calendar year that moneys are available from the fund for distribution by
222 the executive director [~~under the direction of the board~~], the director shall, at least once in that
223 year, announce a grant and loan application period by sending notice to interested persons.

224 (b) The executive director shall accept applications which are received in a timely
225 manner.

226 (2) The executive director shall give first priority to applications for projects and
227 activities that use existing privately-owned housing stock, including privately owned housing
228 stock purchased by nonprofit public development authorities.

229 (3) Preference shall be given to applications that demonstrate the following:

230 (a) a high degree of leverage with other sources of financing;

231 (b) high recipient contributions to total project costs, including allied contributions
232 from other sources such as professional, craft and trade services, and lender interest rate
233 subsidies;

234 (c) high local government project contributions in the form of infrastructure
235 improvements, or other assistance;

236 (d) projects that encourage ownership, management, and other project-related
237 responsibility opportunities;

238 (e) projects that demonstrate a strong probability of serving the original target group or
239 income level for a period of at least 15 years;

240 (f) projects where the applicant has demonstrated the ability, stability, and resources to
241 complete the project;

242 (g) projects that appear to serve the greatest need;

243 (h) projects that provide housing for persons and families with the lowest income;

244 (i) projects that promote economic development benefits;

- 245 (j) projects that allow integration into a local government housing plan; and
- 246 (k) projects that would mitigate or correct existing health, safety, or welfare problems.
- 247 (4) Consideration may be given to projects that increase the supply of accessible
- 248 housing.

Legislative Review Note
as of 2-4-05 8:07 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

Passage of this bill requires a transfer from the General Fund to the Industrial Assistance Fund (IAF) for earned credits at the end of each fiscal year. The Budgetary Reserve Account (Rainy Day Fund) transfer would become subordinate to the transfer of any surplus into the IAF. This could reduce the amount transferred into the Budgetary Reserve Account. Passage of this bill would also remove the requirement for Legislative appropriation of the Industrial Assistance Fund replenishment potentially increasing the diversion from General Fund surplus over time.

Individual and Business Impact

No fiscal impact.