

1                                   **USE OF STATE SALES AND USE TAX**  
2                                   **REVENUES FOR BUSINESS DEVELOPMENT**  
3                                   **IN DISADVANTAGED RURAL COMMUNITIES**

4                                   2005 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Peter C. Knudson**

7 Mike Dmitrich

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8  
9 **LONG TITLE**

10 **General Description:**

11           This bill amends the Business Development chapter and the Sales and Use Tax Act  
12 relating to using state sales and use tax revenues for business development in  
13 disadvantaged rural communities.

14 **Highlighted Provisions:**

15           This bill:

- 16           ▶ creates the Business Development for Disadvantaged Rural Communities Act;
- 17           ▶ provides definitions;
- 18           ▶ creates the Business Development for Disadvantaged Rural Communities Restricted

19 Account including providing:

- 20           • for funding for the restricted account;
- 21           • that the restricted account shall earn interest and that the interest shall be  
22 deposited into the restricted account; and
- 23           • the purposes for which revenues deposited into the restricted account may be  
24 expended;

25           ▶ authorizes the Board of Business and Economic Development to award one or more  
26 grants or loans to a county of the third through sixth class to assist the county in  
27 paying certain expenses relating to economic development in a disadvantaged rural



28 community;

29       ▶ provides a limit on the total amount of grants and loans that the Board of Business  
30 and Economic Development may award relating to one project;

31       ▶ provides procedures for a county to submit a proposal to the Board of Business and  
32 Economic Development before being awarded a grant or loan;

33       ▶ provides procedures for the Board of Business and Economic Development to  
34 award a grant or loan;

35       ▶ provides that a county that is awarded a grant or loan shall enter into a written  
36 agreement with the Executive Director of the Department of Community and  
37 Economic Development and specifies the provisions of the agreement;

38       ▶ addresses the failure of a county to meet or the violation of a provision of the  
39 agreement;

40       ▶ grants rulemaking authority to the Department of Community and Economic  
41 Development;

42       ▶ requires the Board of Business and Economic Development to make an annual  
43 report to the Workforce Services and Community and Economic Development  
44 Interim Committee;

45       ▶ requires that certain state sales and use tax revenues that would otherwise be  
46 deposited into the General Fund be deposited into the Business Development for  
47 Disadvantaged Rural Communities Restricted Account; and

48       ▶ makes technical changes.

49 **Monies Appropriated in this Bill:**

50       None

51 **Other Special Clauses:**

52       This bill takes effect on July 1, 2005.

53 **Utah Code Sections Affected:**

54 AMENDS:

55       **59-12-103 (Effective 07/01/05)**, as last amended by Chapter 1, Laws of Utah 2004,  
56 Third Special Session

57 ENACTS:

58       **9-2-2101**, Utah Code Annotated 1953

- 59           **9-2-2102**, Utah Code Annotated 1953
- 60           **9-2-2103**, Utah Code Annotated 1953
- 61           **9-2-2104**, Utah Code Annotated 1953
- 62           **9-2-2105**, Utah Code Annotated 1953
- 63           **9-2-2106**, Utah Code Annotated 1953

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

66           Section 1. Section **9-2-2101** is enacted to read:

67                   **Part 21. Business Development for Disadvantaged Rural Communities Act**

68                   **9-2-2101. Title.**

69                   This part is known as the "Business Development for Disadvantaged Rural  
70 Communities Act."

71           Section 2. Section **9-2-2102** is enacted to read:

72                   **9-2-2102. Definitions.**

73                   As used in this part:

74                   (1) "Board" means the Board of Business and Economic Development created by  
75 Section 9-2-202.

76                   (2) "Business incubator expense" means an expense relating to funding a program that  
77 is:

78                   (a) designed to provide business support services and resources to one or more  
79 business entities within a project area during the business entities' early stages of development;

80 and

81                   (b) determined to be a business incubator by the board.

