

## H.B. 318

# COMMUNITY AND ECONOMIC DEVELOPMENT RESTRUCTURING

SENATE FLOOR AMENDMENTS

AMENDMENT 5

MARCH 2, 2005 8:12 PM

Senator **Al Mansell** proposes the following amendments:

1. Page 4, Line 102: After Line 102 insert "This bill provides coordination clauses."
2. Page 181, Line 5600: After Line 5600 insert:

**"Section 170. Coordinating H.B. 318 with H.B. 1.**  
If this H.B. 318 and H.B. 1, Annual Appropriations Act, both pass, it is the intent of the Legislature that the Division of Finance:  
(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and  
(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture."

**"Section 171. Coordinating H.B. 318 with H.B. 11.**  
If this H.B.318 and H.B.11, Economic Development Incentives, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:  
(1) Part 22 in H.B.11 shall be renumbered as Part 17 in Title 63, Chapter 38f, with Sections 9-2-2201, 9-2-2202, 9-2-2203, 9-2-2204, 9-2-2205, 9-2-2206, and 9-2-2207 being renumbered to 63-38f-1701, 63-38f-1702, 63-38f-1703, 63-38f-1704, 63-38f-1705, 63-38f-1706, and 63-38f-1707 respectively.  
(2) The following subsections in Section 63-38f-1309 shall read as follows:  
"(2) The account shall be used to make payments as required under [~~Section 9-2-2006~~] Sections 63-38f-1306 and 63-38f-1705."  
"(3) (a) The Division of Finance shall transfer from the General Fund the amount estimated by the [~~department~~] office from new state revenues needed to make the partial rebates as allowed in [~~Section 9-2-2006~~] Sections 63-38f-1306 and 63-38f-1705."  
"(4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving request for payment, in accordance with Subsection [~~9-2-2006~~] 63-38f-1306(2) or 63-38f-1705(2), the Division of Finance shall pay the partial rebates as allowed in Section [~~9-2-2006~~] 63-38f-1306 or 63-38f-1705 from the account."  
"(5) (b) The [~~department~~] office shall update the estimates required by Subsections (5)(a)(i) and (ii) within 30 days of the signing of each new agreement entered into under this part or Part 17, Economic Development Incentives Act."

(3) Renumbered Section 63-38f-1703 shall read as follows:

**"63-38f-1703. Definitions.**

As used in this part:

(1) "Development zone" means an economic development zone created under Section 63-38f-1704.

(2) "High paying jobs" means the annual wages of employment positions that compare favorably against the median wage of a community in which the jobs will exist.

(3) "Local incentives" means financial and other assistance provided by local taxing authorities within a development zone, which may include:

(a) partial rebates of new local revenues; and

(b) other sources of funds under authority of state law or local ordinances, or both state law and local ordinances.

(4) "New incremental jobs" means jobs that are:

(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and

(b) created in addition to the baseline count of jobs already in existence within a company or employed by an individual.

(5) "New local revenues" mean incremental new local tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the local government's portion of sales taxes, property taxes, impact fees, and other taxes or fees, or both taxes and fees, derived from the projects, together with indirect local government revenues generated by the projects, but not to include any portion of sales taxes earmarked for state government or other taxing jurisdictions eligible for sales tax revenues.

(6) "New state revenues" means incremental new state tax revenues that are generated as a result of new economic commercial projects in a developmental zone, to include the state's portion of sales taxes, and company and employee income taxes derived from the projects, together with indirect state revenues generated by the projects, but not to include any portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax revenues.

(7) "Office" means the Governor's Office of Economic Development.

(8) "Partial rebates" means returning a portion of the new local revenues and new state revenues generated by new commercial projects to companies or individuals that have created new economic growth within a development zone."

(4) Renumbered Section 63-38f-1704 shall read as follows:

**"63-38f-1704. Creation of economic development zones -- Incentives.**

(1) The office, with advice from the board, may create an economic development zone in the state that satisfies all of the following requirements:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate use in a community approved master plan; and

(b) the request to create a development zone has been forwarded to the office after first being approved by an appropriate local government entity that has committed or will commit to provide local incentives.

(2) (a) The office, with advice from the board, may enter into agreements providing for partial rebates of new state revenues generated by new commercial projects to companies or individuals that create new

economic growth within a development zone under the same restrictions and limitations as provided in Section 63-38f-1304.

(b) The limitations and restrictions applied to partial rebates of new state revenues in Section 63-38f-1304 also apply to partial rebates of new local revenues under this part."

(5) Renumbered Section 63-38f-1705 shall read as follows:

**"63-38f-1705. Qualifications for rebates -- Payment procedure.**

"(1) The office shall set standards to qualify for partial rebates under this part, subject to the following:

(a) the qualification criteria established in Subsections 63-38f-1305(1), (2), (3), (4), and (6); and

(b) only projects that include significant capital investment, the creation of high paying jobs, or significant purchases from Utah vendors and providers, or any combination of these three economic factors are eligible for partial rebates.

