

**FUNDING FOR BUSINESS DEVELOPMENT
IN DISADVANTAGED RURAL COMMUNITIES**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Ben C. Ferry

Mike Dmitrich

LONG TITLE

General Description:

This bill amends the Business Development chapter relating to business development in disadvantaged rural communities and provides an appropriation.

Highlighted Provisions:

This bill:

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

Account including providing:

- for funding for the restricted account;
- that the restricted account shall earn interest and that the interest shall be deposited into the restricted account;
- the purposes for which revenues deposited into the restricted account may be expended;
- that the monies and interest deposited into the restricted account are nonlapsing;

and

- that the Division of Finance shall deposit any monies and interest in the restricted account on July 1, 2015, into the General Fund;
- ▶ beginning on July 1, 2005, through June 30, 2015, authorizes the Board of Business and Economic Development to award one or more grants or loans to a county of the

third through sixth class to assist the county in paying certain expenses relating to economic development in a disadvantaged rural community;

- ▶ provides a limit on the total amount of grants and loans that the Board of Business and Economic Development may award relating to one project;
- ▶ provides procedures for a county to submit a proposal to the Board of Business and Economic Development before being awarded a grant or loan;
- ▶ provides procedures for the Board of Business and Economic Development to award a grant or loan;
- ▶ provides that a county that is awarded a grant or loan shall enter into a written agreement with the Executive Director of the Department of Community and Economic Development and specifies the provisions of the agreement;
- ▶ addresses the failure of a county to meet or the violation of a provision of the agreement;
- ▶ grants rulemaking authority to the Department of Community and Economic Development;
- ▶ requires the Board of Business and Economic Development to make an annual report to the Workforce Services and Community and Economic Development Interim Committee;
- ▶ exempts the Business Development for Disadvantaged Rural Communities Restricted Account from being subject to certain administrative duties by the Division of Finance; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates \$250,000 for fiscal year 2005-06 only to the Business Development for Disadvantaged Rural Communities Restricted Account.

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

63-65-4, as last amended by Chapter 313, Laws of Utah 2003

ENACTS:

9-2-2101, Utah Code Annotated 1953

9-2-2102, Utah Code Annotated 1953

9-2-2103, Utah Code Annotated 1953

9-2-2104, Utah Code Annotated 1953

9-2-2105, Utah Code Annotated 1953

9-2-2106, Utah Code Annotated 1953

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

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

Part 21. Business Development for Disadvantaged Rural Communities Act

9-2-2101. Title.

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

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

9-2-2102. Definitions.

As used in this part:

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

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

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

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

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

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

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

(b) public infrastructure expense relating to a project.

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

(6) "Eligible expense" means an expense:

(a) incurred by an eligible county;

(b) relating to a project; and

(c) that is:

(i) a business incubator expense;

(ii) debt service; or

(iii) a public infrastructure expense.

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

(a) as determined by the board; and

(b) for which an eligible county applies to the board in accordance with this part for a loan or grant to assist the eligible county in paying an eligible expense.

(8) "Project area" means the geographic area within which a project is implemented by an eligible county.

(9) "Public infrastructure expense" means an expense relating to a publicly owned improvement located within a project area if:

(a) the expense is:

(i) incurred for:

(A) construction;

(B) demolition;

(C) design;

(D) engineering;

(E) an environmental impact study;

(F) environmental remediation; or

(G) rehabilitation; or

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

and

(b) the publicly owned improvement is:

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

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

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

(a) the real property is owned by:

(i) the United States;

(ii) the state; or

(iii) a political subdivision:

(A) as defined in Section 17B-2-101; and

(B) of the state; and

(b) the improvement relates to:

(i) a sewage system including a system for collection, transport, storage, treatment, dispersal, effluent use, or discharge;

(ii) a drainage or flood control system, including a system for collection, transport, diversion, storage, detention, retention, dispersal, use, or discharge;

(iii) a water system including a system for production, collection, storage, treatment, transport, delivery, connection, or dispersal;

(iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;

(v) a rail transportation system;

(vi) a system for pedestrian use for travel, ingress, or egress;

(vii) a public utility system including a system for electricity, gas, or telecommunications; or

(viii) a system or device that is similar to a system or device described in Subsections (10)(b)(i) through (vii) as determined by the board.

(11) "Restricted account" means the Business Development for Disadvantaged Rural Communities Restricted Account created by Section 9-2-2103.

Section 3. Section **9-2-2103** is enacted to read:

9-2-2103. Creation of Business Development for Disadvantaged Rural Communities Restricted Account -- Interest -- Costs of administering the restricted account -- Monies and interest nonlapsing -- Deposit of certain monies and interest into General Fund.

(1) There is created within the General Fund the Business Development for Disadvantaged Rural Communities Restricted Account.

(2) The restricted account shall be funded by:

(a) monies appropriated to the account by the Legislature;

(b) monies received by the department as:

(i) repayment of a loan that the board grants to an eligible county under this part; and

(ii) interest on a loan described in Subsection (2)(b)(i); and

(c) the interest described in Subsection (3).