82                   (3) "Business rehabilitation expense" means an expense relating to the renovation or  
83 rehabilitation of an existing building within a project area as determined by the board.

84                   (4) "Debt service" means the payment of debt service on a bond issued to pay a:

85                   (a) business rehabilitation expense relating to a project; or

86                   (b) public infrastructure expense relating to a project.

87                   (5) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

88                   (6) "Eligible expense" means an expense:

89                   (a) incurred by an eligible county;

90 (b) relating to a project; and

91 (c) that is:

92 (i) a business incubator expense;

93 (ii) debt service; or

94 (iii) a public infrastructure expense.

95 (7) "Project" means an economic development project:

96 (a) as determined by the board; and

97 (b) for which an eligible county applies to the board in accordance with this part for a

98 loan or grant to assist the eligible county in paying an eligible expense.

99 (8) "Project area" means the geographic area within which a project is implemented by

100 an eligible county.

101 (9) "Public infrastructure expense" means an expense relating to a publicly owned

102 improvement located within a project area if:

103 (a) the expense is:

104 (i) incurred for:

105 (A) construction;

106 (B) demolition;

107 (C) design;

108 (D) engineering;

109 (E) an environmental impact study;

110 (F) environmental remediation; or

111 (G) rehabilitation; or

112 (ii) similar to an expense described in Subsection (9)(a)(i) as determined by the board;

113 and

114 (b) the publicly owned improvement is:

115 (i) not a building as determined by the board; and

116 (ii) necessary to support a project as determined by the board.

117 (10) "Publicly owned improvement" means an improvement to real property if:

118 (a) the real property is owned by:

119 (i) the United States;

120 (ii) the state; or

- 121 (iii) a political subdivision:
- 122 (A) as defined in Section 17B-2-101; and
- 123 (B) of the state; and
- 124 (b) the improvement relates to:
- 125 (i) a sewage system including a system for collection, transport, storage, treatment,
- 126 dispersal, effluent use, or discharge;
- 127 (ii) a drainage or flood control system, including a system for collection, transport,
- 128 diversion, storage, detention, retention, dispersal, use, or discharge;
- 129 (iii) a water system including a system for production, collection, storage, treatment,
- 130 transport, delivery, connection, or dispersal;
- 131 (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
- 132 (v) a rail transportation system;
- 133 (vi) a system for pedestrian use for travel, ingress, or egress;
- 134 (vii) a public utility system including a system for electricity, gas, or
- 135 telecommunications; or
- 136 (viii) a system or device that is similar to a system or device described in Subsections
- 137 (10)(b)(i) through (vii) as determined by the board.
- 138 (11) "Restricted account" means the Business Development for Disadvantaged Rural
- 139 Communities Restricted Account created by Section 9-2-2103.
- 140 Section 3. Section **9-2-2103** is enacted to read:
- 141 **9-2-2103. Creation of Business Development for Disadvantaged Rural**
- 142 **Communities Restricted Account -- Interest -- Costs of administering the restricted**
- 143 **account.**
- 144 (1) There is created within the General Fund the Business Development for
- 145 Disadvantaged Rural Communities Restricted Account.
- 146 (2) The restricted account shall be funded by:
- 147 (a) monies deposited in accordance with Section 59-12-103;
- 148 (b) monies received by the department as:
- 149 (i) repayment of a loan that the board grants to an eligible county under this part; and
- 150 (ii) interest on a loan described in Subsection (2)(b)(i); and
- 151 (c) the interest described in Subsection (3).

152 (3) (a) The restricted account shall earn interest.

153 (b) The interest described in Subsection (3)(a) shall be deposited into the account.

154 (4) The monies and interest deposited into the restricted account in accordance with  
155 this section may be expended:

156 (a) by the board to award grants or loans to eligible counties as provided in this part;  
157 and

158 (b) to cover the costs of administering this part:

159 (i) in an amount not to exceed \$75,000 in any fiscal year; and

160 (ii) including the costs of providing staff support to administer this part.

