

1 **FINANCIAL ASSISTANCE FOR BUSINESS**
2 **RELOCATION IN RURAL COMMUNITIES**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael R. Styler**

6 AN ACT RELATING TO COMMUNITY AND ECONOMIC DEVELOPMENT; DEFINING
7 TERMS; PROVIDING FOR FINANCIAL ASSISTANCE FROM THE INDUSTRIAL
8 ASSISTANCE FUND TO A COMPANY CREATING AN ECONOMIC IMPEDIMENT; AND
9 MAKING TECHNICAL CHANGES.

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

11 AMENDS:

12 **9-2-1202**, as last amended by Chapter 193, Laws of Utah 1994

13 **9-2-1204**, as renumbered and amended by Chapters 145 and 241, Laws of Utah 1992

14 **9-2-1205**, as last amended by Chapter 335, Laws of Utah 1997

15 **9-2-1207**, as last amended by Chapter 335, Laws of Utah 1997

16 ENACTS:

17 **9-2-1205.5**, Utah Code Annotated 1953

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

19 Section 1. Section **9-2-1202** is amended to read:

20 **9-2-1202. Definitions.**

21 As used in this part:

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

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

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

26 (a) odors;

27 (b) noise;

- 28 (c) pollution;
- 29 (d) health hazards; or
- 30 (e) other activities similar to those described in Subsections (3)(a) through (d).

31 [~~(3)~~] (4) "Economically disadvantaged rural area" means a geographic area designated by
 32 the board under Section 9-2-1207.

33 [~~(4)~~] (5) "Fund" means the restricted account known as the Industrial Assistance Fund
 34 created in Section 9-2-1203.

35 (6) "Replacement company" means a company locating its business or part of its business
 36 in a location vacated by a company creating an economic impediment.

37 [~~(5)~~] (7) "Targeted industry" means an industry or group of industries targeted by the
 38 board, under Section 9-2-1207, for economic development in the state.

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

40 **9-2-1204. Loans and assistance -- Repayment -- Credits.**

41 (1) (a) [~~Any qualifying~~] A company that qualifies under Section 9-2-1205 may receive
 42 loans or other financial assistance from the fund for expenses related to establishment, relocation,
 43 or development of industry in Utah.

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

- 47 (i) relocation to a rural area in Utah of the company creating an economic impediment; and
- 48 (ii) the siting of a replacement company.

49 (2) [~~The~~] (a) Subject to Subsection (2)(b), the administrator shall have the authority to
 50 determine the structure, amount, and nature of any loan or other financial assistance from the fund.
 51 [~~Each such~~]

52 (b) The form of financial assistance determined under Subsection (2)(a) shall be structured
 53 so the intended repayment or return to the state [of Utah], including cash or credit, equals at least
 54 the amount of the assistance together with an annual interest rate of 10%.

55 (3) (a) (i) [~~The~~] Except as provided in Subsection (3)(b), the administrator may provide
 56 for a system of credits that may be used in lieu of cash repayment of a fund loan.

57 (ii) The value of [these] the credits described in Subsection (3)(a)(i) shall be based on
 58 factors determined by the administrator, including:

59 (A) the number of Utah jobs created[~~;~~];

60 (B) the increased economic activity in Utah[~~;~~]; and

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

62 **(b) (i) The administrator shall provide for a system of credits to be used in lieu of cash**
63 **repayment of a fund loan that is issued to a company creating an economic impediment.**

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

66 **(A) the number of Utah jobs created;**

67 **(B) the increased economic activity in Utah; and**

68 **(C) other events and activities that occur as a result of the fund loan.**

69 (4) (a) If loan repayments are in cash, [they] the repayments shall be deposited, including
70 any interest, into the fund.

71 (b) If the repayments are in the form of credits as provided in Subsection (3), the
72 administrator and the Division of Finance shall determine the manner of recognizing and
73 accounting for the credits.

74 (5) At the end of each fiscal year, after the transfer of surplus General Fund revenues has
75 been made to the Budget Reserve Account as provided in Section 63-38-2.5, any additional
76 unrestricted, undesignated General Fund balance, except the first \$10,000,000 of additional
77 unrestricted, undesignated General Fund balance on June 30, 1992, shall be earmarked to the
78 Industrial Assistance Fund in an amount equal to any credit that has accrued under this part. These
79 credit amounts may not be used for purposes of the fund as provided in this part until appropriated
80 by the Legislature.

