

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

- 30 (a) odors;
- 31 (b) noise;
- 32 (c) pollution;
- 33 (d) health hazards; or
- 34 (e) other activities similar to those described in Subsections (3)(a) through (d).

35 (4) "Economically disadvantaged rural area" means a geographic area designated by the
36 board under Section 9-2-1207.

37 (5) "Fund" means the restricted account known as the Industrial Assistance Fund
38 created in Section 9-2-1203.

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

41 (7) "Targeted industry" means an industry or group of industries targeted by the board,
42 under Section 9-2-1207, for economic development in the state.

43 Section 2. Section **9-2-1203** is amended to read:

44 **9-2-1203. Industrial Assistance Fund created.**

45 (1) There is created within the General Fund a restricted account known as the
46 Industrial Assistance Fund of which up to 50% shall be used in economically disadvantaged
47 rural areas.

48 (2) The fund shall be administered by the administrator under the policy direction of
49 the board. [~~Interest accrued from investment of monies in the fund shall remain in the fund.~~]

50 (3) The administrator may hire appropriate support staff.

51 (4) The cost of administering the fund shall be paid from monies in the fund.

52 (5) Interest accrued from investment of monies in the fund shall remain in the fund.

53 Section 3. Section **9-2-1204** is amended to read:

54 **9-2-1204. Loans, grants, and assistance -- Repayment -- Earned credits.**

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

58 (b) A company creating an economic impediment that qualifies under Section

59 9-2-1205.5 may in accordance with this part receive loans, grants, or other financial assistance
60 from the fund for the expenses of the company creating an economic impediment related to:

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

63 (ii) the siting of a replacement company.

64 (2) (a) Subject to Subsection (2)(b), the administrator [~~shall have the~~] has authority to
65 determine the structure, amount, and nature of any loan, grant, or other financial assistance
66 from the fund.

67 (b) [~~The form of financial assistance determined~~] Loans made under Subsection (2)(a)
68 shall be structured so the intended repayment or return to the state, including cash or credit,
69 equals at least the amount of the assistance together with an annual interest [~~rate of 10%~~]
70 charge as negotiated by the administrator.

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

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

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

79 (A) the number of Utah jobs created;

80 (B) the increased economic activity in Utah; and

81 (C) other events and activities that occur as a result of the fund [~~loan~~] assistance.

82 (b) (i) The administrator shall provide for a system of credits to be used to support
83 grant payments or in lieu of cash repayment of a fund loan [~~that is issued~~] when loans are made
84 to a company creating an economic impediment.

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

87 (A) the number of Utah jobs created;

88 (B) the increased economic activity in Utah; and

89 (C) other events and activities that occur as a result of the fund [~~loan~~] assistance.

90 (4) (a) [~~If loan repayments are in cash, the repayments~~] A cash loan repayment or other
 91 cash recovery from a company receiving assistance under this section, including interest, shall
 92 be deposited[~~, including any interest,~~] into the fund.

93 (b) [~~If the repayments are in the form of credits as provided in Subsection (3), the~~] The
 94 administrator and the Division of Finance shall determine the manner of recognizing and
 95 accounting for the earned credits used in lieu of loan repayments or to support grant payments
 96 as provided in Subsection (3).

97 (5) (a) At the end of each fiscal year, after the transfer of surplus General Fund
 98 revenues has been made to the Budget Reserve Account as provided in Section 63-38-2.5, any
 99 additional unrestricted, undesignated General Fund balance[~~, except the first \$10,000,000 of~~
 100 ~~additional unrestricted, undesignated General Fund balance on June 30, 1992,~~] shall be
 101 earmarked to the Industrial Assistance Fund in an amount equal to any credit that has accrued
 102 under this part.

103 (b) These credit amounts may not be used for purposes of the fund as provided in this
 104 part until appropriated by the Legislature.

105 Section 4. Section **9-2-1205** is amended to read:

106 **9-2-1205. Qualification for assistance.**

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

110 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
 111 funds in Utah with employees, vendors [~~and~~], subcontractors, or other businesses in an amount
 112 proportional with monies provided from the fund at a minimum ratio of [~~5:7~~] 2 to 1 per year or
 113 other more stringent requirements as established from time to time by the board for a minimum
 114 period of five years beginning with the date the loan or grant was approved;

115 [~~(b) demonstrate to the satisfaction of the administrator that the applicant will expend~~
 116 ~~at least \$10,000,000 annually in Utah over the base level of an applicant's prior year's~~
 117 ~~expenditures in the state;~~]

118 [~~(c)~~] (b) demonstrate to the satisfaction of the administrator the applicant's ability to
 119 sustain economic activity in the state sufficient to repay, by means of cash or appropriate
 120 credits, the [~~assistance~~] loan provided by the fund; and

121 ~~[(d)]~~ (c) satisfy other criteria the administrator considers appropriate.

122 (2) (a) The administrator may exempt an applicant from ~~[either]~~ the requirements of
123 Subsection (1)(a) or (1)(b)~~[-, or both,]~~ if:

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

126 ~~[(ii) the applicant is solely owned by or is a cooperative consisting solely of persons
127 who reside in an economically disadvantaged rural area; or]~~

128 ~~[(iii)]~~ (ii) the applicant is part of a targeted industry.