161 (5) (a) Except as provided in Subsection (5)(b), the monies and interest deposited into  
162 the restricted account in accordance with this section are nonlapsing.

163 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any  
164 monies and interest in the restricted account on July 1, 2015 into the General Fund.

165 Section 4. Section **9-2-2104** is enacted to read:

166 **9-2-2104. Board authority to award a grant or loan to an eligible county --**

167 **Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or**  
168 **loan -- Department rulemaking authority.**

169 (1) (a) Subject to the provisions of this section, beginning on July 1, 2005, through  
170 June 30, 2015, the board may make an award to an eligible county:

171 (i) of one or more of the following to assist in paying an eligible expense relating to a  
172 project:

173 (A) a grant; or

174 (B) a loan; and

175 (ii) from amounts or interest deposited into the restricted account in accordance with  
176 Section 9-2-2103 to the extent that there is a balance in the restricted account sufficient to  
177 cover the amount of the award.

178 (b) The total amount of grants and loans that the board may award in accordance with  
179 this section relating to one project is \$750,000.

180 (c) If the board awards a loan to an eligible county in accordance with this section, the  
181 loan shall be subject to interest as provided by administrative rule made in accordance with  
182 Subsection (6).

183 (2) (a) Before the board may award an eligible county a grant or loan in accordance  
184 with this section, the eligible county shall submit a written proposal to the board in accordance  
185 with Subsection (2)(b).

186 (b) The proposal described in Subsection (2)(a) shall:

187 (i) describe the project area;

188 (ii) describe the characteristics of the project including a description of how the project  
189 will be implemented;

190 (iii) provide an economic development plan for the project including a description of  
191 any eligible expenses that will be incurred as part of implementing the project;

192 (iv) describe the characteristics of the community within which the project area is  
193 located;

194 (v) establish that the community within which the project area is located is a  
195 disadvantaged community on the basis of one or more of the following factors:

196 (A) median income per capita within the community;

197 (B) median property tax revenues generated within the community;

198 (C) median sales and use tax revenues generated within the community;

199 (D) unemployment rates within the community; or

200 (E) any other factor established by the department by administrative rule made in  
201 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

202 (vi) demonstrate that there is a need for the project in the community within which the  
203 project area is located;

204 (vii) describe the short-term and long-term benefits of the project to the community  
205 within which the project area is located;

206 (viii) demonstrate that there is a need for assistance in paying eligible expenses relating  
207 to the project;

208 (ix) indicate the amount of any revenues that will be pledged to match any funds the  
209 board may award as a loan or grant under this section; and

210 (x) indicate whether there is support for the implementation of the project from:

211 (A) the community within which the project area is located; and

212 (B) any cities or towns within which the project area is located.

213 (3) At the request of the board, representatives from an eligible county shall appear

214 before the board to:  
215 (a) present a proposal submitted in accordance with Subsection (2)(b); and  
216 (b) respond to any questions or issues raised by the board relating to eligibility to  
217 receive a grant or loan under this section.  
218 (4) The board shall:  
219 (a) consider a proposal submitted to the board in accordance with Subsection (2);  
220 (b) make written findings as to whether the proposal described in Subsection (4)(a)  
221 meets the requirements of Subsection (2)(b);  
222 (c) make written findings as to whether to award the eligible county that submitted the  
223 proposal described in Subsection (4)(a) one or more grants or loans:  
224 (i) on the basis of the factors established in Subsection (5);  
225 (ii) in consultation with the executive director; and  
226 (iii) in accordance with the procedures established:  
227 (A) by administrative rule in accordance with Subsection (6); and  
228 (B) for prioritizing which projects may be awarded a grant or loan by the board under  
229 this section;  
230 (d) if the board determines to award an eligible county a grant or loan in accordance  
231 with this section, make written findings in consultation with the executive director specifying  
232 the:  
233 (i) amount of the grant or loan;  
234 (ii) time period for distributing the grant or loan;  
235 (iii) terms and conditions that the eligible county shall meet to receive the grant or  
236 loan;  
237 (iv) structure of the grant or loan; and  
238 (v) eligible expenses for which the eligible county may expend the grant or loan;  
239 (e) if the board determines to award an eligible county a loan in accordance with this  
240 section, make written findings stating:  
241 (i) the method of calculating interest applicable to the loan; and  
242 (ii) procedures for:  
243 (A) applying interest to the loan; and  
244 (B) paying interest on the loan; and

