

1                                   **ECONOMIC DEVELOPMENT INCENTIVES**

2   **MODIFICATIONS**

3   2010 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Wayne A. Harper**

6   Senate Sponsor: Jerry W. Stevenson

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies economic development provisions of Title 63M, Chapter 1, the  
11 Governor's Office of Economic Development, related to the Industrial Assistance Fund.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ modifies the definition of economic opportunities as defined in Title 63M, Chapter  
15 1, Part 9, Industrial Assistance Fund, to include the retention of companies whose  
16 relocation outside the state would have a significant detrimental economic impact  
17 on the state as a whole, regions of the state, or specific components of the state;
- 18           ▶ increases the percentage of money in the Industrial Assistance Fund that may be  
19 used to take timely advantage of economic opportunities as they arise;
- 20           ▶ modifies qualifications for receiving financial assistance from the Industrial  
21 Assistance Fund; and
- 22           ▶ modifies the amount of transfer of surplus of General Fund revenues earmarked to  
23 the Industrial Assistance Fund.

24   **Monies Appropriated in this Bill:**

25           None

26   **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63M-1-902**, as renumbered and amended by Laws of Utah 2008, Chapter 382

31 **63M-1-903**, as renumbered and amended by Laws of Utah 2008, Chapter 382

32 **63M-1-905**, as last amended by Laws of Utah 2009, Chapter 183

33 **63M-1-909**, as renumbered and amended by Laws of Utah 2008, Chapter 382



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

36 Section 1. Section **63M-1-902** is amended to read:

37 **63M-1-902. Definitions.**

38 As used in this part:

- 39 (1) "Administrator" means the director or the director's designee.
- 40 (2) "Board" means the Board of Business and Economic Development.
- 41 (3) "Company creating an economic impediment" means a company that discourages
- 42 economic development within a reasonable radius of its location because of:

- 43 (a) odors;
- 44 (b) noise;
- 45 (c) pollution;
- 46 (d) health hazards; or
- 47 (e) other activities similar to those described in Subsections (3)(a) through (d).

48 (4) "Economic opportunities" means unique business situations or community  
 49 circumstances which lend themselves to the furtherance of the economic interests of the state  
 50 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and  
 51 industry in the state, including retention of companies whose relocation outside the state would  
 52 have a significant detrimental economic impact on the state as a whole, regions of the state, or  
 53 specific components of the state as determined by the board.

54 (5) "Economically disadvantaged rural area" means a geographic area designated by the  
 55 board under Section 63M-1-910.

56 (6) "Fund" means the restricted account known as the Industrial Assistance Fund  
 57 created in Section 63M-1-903.

58 (7) "Replacement company" means a company locating its business or part of its

59 business in a location vacated by a company creating an economic impediment.

60 (8) "Targeted industry" means an industry or group of industries targeted by the board  
61 under Section 63M-1-910, for economic development in the state.

62 Section 2. Section **63M-1-903** is amended to read:

63 **63M-1-903. Industrial Assistance Fund created.**

64 (1) There is created within the General Fund a restricted account known as the  
65 Industrial Assistance Fund of which:

66 (a) up to 50% shall be used in economically disadvantaged rural areas; and

67 (b) up to [~~20%~~] 25% may be used to take timely advantage of economic opportunities  
68 as they arise.

69 (2) The fund shall be administered by the administrator under the policy direction of  
70 the board.

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

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

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

74 Section 3. Section **63M-1-905** is amended to read:

75 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

76 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,  
77 or other financial assistance from the fund for expenses related to establishment, relocation, or  
78 development of industry in Utah.

79 (b) A company creating an economic impediment that qualifies under Section  
80 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance  
81 from the fund for the expenses of the company creating an economic impediment related to:

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

84 (ii) the siting of a replacement company.

85 (c) An entity offering an economic opportunity that qualifies under Section 63M-1-909  
86 may:

87 (i) receive loans, grants, or other financial assistance from the fund for expenses related  
88 to the establishment, relocation, retention, or development of industry in the state; and

89 (ii) include infrastructure or other economic development precursor activities that act

90 as a catalyst and stimulus for economic activity likely to lead to the maintenance or  
91 enlargement of the state's tax base.