(2) A payment of partial rebates of new state revenues shall be made in accordance with procedures adopted by the office, with advice from the board, to include the payment procedures described in Section 63-38f-1306 as applied to partial rebates authorized under this part."

(6) Renumbered Section 63-38f-1706 shall read as follows:

**"63-38f-1706. Office's authority -- Report to Legislature.**

(1) The office, with advice from the board, and within the limitations of this part, may determine:

(a) the structure and amount of any partial rebates offered under this part;

(b) the economic impacts and job creation necessary to qualify for the incentive; and

(c) the other terms and conditions of an agreement entered into under this part.

(2) In reviewing claims for partial rebates of new state revenues, the office may accept the same type of information and evidence allowed under Subsections 63-38f-1307(2)(a) and (b).

(3) (a) The office shall make a report to the Legislature's Workforce Services and Community and Economic Development Interim committee on:

(i) the success of attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(ii) the period of time over which partial rebates of new state revenues shall be granted under this part; and

(iii) the economic impact on the state related to generating new state revenues and rebating a portion of those revenues under this part.

(b) The office shall make the report prior to the 2006 General Session of the Legislature to enable the committee to determine whether this part should be modified during the 2006 General Session."

(7) Renumbered Section 63-38f-1707 shall read as follows:

**"63-38f-1707. Coordination with the Industrial Assistance Fund.**

Projects that qualify for partial rebates on new state revenues under this part and enter into agreements with the office under this part are ineligible to qualify for additional financial assistance for the Industrial Assistance Fund under Section 63-38f-904."

**"Section 172. Coordinating H.B. 318 with H.B. 17.**

If this H.B. 318 and H.B. 17, Motion Picture Incentive Fund, both pass, it is the intent of the Legislature

that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 21 in H.B. 17 shall be renumbered in Title 63, Chapter 38f, to be consistent with the renumbering done in H.B. 318 to include the renumbering of sections within the part and references to renumbered sections within the part.

(2) In Section 9-2-2102 the terms "executive director" shall be replaced with "director" and "Department of Community and Economic Development" be replaced with "Governor's Office of Economic Development" and the statutory cite shall be made consistent with the renumbering of the part to Title 63, Chapter 38f.

(3) Subsections 9-2-2103(2)(a) and (b) shall read:

"(2)(a) The fund shall be administered by the administrator with advice from the board.

(b) The administrator, with advice from the board, shall approve fund policies and qualification criteria to receive an incentive award consistent with the provisions of this part."

(4) Subsections 9-2-2104(2)(a) and (2)(b) shall read:

"(2)(a) The administrator has authority to determine the structure, amount, and nature of the incentive given to a motion picture company, subject to the limitations and considerations set out in Subsections (3) and (4).

(b) A financial incentive shall be paid to a motion picture company from the fund only after the administrator has determined with advice from the board that the motion picture company has satisfied the conditions upon which the incentive is to be given."

**"Section 173. Coordinating H.B. 318 with H.B. 224.**

If this H.B. 318 and H.B. 224, Permanent Community Impact Fund - Board Membership, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the database for publication, shall modify Subsection 9-4-304(1)(j) enacted in H.B. 224 to read: "(j) a locally elected official from each of the two counties that produced the most mineral lease monies during the previous four-year period, prior to the term of appointment, as determined by the Department of Community and Culture."

**"Section 174. Coordinating H.B. 318 with H.B. 301.**

If this H.B. 318 and H.B. 301, Supplemental Appropriations Act III, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture."

**"Section 175. Coordinating H.B. 318 with S.B. 1.**

If this H.B. 318 and S.B. 1, Supplemental Appropriations Act, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture."

**"Section 176. Coordinating H.B. 318 with S.B. 3.**

If this H.B. 318 and S.B. 3, Supplemental Appropriations Act II, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture."

**"Section 177. Coordinating H.B. 318 with S.B. 7.**

If this H.B. 318 and S.B. 7, Funding for Tourism, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall coordinate the enactment of H.B. 318 with S.B. 7 so that:

(1) Section 63-55-209 in S.B.7 shall not be amended.

(2) In merging Section 9-3-201 with renumbered Section 63-38f-1406, the reference in Subsection (3) to "Section 9-3-203" shall be changed to "Section 63-38f-1404".

(3) In merging Section 9-3-202 with renumbered Section 63-38f-1407, Subsection 63-38f-1407(10) shall be renumbered as Subsection 63-38f-1407(12).