245 (f) provide the written findings required by Subsections (4)(b) through (e) to the  
246 eligible county.

247 (5) For purposes of Subsection (4)(c), the board shall consider the following factors in  
248 determining whether to award an eligible county one or more grants or loans authorized by this  
249 part:

250 (a) whether the project is likely to result in economic development in the community  
251 within which the project area is located;

252 (b) whether the community within which the project area is located is a disadvantaged  
253 community on the basis of one or more of the following factors:

254 (i) median income per capita within the community;

255 (ii) median property tax revenues generated within the community;

256 (iii) median sales and use tax revenues generated within the community;

257 (iv) unemployment rates within the community; or

258 (v) any other factor established by the department by administrative rule made in  
259 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

260 (c) whether there is a need for the project in the community within which the project  
261 area is located;

262 (d) whether the project is likely to produce short-term and long-term benefits to the  
263 community within which the project area is located;

264 (e) whether the project would be successfully implemented without the board awarding  
265 a grant or a loan to the eligible county;

266 (f) whether any revenues will be pledged to match any funds the board may award as a  
267 grant or loan under this section;

268 (g) whether there is support for the implementation of the project from:

269 (i) the community within which the project area is located; and

270 (ii) any cities or towns within which the project area is located; and

271 (h) any other factor as determined by the board.

272 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
273 department shall by rule establish:

274 (a) procedures for prioritizing which projects may be awarded a grant or loan by the  
275 board under this section; and

- 276 (b) for loans awarded in accordance with this section:
- 277 (i) the method of calculating interest applicable to the loans; and
- 278 (ii) procedures for:
- 279 (A) applying interest to the loans; and
- 280 (B) paying interest on the loans.

281 Section 5. Section **9-2-2105** is enacted to read:

282 **9-2-2105. Agreement between the executive director and an eligible county --**  
283 **Failure to meet or violation of a term or condition of an agreement.**

284 (1) Before an eligible county that has been awarded a grant or loan in accordance with  
285 Section 9-2-2104 may receive the grant or loan, the eligible county shall enter into a written  
286 agreement with the executive director.

287 (2) The written agreement described in Subsection (1):

288 (a) shall:

289 (i) specify the amount of the grant or loan;

290 (ii) specify the time period for distributing the grant or loan;

291 (iii) specify the terms and conditions that the eligible county shall meet to receive the  
292 grant or loan;

293 (iv) specify the structure of the grant or loan;

294 (v) specify the eligible expenses for which the eligible county may expend the grant or  
295 loan;

296 (vi) if the eligible county has been awarded a loan:

297 (A) specify the repayment schedule for the loan;

298 (B) specify the method of calculating interest applicable to the loan; and

299 (C) specify procedures for:

300 (I) applying interest to the loan; and

301 (II) paying interest on the loan; and

302 (vii) subject to Subsection (3), contain provisions governing the failure to meet or the  
303 violation of a term or condition of the agreement; and

304 (b) may contain any other provision as determined by the executive director.

305 (3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an  
306 eligible county fails to meet or violates any provision of the agreement described in Subsection

307 (2), the board shall impose one or more of the following penalties:

308 (i) require the eligible county to repay all or a portion of the amount of any grant or  
309 loan the eligible county received in an amount determined by the board;

310 (ii) provide that an eligible county may not receive any amounts of a grant or loan that  
311 the eligible county has been awarded in accordance with Section 9-2-2104 but has not received;  
312 or

313 (iii) provide that an eligible county may not be awarded a grant or loan under this part  
314 for a time period determined by the board.

