

**Representative Ben C. Ferry** proposes the following substitute bill:

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

3                                   2005 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Peter C. Knudson**

6                                   Mike Dmitrich

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8                                   **LONG TITLE**

9                                   **General Description:**

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

12                                  **Highlighted Provisions:**

13                                  This bill:

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

17                                  Account including providing:

- 18                                  • for funding for the restricted account;
- 19                                  • that the restricted account shall earn interest and that the interest shall be  
20                                  deposited into the restricted account; and
- 21                                  • the purposes for which revenues deposited into the restricted account may be  
22                                  expended;
- 23                                  ▶ authorizes the Board of Business and Economic Development to award one or more  
24                                  grants or loans to a county of the third through sixth class to assist the county in  
25                                  paying certain expenses relating to economic development in a disadvantaged rural



- 26 community;
- 27       ▶ provides a limit on the total amount of grants and loans that the Board of Business
- 28 and Economic Development may award relating to one project;
- 29       ▶ provides procedures for a county to submit a proposal to the Board of Business and
- 30 Economic Development before being awarded a grant or loan;
- 31       ▶ provides procedures for the Board of Business and Economic Development to
- 32 award a grant or loan;
- 33       ▶ provides that a county that is awarded a grant or loan shall enter into a written
- 34 agreement with the Executive Director of the Department of Community and
- 35 Economic Development and specifies the provisions of the agreement;
- 36       ▶ addresses the failure of a county to meet or the violation of a provision of the
- 37 agreement;
- 38       ▶ grants rulemaking authority to the Department of Community and Economic
- 39 Development;
- 40       ▶ requires the Board of Business and Economic Development to make an annual
- 41 report to the Workforce Services and Community and Economic Development
- 42 Interim Committee;
- 43       ▶ exempts the Business Development for Disadvantaged Rural Communities
- 44 Restricted Account from being subject to certain administrative duties by the
- 45 Division of Finance; and
- 46       ▶ makes technical changes.

**47 Monies Appropriated in this Bill:**

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

**50 Other Special Clauses:**

51       This bill takes effect on July 1, 2005.

**52 Utah Code Sections Affected:**

53 AMENDS:

54       **63-65-4**, as last amended by Chapter 313, Laws of Utah 2003

55 ENACTS:

56       **9-2-2101**, Utah Code Annotated 1953

- 57            **9-2-2102**, Utah Code Annotated 1953
- 58            **9-2-2103**, Utah Code Annotated 1953
- 59            **9-2-2104**, Utah Code Annotated 1953
- 60            **9-2-2105**, Utah Code Annotated 1953
- 61            **9-2-2106**, Utah Code Annotated 1953



62  
63 *Be it enacted by the Legislature of the state of Utah:*

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

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

66                    **9-2-2101. Title.**

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

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

70                    **9-2-2102. Definitions.**

71                    As used in this part:

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

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

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

78 and

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

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

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

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

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

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

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

87                    (a) incurred by an eligible county;

88 (b) relating to a project; and

89 (c) that is:

90 (i) a business incubator expense;

91 (ii) debt service; or

92 (iii) a public infrastructure expense.

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

94 (a) as determined by the board; and

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

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

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

98 an eligible county.

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

100 improvement located within a project area if:

101 (a) the expense is:

102 (i) incurred for:

103 (A) construction;

104 (B) demolition;

105 (C) design;

106 (D) engineering;

107 (E) an environmental impact study;

108 (F) environmental remediation; or

109 (G) rehabilitation; or

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

111 and

112 (b) the publicly owned improvement is:

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

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

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

116 (a) the real property is owned by:

117 (i) the United States;

118 (ii) the state; or

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

- 150 (3) (a) The restricted account shall earn interest.
- 151 (b) The interest described in Subsection (3)(a) shall be deposited into the account.
- 152 (4) Upon appropriation by the Legislature, the monies and interest deposited into the
- 153 restricted account in accordance with this section may be expended:
- 154 (a) by the board to award grants or loans to eligible counties as provided in this part;
- 155 and
- 156 (b) to cover the costs of administering this part:
- 157 (i) in an amount not to exceed \$5,000 in any fiscal year; and
- 158 (ii) including the costs of providing staff support to administer this part.
- 159 (5) (a) Except as provided in Subsection (5)(b), the monies and interest deposited into
- 160 the restricted account in accordance with this section are nonlapsing.
- 161 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any
- 162 monies and interest in the restricted account on July 1, 2015 into the General Fund.

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

164 **9-2-2104. Board authority to award a grant or loan to an eligible county --**  
165 **Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or**  
166 **loan -- Department rulemaking authority.**

- 167 (1) (a) Subject to the provisions of this section, beginning on July 1, 2005, through
- 168 June 30, 2015, the board may make an award to an eligible county:
- 169 (i) of one or more of the following to assist in paying an eligible expense relating to a
- 170 project:
- 171 (A) a grant; or
- 172 (B) a loan; and
- 173 (ii) from amounts or interest deposited into the restricted account in accordance with
- 174 Section 9-2-2103 to the extent that there is a balance in the restricted account sufficient to
- 175 cover the amount of the award.
- 176 (b) The total amount of grants and loans that the board may award in accordance with
- 177 this section relating to one project is \$75,000.
- 178 (c) If the board awards a loan to an eligible county in accordance with this section, the
- 179 loan shall be subject to interest as provided by administrative rule made in accordance with
- 180 Subsection (6).

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

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

185 (i) describe the project area;

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

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

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

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

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

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

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

197 (D) unemployment rates within the community; or

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

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

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

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

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

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

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

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

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

212 before the board to:

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

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

216 (4) The board shall:

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

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

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

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

223 (ii) in consultation with the executive director; and

224 (iii) in accordance with the procedures established:

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

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

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

231 (i) amount of the grant or loan;

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

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

235 (iv) structure of the grant or loan; and

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

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

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

240 (ii) procedures for:

241 (A) applying interest to the loan; and

242 (B) paying interest on the loan; and



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

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

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

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

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

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

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

255 (iv) unemployment rates within the community; or

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

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

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

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

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

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

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

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

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

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

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

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

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

280 **9-2-2105. Agreement between the executive director and an eligible county --**  
281 **Failure to meet or violation of a term or condition of an agreement.**

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

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

286 (a) shall:

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

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

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

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

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

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

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

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

297 (C) specify procedures for:

298 (I) applying interest to the loan; and

299 (II) paying interest on the loan; and

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

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

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

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

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

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

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

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

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

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

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

324 **9-2-2106. Report to Workforce Services and Community and Economic**  
325 **Development Interim Committee.**

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

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

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

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

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

336 development within project areas:

337 (5) on whether the board recommends:

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

339 (b) any modifications to this part; and

340 (6) on any other issue relating to this part as determined by the Workforce Services and  
341 Community and Economic Development Interim Committee.

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

343 **63-65-4. Custodial officer -- Powers and duties.**

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

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

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

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

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

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

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

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

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

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

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

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

364 (b) This officer shall:

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

366 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences

367 of indebtedness submitted to [~~him~~] the officer under this Subsection (2); and

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

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

374 Section 8. **Appropriation.**

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

377 Section 9. **Effective date.**

378 This bill takes effect on July 1, 2005.

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**Fiscal Note**  
**Bill Number SB0057s01**

**Funding for Business Development in Disadvantaged  
Rural Communities**

28-Feb-05  
1:34 PM

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**HOUSE SUBSTITUTE**

**State Impact**

Passage of this bill would appropriate \$250,000 in FY 2006 to the Business Development for Disadvantaged Rural Communities Account.

	<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	\$250,000	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**