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

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

(4) Upon appropriation by the Legislature, the monies and interest deposited into the restricted account in accordance with this section may be expended:

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

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

(i) in an amount not to exceed \$5,000 in any fiscal year; and

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

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

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

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

9-2-2104. Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan -- Department rulemaking authority.

(1) (a) Subject to the provisions of this section, beginning on July 1, 2005, through June

30, 2015, the board may make an award to an eligible county:

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

(A) a grant; or

(B) a loan; and

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

(b) The total amount of grants and loans that the board may award in accordance with this section relating to one project is \$75,000.

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

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

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

(i) describe the project area;

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

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

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

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

(A) median income per capita within the community;

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

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

(D) unemployment rates within the community; or

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

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

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

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

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

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

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

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

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

(a) present a proposal submitted in accordance with Subsection (2)(b); and

(b) respond to any questions or issues raised by the board relating to eligibility to receive a grant or loan under this section.

(4) The board shall:

(a) consider a proposal submitted to the board in accordance with Subsection (2);

(b) make written findings as to whether the proposal described in Subsection (4)(a) meets the requirements of Subsection (2)(b);

(c) make written findings as to whether to award the eligible county that submitted the proposal described in Subsection (4)(a) one or more grants or loans;

(i) on the basis of the factors established in Subsection (5);

(ii) in consultation with the executive director; and

(iii) in accordance with the procedures established:

(A) by administrative rule in accordance with Subsection (6); and

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

(d) if the board determines to award an eligible county a grant or loan in accordance with this section, make written findings in consultation with the executive director specifying the:

(i) amount of the grant or loan;

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

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

(iv) structure of the grant or loan; and

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

(e) if the board determines to award an eligible county a loan in accordance with this section, make written findings stating:

(i) the method of calculating interest applicable to the loan; and

(ii) procedures for:

(A) applying interest to the loan; and

(B) paying interest on the loan; and

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

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

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

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

(i) median income per capita within the community;

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

- (iii) median sales and use tax revenues generated within the community;
- (iv) unemployment rates within the community; or
- (v) any other factor established by the department by administrative rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;
- (c) whether there is a need for the project in the community within which the project area is located;
- (d) whether the project is likely to produce short-term and long-term benefits to the community within which the project area is located;
- (e) whether the project would be successfully implemented without the board awarding a grant or a loan to the eligible county;
- (f) whether any revenues will be pledged to match any funds the board may award as a grant or loan under this section;
- (g) whether there is support for the implementation of the project from:
 - (i) the community within which the project area is located; and
 - (ii) any cities or towns within which the project area is located; and
 - (h) any other factor as determined by the board.
- (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall by rule establish:
 - (a) procedures for prioritizing which projects may be awarded a grant or loan by the board under this section; and
 - (b) for loans awarded in accordance with this section:
 - (i) the method of calculating interest applicable to the loans; and
 - (ii) procedures for:
 - (A) applying interest to the loans; and
 - (B) paying interest on the loans.

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

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

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

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

(a) shall:

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

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

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

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

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

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

(A) specify the repayment schedule for the loan;

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

(C) specify procedures for:

(I) applying interest to the loan; and

(II) paying interest on the loan; and

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

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

(3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an eligible county fails to meet or violates any provision of the agreement described in Subsection (2), the board shall impose one or more of the following penalties:

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

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

or

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

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

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

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

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

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

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

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

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

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

(4) on whether the grants and loans awarded under this part have resulted in economic development within project areas;

(5) on whether the board recommends:

(a) that the grants and loans authorized by this part should be continued; or
(b) any modifications to this part; and
(6) on any other issue relating to this part as determined by the Workforce Services and Community and Economic Development Interim Committee.

Section 7. Section **63-65-4** is amended to read:

63-65-4. Custodial officer -- Powers and duties.

(1) (a) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness [~~owned or administered by~~]:

~~[(a)]~~ (i) owned or administered by the state or any of its agencies; and

~~[(b)]~~ (ii) except as provided in Subsection (1)(b), relating to revolving loan funds [~~except the~~].

(b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not responsible for the care, custody, safekeeping, collection, and accounting of a bond, note, contract, trust document, or other evidence of indebtedness relating to the:

(i) Agriculture Resource Development Fund, created in Section 4-18-6;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; [~~and~~]

(iv) Olene Walker Housing Loan Fund, created in Section 9-4-702[-]; and

(v) Business Development for Disadvantaged Rural Communities Restricted Account, created in Section 9-2-2103.

(2) (a) Each authorizing agency shall deliver to this officer for [~~his~~] the officer's care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness [~~owned or administered by~~]:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping,

collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to [~~him~~] the officer under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63-65-3 shall deliver to [~~this~~] the officer described in Subsection (1)(a) for [~~his~~] the care, custody, safekeeping, collection, and accounting by the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other evidences of indebtedness closed as provided in Subsection 63-65-3(2)(b).

Section 8. Appropriation.

There is appropriated \$250,000 from the General Fund for fiscal year 2005-06 only to the Business Development for Disadvantaged Rural Communities Restricted Account.

Section 9. Effective date.

This bill takes effect on July 1, 2005.