315 (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a  
316 penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause  
317 exists for the eligible county failing to meet or violating a provision of the agreement described  
318 in Subsection (2).

319 (c) (i) If the board imposes a penalty in accordance with this Subsection (3) on an  
320 eligible county, the board shall provide written notice of the penalty to the eligible county  
321 within ten calendar days after the day on which the board determines to impose the penalty.

322 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
323 the department may make rules providing the form of the written notice described in  
324 Subsection (3)(c)(i).

325 Section 6. Section **9-2-2106** is enacted to read:

326 **9-2-2106. Report to Workforce Services and Community and Economic**  
327 **Development Interim Committee.**

328 The board shall annually report to the Workforce Services and Community and  
329 Economic Development Interim Committee on or before the November interim meeting:

330 (1) the total amount of grants and loans the board awarded to eligible counties under  
331 this part during the fiscal year that ended on the June 30 immediately preceding the November  
332 interim meeting;

333 (2) a description of the projects with respect to which the board awarded a grant or loan  
334 under this part;

335 (3) the total amount of outstanding debt service that is being repaid by a grant or loan  
336 awarded under this part;

337 (4) on whether the grants and loans awarded under this part have resulted in

338 meaningful economic development within project areas:

339 (5) on whether the board recommends:

340 (a) that the grants and loans authorized by this part should be continued; or

341 (b) any modifications to this part; and

342 (6) on any other issue relating to this part as determined by the Workforce Services and

343 Community and Economic Development Interim Committee.

344 Section 7. Section **59-12-103 (Effective 07/01/05)** is amended to read:

345 **59-12-103 (Effective 07/01/05). Sales and use tax base -- Rates -- Effective dates --**

346 **Use of sales and use tax revenues.**

347 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
348 charged for the following transactions:

349 (a) retail sales of tangible personal property made within the state;

350 (b) amounts paid:

351 (i) (A) to a common carrier; or

352 (B) whether the following are municipally or privately owned, to a:

353 (I) telephone service provider; or

354 (II) telegraph corporation as defined in Section 54-2-1; and

355 (ii) for:

356 (A) all transportation;

357 (B) telephone service, other than mobile telecommunications service, that originates  
358 and terminates within the boundaries of this state;

359 (C) mobile telecommunications service that originates and terminates within the  
360 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
361 Sourcing Act, 4 U.S.C. Sec.116 et seq.; or

362 (D) telegraph service;

363 (c) sales of the following for commercial use:

364 (i) gas;

365 (ii) electricity;

366 (iii) heat;

367 (iv) coal;

368 (v) fuel oil; or

- 369 (vi) other fuels;
- 370 (d) sales of the following for residential use:
- 371 (i) gas;
- 372 (ii) electricity;
- 373 (iii) heat;
- 374 (iv) coal;
- 375 (v) fuel oil; or
- 376 (vi) other fuels;
- 377 (e) sales of prepared food;
- 378 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 379 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 380 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 381 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 382 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 383 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 384 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 385 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 386 exhibition, cultural, or athletic activity;
- 387 (g) amounts paid or charged for services:
- 388 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 389 provides for an exemption from sales and use tax for:
- 390 (A) the tangible personal property; and
- 391 (B) parts used in the repairs or renovations of the tangible personal property described
- 392 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 393 renovations of that tangible personal property; or
- 394 (ii) to install tangible personal property in connection with other tangible personal
- 395 property, unless the tangible personal property being installed is exempt from sales and use tax
- 396 under Section 59-12-104;
- 397 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 398 cleaning or washing of tangible personal property;
- 399 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

400 accommodations and services that are regularly rented for less than 30 consecutive days;

401 (j) amounts paid or charged for laundry or dry cleaning services;

402 (k) amounts paid or charged for leases or rentals of tangible personal property if:

403 (i) the tangible personal property's situs is in this state;

404 (ii) the lessee took possession of the tangible personal property in this state; or

405 (iii) within this state the tangible personal property is:

406 (A) stored;

407 (B) used; or

408 (C) otherwise consumed;

409 (l) amounts paid or charged for tangible personal property if within this state the

410 tangible personal property is:

411 (i) stored;

412 (ii) used; or

413 (iii) consumed; and

414 (m) amounts paid or charged for prepaid telephone calling cards.