129 (b) The administrator may not exempt the applicant from the requirement under
130 Subsection 9-2-1204(2)(b) that the loan ~~[or financial assistance]~~ be structured so that the
131 repayment or return to the state equals at least the amount of the assistance together with an
132 annual interest ~~[rate of 10%]~~ charge.

133 (3) The administrator shall:

134 (a) for applicants not described in Subsection (2)(a)~~[(ii)]~~:

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

137 (ii) monitor the continued compliance by each applicant with each of the conditions set
138 forth in Subsection (1) for five years;

139 (b) for applicants described in Subsection (2)(a)~~[(ii) who are cooperatives]~~, make
140 findings as to whether the economic activities of each applicant has resulted in ~~[a reduction in
141 the federal poverty rate]~~ the creation of new jobs on a per capita basis in the economically
142 disadvantaged rural area or targeted industry in which the applicant is located;

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

147 ~~[(d)]~~ (c) monitor the compliance by each applicant with the provisions of any contract
148 or agreement entered into between the applicant and the state as provided in Section 9-2-1206;
149 and

150 ~~[(e)]~~ (d) make funding decisions based upon appropriate findings and compliance.

151 Section 5. Section **9-2-1205.1** is enacted to read:

152 **9-2-1205.1. Agreements.**

153 The administrator shall enter into agreements with each successful applicant that have
154 specific terms and conditions for each loan or assistance, including:

155 (1) repayment schedules;

156 (2) interest rates;

157 (3) specific economic activity required to qualify for the loan or assistance or for
158 repayment credits;

159 (4) collateral or security, if any; and

160 (5) other terms and conditions considered appropriate by the administrator.

161 Section 6. Section **9-2-1205.5** is amended to read:

162 **9-2-1205.5. Financial assistance to companies that create economic impediments.**

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

165 (i) applies to the administrator;

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

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

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

170 (i) demonstrate to the satisfaction of the administrator that the company creating an
171 economic impediment, its replacement company, or in the aggregate the company creating the
172 economic impediment and its replacement company:

173 (A) will expend funds in Utah with employees, vendors [and], subcontractors, or other
174 businesses in an amount proportional with monies provided from the fund at a minimum ratio
175 of [5.7] 2 to 1 per year or other more stringent requirements as established from time to time by
176 the board for a minimum period of five years beginning with the date the loan or grant was
177 approved;

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

180 ~~[(C)] (B)~~ can sustain economic activity in the state sufficient to repay, by means of
181 cash or appropriate credits, the ~~[assistance]~~ loan provided by the fund; and

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

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

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

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

189 (b) The administrator may not exempt a company creating an economic impediment
190 from the requirement under Subsection 9-2-1204(2)(b) that the loan [~~or financial assistance~~] be
191 structured so that the repayment or return to the state equals at least the amount of the
192 assistance together with an annual interest [~~rate of 10%~~] charge.

193 (3) The administrator shall:

194 (a) make findings as to whether or not a company creating an economic impediment,
195 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
196 (1);

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

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

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

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

202 (B) the state; and

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

204 Section 7. Section **9-2-1207** is amended to read:

205 **9-2-1207. § [~~Designation of economically disadvantaged rural areas and targeted~~**
206 **industries] Annual Board Policy Considerations § .**

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

209 (2) In designating an economically disadvantaged rural area § [~~:~~] §

210 § [~~(a)~~] § the board shall consider the average agricultural and nonagricultural wage, personal
211 income, unemployment, and employment in the area § [~~;~~ and] §

212 § [~~(b)~~] **(3) IN EVALUATING THE ECONOMIC IMPACT OF APPLICATIONS FOR ASSISTANCE.** §

212a the board § [may] **SHALL** § use an econometric cost-benefit model or models adopted by the
213 Governor's Office of Planning and Budget.

214 § ~~(3)~~ (4) § The board may establish:
215 (a) minimum interest rates to be applied to loans granted § THAT REFLECT A FAIR SOCIAL
215a RATE OF RETURN TO THE STATE COMPARABLE TO PREVAILING MARKET-BASED RATES SUCH AS
215b THE PRIME RATE, U.S. GOVERNMENT T-BILL RATE, OR BOND COUPON RATE PAID BY THE STATE,
215c ADJUSTED BY SOCIAL INDICATORS SUCH AS THE RATE OF UNEMPLOYMENT § ; and
216 (b) minimum applicant expense ratios, as long as they are at least equal to those
217 required under Subsection 9-2-1205(1)(a) or 9-2-1205.5(1)(b)(i)(A).

Legislative Review Note
as of 11-20-02 4:20 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 1:41 PM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0012

Industrial Assistance Fund Amendments

09-Jan-03

5:19 PM

State Impact

Passage of this bill could increase the repayments from General Fund required each year by the Industrial Assistance Fund. Fiscal impacts would depend on appropriations authorized by the Legislature.

Individual and Business Impact

Passage of this bill would qualify additional businesses for Industrial Assistance Fund grants.

Office of the Legislative Fiscal Analyst