(4) In merging Section 9-3-203 with renumbered Section 63-38f-1408:

(a) Subsection (1)(a) shall read: "(a) review and advise the office on a program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance Fund under Section 63-38f-1405;"

(b) Subsection (1)(d)(i) shall read: "(d)(i) advise the office in establishing a Cooperative Program from the monies in the Tourism Marketing Performance Fund under Section 63-38f-1405 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing monies committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(c) Subsection (1)(d)(iii) shall read: "(iii) the office, with advice from the board, shall establish eligibility,

advertising, and timing requirements and criteria and provide for an approval process for applications;"  
(d) Subsections (1)(d)(iii)(A) and (B) shall be deleted; and  
(e) Subsection (3) shall read: "(3) The board may not make policy related to the management or operation of the office."  
(5) In merging Section 9-3-204 with renumbered Section 63-38f-1409, Subsection (2)(b) shall be renumbered as Subsection (1)(c) and read as follows: "(c) receive advice from the Board of Tourism Development under Subsection 63-38f-1404(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;" and the subsequent subsections in Subsection (1) shall be renumbered.  
(6) Section 9-3-207 shall be renumbered as Section 63-38f-1405 with the following modifications:  
(a) Subsection (2) shall read: "(2) The fund shall be administered by the office for the purposes listed in Subsection (5).";  
(b) in Subsection (5) delete "as authorized and approved by the Board of Travel Development";  
(c) Subsection (6)(a) shall read: "(6) (a) For the fiscal year beginning July 1, 2005, the director shall allocate 7.5% of the fund, but not to exceed \$750,000, to be distributed to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state as determined by the office."; and  
(d) Subsection (6)(d) shall read: "(d) The office shall provide for an annual accounting to the director and the board by a sports organization for the use of moneys it receives under Subsection (6)(a) or (b)."  
(7) The repeal of Sections 9-2-1701, 9-2-1702, 9-2-1703, 9-2-1703.5, and 9-2-1704 in S.B.7 shall take precedence over the renumbering and amending of those sections in H.B. 318.  
(8) Renumber the following sections in H.B. 318:  
(a) renumber Section 63-38f-1409 to Section 63-38f-1401, Section 63-38f-1406 to Section 63-38f-1402, Section 63-38f-1407 to 63-38f-1403, Section 63-38f-1408 to Section 63-38f-1404, and Section 63-38f-1410 to 63-38f-1406; and  
(b) renumber Section 9-3-207 in S.B.7 to Section 63-38f-1405."

**"Section 178. Coordinating H.B. 318 with S.B. 57.**

If this H.B. 318 and S.B. 57, Use of State Sales and Use Tax Revenues for Business Development in Disadvantaged Rural Communities, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

- (1) Part 21 in S.B. 57 shall be renumbered in Title 63, Chapter 38f to be consistent with the renumbering done in H.B.318, to include the renumbering of sections within the part and references to renumbered sections within the part.
- (2) In Section 9-2-2102, the references to "Section 9-2-202" shall be changed to Section 63-38f-301.
- (3) (a) Subsection 9-2-2104(1)(c) shall read: "(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 the procedures and methods referred to in Subsection (6).
- (b) Subsection 9-2-2104(2)(b)(v) shall read:



"(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; or

(D) unemployment rates within the community;".

(c) Subsection 9-2-2104 (4)(c)(iii) shall read: "(iii) in accordance with procedures established for prioritizing which projects may be awarded a grant or loan by the board under this section;"; and Subsections (4)(c)(iii)(A) and (B) shall be deleted.

(d) In Subsections 9-2-2104(4)(c)(ii) and 9-2-2104(4)(d), the term "executive director" shall be replaced with "director".

(e) In Subsection 9-2-2104(5)(b), an "or" shall be inserted at the end of Subsection (iii), the "or" deleted at the end of Subsection (iv), and Subsection (v) deleted in its entirety.

(f) Subsection 9-2-2104(6) shall read:

"(6) The office shall establish procedures:

(a) 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 methods of calculating interest applicable to the loans; and

(ii) procedures for:

(A) applying interest to the loans; and

(B) paying interest on the loans;".

(4) (a) In Subsection 9-2-2105(1) and (2)(b), the term "executive director" shall be replaced with "director".

(b) In Subsection 9-2-2105(3)(c), the numeral "(i)" shall be deleted and Subsection (ii) shall be deleted in its entirety.

(5) In Subsection 63-65-4(1)(b)(v), the reference to Section 9-2-2103 shall be changed to reflect the renumbering of the section in Title 63, Chapter 38f.

**"Section 179. Coordinating H.B. 318 with S.B. 141.**

If this H.B. 318 and S.B. 141, Military Installation Partnerships, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 23 in S.B. 141 shall be renumbered in Title 63, Chapter 38f, to be consistent with the renumbering done in H.B. 318;

(2) in Section 9-2-2301, the terms "department" shall be replaced with "office" and "executive director" be replaced with "director"; and

(3) in Section 2. Appropriation, in S.B. 141 the term "Department of Community and Economic Development" shall be replaced with "Governor's Office of Economic Development".