81 Section 3. Section **9-2-1205** is amended to read:

82 **9-2-1205. Qualification for assistance.**

83 (1) [The] Except as provided in Section 9-2-1205.5, the administrator shall determine
84 which industries, companies, and individuals qualify to receive monies from the fund. Except as
85 provided by Subsection (2), to qualify for financial assistance from the fund, an applicant shall:

86 (a) demonstrate to the satisfaction of the administrator that the applicant will expend funds
87 in Utah with vendors and subcontractors or other businesses in an amount proportional with
88 monies provided from the fund at a minimum ratio of 5.7 to 1 per year for a minimum period of
89 five years beginning with the date the loan was approved;

90 (b) demonstrate to the satisfaction of the administrator that the applicant will expend at
91 least \$10,000,000 annually in Utah over the base level of an applicant's prior year's expenditures
92 in the state;

93 (c) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
94 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
95 assistance provided by the fund; and

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

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

99 (i) the financial assistance is provided to an applicant for the purpose of locating all or any
100 portion of its operations to an economically disadvantaged rural area;

101 (ii) the applicant is solely owned by or is a cooperative consisting solely of persons who
102 reside in an economically disadvantaged rural area; or

103 (iii) the applicant is part of a targeted industry.

104 (b) The administrator may not exempt the applicant from the requirement under
105 Subsection 9-2-1204(2) that the loan or financial assistance be structured so that the repayment or
106 return to the state equals at least the amount of the assistance together with an annual interest rate
107 of 10%.

108 (3) The administrator shall:

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

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

112 (ii) monitor the continued compliance by each applicant with each of the conditions set
113 forth in Subsection (1);

114 (b) for applicants described in Subsection (2)(a)(ii) who are cooperatives, make findings
115 as to whether the economic activities of each applicant has resulted in a reduction in the federal
116 poverty rate in the economically disadvantaged rural area in which the applicant is located;

117 (c) for applicants described in Subsection (2)(a)(ii) who are not cooperatives, make
118 findings as to whether the economic activities of each applicant has resulted in the creation of new
119 jobs on a per capita basis, instead of a set standard, in the economically disadvantaged rural area
120 in which the applicant is located;

121 (d) monitor the compliance by each applicant with the provisions of any contract or
122 agreement entered into between the applicant and the state as provided in Section 9-2-1206; and

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

124 Section 4. Section **9-2-1205.5** is enacted to read:

125 **9-2-1205.5. Financial assistance to companies that create economic impediments.**

126 (1) (a) The administrator may provide monies from the fund to a company creating an
127 economic impediment if that company:

128 (i) applies to the administrator;

129 (ii) relocates to a rural area in Utah; and

130 (iii) meets the qualifications of Subsection (1)(b).

131 (b) Except as provided by Subsection (2), to qualify for financial assistance from the fund,
132 a company creating an economic impediment shall:

133 (i) demonstrate to the satisfaction of the administrator that the company creating an
134 economic impediment, its replacement company, or in the aggregate the company creating the
135 economic impediment and its replacement company:

136 (A) will expend funds in Utah with vendors and subcontractors or other businesses in an
137 amount proportional with monies provided from the fund at a minimum ratio of 5.7 to 1 per year
138 for a minimum period of five years beginning with the date the loan was approved;

139 (B) will expend at least \$10,000,000 annually in Utah over the base level of the company
140 creating the economic impediment's prior year's expenditures in the state; and

141 (C) can sustain economic activity in the state sufficient to repay, by means of cash or
142 appropriate credits, the assistance provided by the fund; and

143 (ii) satisfy other criteria the administrator considers appropriate.

144 (2) (a) The administrator may exempt a company creating an economic impediment from
145 the requirements of Subsection (1)(b)(i)(A) or (1)(b)(i)(B), or both, if:

146 (i) the financial assistance is provided to a company creating an economic impediment for
147 the purpose of locating all or any portion of its operations to an economically disadvantaged rural
148 area; or

149 (ii) its replacement company is part of a targeted industry.

150 (b) The administrator may not exempt a company creating an economic impediment from
151 the requirement under Subsection 9-2-1204(2) that the loan or financial assistance be structured

152 so that the repayment or return to the state equals at least the amount of the assistance together
153 with an annual interest rate of 10%.

154 (3) The administrator shall:

155 (a) make findings as to whether or not a company creating an economic impediment, its
156 replacement company, or both, have satisfied each of the conditions set forth in Subsection (1);

157 (b) monitor the compliance by a company creating an economic impediment, its
158 replacement company, or both, with:

159 (i) each of the conditions set forth in Subsection (1); and

160 (ii) any contract or agreement under Section 9-2-1206 entered into between:

161 (A) the company creating an economic impediment; and

162 (B) the state; and

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

164 Section 5. Section **9-2-1207** is amended to read:

165 **9-2-1207. Designation of economically disadvantaged rural areas and targeted**
166 **industries.**

167 (1) For purposes of this part, the board shall determine annually which industries or groups
168 of industries shall be targeted industries as defined in [Subsection] Section 9-2-1202~~(5)~~.

169 (2) In designating an economically disadvantaged rural area:

170 (a) the board shall consider the average agricultural and nonagricultural wage, personal
171 income, unemployment, and employment in the area; and

172 (b) the board may use an econometric cost-benefit model or models adopted by the
173 Governor's Office of Planning and Budget.

Legislative Review Note
as of 2-16-00 12:06 PM

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

Office of Legislative Research and General Counsel