92 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the  
93 structure, amount, and nature of any loan, grant, or other financial assistance from the fund.

94 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment  
95 or return to the state, including cash or credit, equals at least the amount of the assistance  
96 together with an annual interest charge as negotiated by the administrator.

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

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

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

105 (A) the number of Utah jobs created;

106 (B) the increased economic activity in Utah; or

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

108 (b) (i) The administrator shall provide for a system of credits to be used to support  
109 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company  
110 creating an economic impediment.

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

113 (A) the number of Utah jobs created;

114 (B) the increased economic activity in Utah; or

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

116 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
117 assistance under this section, including interest, shall be deposited into the fund.

118 (b) The administrator and the Division of Finance shall determine the manner of  
119 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
120 grant payments as provided in Subsection (3).

121 (5) (a) ~~H→~~ (i) ~~←H~~ At the end of each fiscal year, the unrestricted, undesignated  
 121a General Fund  
 122 balance after the transfers of surplus of General Fund revenues described in this Subsection  
 123 (5)(a) shall be earmarked to the Industrial Assistance Fund in an amount equal to 120% of any  
 124 credit that has accrued under this part.

125 ~~H→~~ (ii) The earmark under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which  
 125a time no subsequent contributions may be made and any interest accrued above the \$50,000,000  
 125b cap shall be deposited into the General Fund. ~~←H~~

125c (b) The earmark required by [~~this~~] Subsection (5)(a) shall be made after the transfer of  
 126 surplus General Fund revenues is made:

127 (i) to the General Fund Budget Reserve Account as provided in Section 63J-1-312; and

128 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section  
 129 63J-1-314.

130 [~~(b)~~] (c) These credit amounts may not be used for purposes of the fund as provided in  
 131 this part until appropriated by the Legislature.

132 Section 4. Section **63M-1-909** is amended to read:

133 **63M-1-909. Financial assistance to entities offering economic opportunities.**

134 (1) Subject to the duties and powers of the board under Section 63M-1-303, the  
 135 administrator may provide monies from the fund to an entity offering an economic opportunity  
 136 if that entity:

137 (a) applies to the administrator; and

138 (b) meets the qualifications of Subsection (2).

139 (2) The applicant shall:

140 (a) demonstrate to the satisfaction of the administrator the nature of the economic  
 141 opportunity and the related benefit to the economic well-being of the state by providing  
 142 evidence documenting the logical and compelling linkage, either direct or indirect, between the  
 143 expenditure of monies necessitated by the economic opportunity and the likelihood that the  
 144 state's tax base, regions of the state's tax base, or specific components of the state's tax base  
 145 will not be reduced but will be maintained or enlarged;

146 (b) demonstrate how the funding request will act in concert with other state, federal, or  
 147 local agencies to achieve the economic benefit;

148 (c) demonstrate how the funding request will act in concert with free market principles;

149 (d) in the case of an economic opportunity that includes the retention of jobs,  
 150 demonstrate how the potential relocation of jobs outside the state is related to a merger,  
 151 acquisition, consolidation, or similar business reason other than the applicant simply requesting

152 state assistance to remain in the state;

153       (e) satisfy other criteria the administrator considers appropriate; and

154       ~~(e)~~ (f) be either:

155       (i) an entity whose purpose is to exclusively or substantially promote, develop, or  
156 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or  
157 specific components of the state; or

158       (ii) a company or individual that does not otherwise qualify under Section 63M-1-906.

159       (3) Subject to the duties and powers of the board under Section 63M-1-303, the  
160 administrator shall:

161       (a) make findings as to whether an applicant has satisfied each of the conditions set  
162 forth in Subsection (2);

163       (b) establish benchmarks and timeframes in which progress toward the completion of  
164 the agreed upon activity is to occur;

165       (c) monitor compliance by an applicant with any contract or agreement entered into by  
166 the applicant and the state as provided by Section 63M-1-907; and

167       (d) make funding decisions based upon appropriate findings and compliance.

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**Legislative Review Note**  
**as of 1-26-10 11:05 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 118 - Economic Development Incentives Modifications**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will reduce any future General Fund surplus by \$1,739,200 per year and transfer that amount to the Industrial Assistance Fund.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may benefit from incentives funded through this bill.

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