415 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax

416 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

417 (i) a state tax imposed on the transaction at a rate of 4.75%; and

418 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

419 transaction under this chapter other than this part.

420 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a

421 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

422 (i) a state tax imposed on the transaction at a rate of 2%; and

423 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

424 transaction under this chapter other than this part.

425 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax

426 rate imposed under the following shall take effect on the first day of a calendar quarter:

427 (i) Subsection (2)(a)(i); or

428 (ii) Subsection (2)(b)(i).

429 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take

430 effect on the first day of the first billing period:

- 431 (A) that begins after the effective date of the tax rate increase; and
- 432 (B) if the billing period for the transaction begins before the effective date of a tax rate
- 433 increase imposed under:
  - 434 (I) Subsection (2)(a)(i); or
  - 435 (II) Subsection (2)(b)(i).
- 436 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
- 437 decrease shall take effect on the first day of the last billing period:
  - 438 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
  - 439 and
  - 440 (B) if the billing period for the transaction begins before the effective date of the repeal
  - 441 of the tax or the tax rate decrease imposed under:
    - 442 (I) Subsection (2)(a)(i); or
    - 443 (II) Subsection (2)(b)(i).
  - 444 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
    - 445 (A) Subsection (1)(b);
    - 446 (B) Subsection (1)(c);
    - 447 (C) Subsection (1)(d);
    - 448 (D) Subsection (1)(e);
    - 449 (E) Subsection (1)(f);
    - 450 (F) Subsection (1)(g);
    - 451 (G) Subsection (1)(h);
    - 452 (H) Subsection (1)(i);
    - 453 (I) Subsection (1)(j); or
    - 454 (J) Subsection (1)(k).
  - 455 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
  - 456 basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax
  - 457 rate imposed under Subsection (2)(a)(i) takes effect:
    - 458 (A) on the first day of a calendar quarter; and
    - 459 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
    - 460 under Subsection (2)(a)(i).
  - 461 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

462 the commission may by rule define the term "catalogue sale."

463 (3) (a) Except as provided in Subsections (4) through (7), the following state taxes  
464 shall be deposited into the General Fund:

465 (i) the tax imposed by Subsection (2)(a)(i); or

466 (ii) the tax imposed by Subsection (2)(b)(i).

467 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed  
468 to a county, city, or town as provided in this chapter.

469 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
470 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
471 through (g):

472 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

473 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

474 (B) for the fiscal year; or

475 (ii) \$17,500,000.

476 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
477 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
478 Department of Natural Resources to:

479 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
480 protect sensitive plant and animal species; or

481 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
482 act, to political subdivisions of the state to implement the measures described in Subsections  
483 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

484 (ii) Money transferred to the Department of Natural Resources under Subsection  
485 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
486 person to list or attempt to have listed a species as threatened or endangered under the  
487 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

488 (iii) At the end of each fiscal year:

489 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
490 Conservation and Development Fund created in Section 73-10-24;

491 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
492 Program Subaccount created in Section 73-10c-5; and

493 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
494 Program Subaccount created in Section 73-10c-5.

495 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
496 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development  
497 Fund created in Section 4-18-6.

498 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
499 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
500 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
501 water rights.

502 (ii) At the end of each fiscal year:

503 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
504 Conservation and Development Fund created in Section 73-10-24;

505 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
506 Program Subaccount created in Section 73-10c-5; and

507 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
508 Program Subaccount created in Section 73-10c-5.

509 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
510 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
511 Fund created in Section 73-10-24 for use by the Division of Water Resources.

512 (ii) In addition to the uses allowed of the Water Resources Conservation and  
513 Development Fund under Section 73-10-24, the Water Resources Conservation and  
514 Development Fund may also be used to:

515 (A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
516 funds made available to the Division of Water Resources under this section, of potential project  
517 features of the Central Utah Project;

518 (B) conduct hydrologic and geotechnical investigations by the Department of Natural  
519 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
520 quantifying surface and ground water resources and describing the hydrologic systems of an  
521 area in sufficient detail so as to enable local and state resource managers to plan for and  
522 accommodate growth in water use without jeopardizing the resource;

523 (C) fund state required dam safety improvements; and

524 (D) protect the state's interest in interstate water compact allocations, including the  
525 hiring of technical and legal staff.

526 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
527 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
528 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

529 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
530 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
531 created in Section 73-10c-5 for use by the Division of Drinking Water to:

532 (i) provide for the installation and repair of collection, treatment, storage, and  
533 distribution facilities for any public water system, as defined in Section 19-4-102;

534 (ii) develop underground sources of water, including springs and wells; and

535 (iii) develop surface water sources.

536 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
537 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)  
538 through (d):

539 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

540 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

541 (B) for the fiscal year; or

542 (ii) \$18,743,000.

543 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described  
544 in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation  
545 Revolving Loan Fund created in Section 72-2-117.

546 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
547 Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made  
548 by the Department of Transportation at the request of local governments.

549 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
550 Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the  
551 Department of Transportation for the State Park Access Highways Improvement Program  
552 created in Section 72-3-207.

553 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in  
554 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as

555 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C  
556 roads.

557 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of  
558 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion  
559 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate  
560 on the taxable transactions under Subsection (1).

561 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
562 year 2004-05, the commission shall each year on or before the September 30 immediately  
563 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)  
564 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
565 greater than \$0.

566 (b) The difference described in Subsection (7)(a) is equal to the difference between:

567 (i) the total amount of the following revenues the commission received from sellers  
568 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately  
569 preceding the September 30 described in Subsection (7)(a):

570 (A) revenues under Subsection (2)(a)(i); and

571 (B) revenues under Subsection (2)(b)(i); and

572 (ii) \$7,279,673.

573 (8) Notwithstanding Subsection (3)(a):

574 (a) for fiscal year 2005-06 only, \$5,000,000 of the revenues described in Subsection  
575 (3)(a) that would otherwise be deposited into the General Fund shall be deposited into the  
576 Business Development for Disadvantaged Rural Communities Restricted Account created by  
577 Section 9-2-2103; and

578 (b) for fiscal years beginning on or after fiscal year 2006-07, through fiscal year  
579 2014-15, revenues described in Subsection (3)(a) that would otherwise be deposited into the  
580 General Fund shall be deposited into the Business Development for Disadvantaged Rural  
581 Communities Restricted Account created by Section 9-2-2103 in the amount necessary to  
582 ensure that, for each fiscal year, a total of \$5,000,000 is available to be used for the purposes  
583 described in Title 9, Chapter 2, Part 21, Business Development for Disadvantaged Rural  
584 Communities Act.

585 Section 8. **Effective date.**

586

This bill takes effect on July 1, 2005.

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**Legislative Review Note**

**as of 1-26-05 2:49 PM**

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 would divert \$5,000,000 annually from the General Fund into the Disadvantaged Rural Communities Restricted Account. The Department of Community and Economic Development would require an appropriation of \$48,200 annually to implement the provisions of the bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$48,200	\$48,200	(\$5,000,000)	(\$5,000,000)
Restricted Funds	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
<b>TOTAL</b>	<b>\$5,048,200</b>	<b>\$5,048,200</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Passage of this bill could help encourage business expansion into rural communities.

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**Office of the Legislative Fiscal Analyst**