

Economic Development in State Government

Presented by:

Representative Alan Austerman

Alaska State Legislature



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~ Representing Alaska State House District 36 ~

Akhiok | Igiugig | Iliamna | Karluk | Kodiak | Kokhanok | Larsen Bay | Levelock
Newhalen | Nondalton | Old Harbor | Ouzinkie | Pedro Bay | Port Alsworth | Port Lions

BRIEFING PAPER: ECONOMIC DEVELOPMENT IN STATE GOVERNMENT

A review of economic development configuration in Alaska's agencies, models from other states, and potential changes to Alaska's economic development system

Alaska's Department of Commerce, Community and Economic Development includes both **Economic Development** and **Community Development** functions. The department's mission is to "promote a healthy economy, strong communities, and protect consumers in Alaska."

The difference between economic development and community development is not always well-understood. To establish a shared understanding of these terms, the following definition is presented:

Community development is capacity building; economic development is wealth creation.
--Robert Shively, *Economic Development for Small Communities*

To go further, community development often refers to projects that create infrastructure and community capacity. Public works projects, schools, bridges, libraries, community centers and parks... these are community development projects. Economic development projects, on the other hand, would be the construction of a new clinic by a group of private physicians, or the expansion of a metal fabrication shop by a business owner. Community development and economic development are deeply intertwined, because economic development—and the private investors, owners, and entrepreneurs who lead the way—also requires community infrastructure, either to support their businesses or to enable a lifestyle that makes them want to live and stay in a community. At their cores, both community development and economic development are about resilience, the ability of a community or economy to respond to both opportunities and threats, to adapt to change. But the two functions are quite different, *and the appropriate activities and roles for government in economic development are much different than in community development.*

The purpose of this paper is to examine *economic development* activities in state government. While we recognize the interconnectedness of the two functions, the focus of this work is on resources within state government that support private sector investment in Alaska's economy.

Current Resources within State Government and the University System

Alaska's Office of Economic Development (OED), within DCCED

- The mission of OED, as described in the FY10 Governor's Operating budget, is to "Advance successful tourism, film, fisheries, forest products, minerals, and small business assistance programs in order to increase economic activity in Alaska and create new employment opportunities for Alaska."

- Alaska's OED currently has a division head, plus 11 employees in five sub-programs, many of which can be tied to one or more functions in Alaska Statute.
 - The Alaska Film Office (3 employees, one of whom is shared with Tourism) (AS 44.33.231, Film Office)
 - Business Development (2 employees, one of whom is a forest products specialist) (AS 44.33.900 Alaska Forest Products Research and Marketing Program)
 - Office of Fisheries (1) (AS 44.33.065, Regional Seafood Development Associations)
 - Office of Mineral Development (2) (AS 44.33.431, Alaska Minerals Commission)
 - Tourism Program (4, one of whom is shared with Film) (AS 44.33.119, Alaska Division of Tourism)

Alaska Industrial Development and Export Authority (AIDEA), within DCCED

- The mission of AIDEA, as described in the FY10 Governor's Operating budget, is "to provide means of financing to promote economic growth and diversification in Alaska."
- AIDEA's board of directors consists of five individuals
 - The Commissioner of Revenue
 - The Commissioner of Commerce, Community, and Economic Development
 - One other person appointed by the executive branch
 - Two public members appointed by the governor
- AIDEA's economic development programs have approximately 30 staff assigned to it, with 30 who are professional staff (estimate from AIDEA staff, October 2009)
 - AIDEA is a "public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce, Community and Economic Development, but with separate and independent legal existence," under AS 44.88.010—44.88.159
 - AIDEA has a number of loan participation, revolving loan, and bond programs
 - AIDEA has ownership stakes in several major projects
- AIDEA also is home to another agency, Alaska Energy Authority (AEA) which currently has a community development mission
 - Though the agencies are separate, they share employees and resources

Alaska Division of Investments (DOI), within DCCED

- DOI's "primary responsibility is to administer and service twelve state loan programs under the Department of Commerce, Community, and Economic Development. These programs were primarily designed to promote economic development through direct state lending in industries that are not adequately serviced by the private sector."
- DOI typically interfaces with individual lenders and small businesses (in contrast to AIDEA, which handles significant industrial investments)
- DOI has 44 FTE employees (FY2010 budget)
- Loan programs authorized in statute are not comprehensive across range of Alaska industry

Non-Governmental Economic Development Organizations in Alaska

ARDORs

- Alaska Regional Development Organizations (ARDORs) are established under 44.33.895 (Alaska regional economic assistance program) and is subject to regulations at 3 AAC 57.010-900.
 - Under the statute the department can provide grants of up to \$100,000 annually to match funds from non-state sources.

- The state's contributions to the ARDOR under this program are \$50,000 annually. With the addition of an ARDOR in the last two years, the state's total contribution has increased, but organizations still receive the same amount. (Annual funding since 1992 is flat at \$620,000; except for increase of \$57,000 starting in FY09 with addition of twelfth ARDOR)
- According to the website of OED, ARDORs are intended to
 - *enable communities to pool their limited resources, and work together on economic development issues;*
 - *develop partnerships among public, private and other organizations,*
 - *offer a technical, nonpartisan capacity to develop and implement an economic development strategy,*
 - *often have extensive experience with federal/State programs, and*
 - *provide needed technical assistance via direct links with local citizens.*
- With large service regions and limited funding, some ARDORs have very difficult times attracting experienced staff to run economic development programs
 - Some conversations have been had to establish system-wide capacity-building fund for the ARDORs so that staff of the ARDORs can take advantage of professional development opportunities despite limited budgets

Additional Regional Economic Development Groups

- Regional/local groups also exist, such as Juneau Economic Development Council, Fairbanks Economic Development Corporation, Alaska Village Initiatives.
 - These have more local focus

University Economic Development Resources and Coordination with State Resources

The University of Alaska has several economic development programs doing technical assistance, training, etc.

- **Center for Economic Development, at the Institute of Social and Economic Research, UAA**
 - One of 52 university centers nationally designated by Economic Development Administration
 - Works at level of *municipalities, large non-profits, service-providing for profits (such as Alaska Native Corporations)*
 - 2008 Annual Report includes list of clients:
<http://ced.uaa.alaska.edu/publications/2008AnnualReport.pdf>
 - According to their website, CED "leverages the resources of the university system to support economic development in Alaska, providing technical assistance in the form of information, data, and know-how in evaluating, shaping and implementing specific projects and programs that promote economic development across the state."
<http://ced.uaa.alaska.edu>
 - Supported by fee for service in most cases, in order to support program delivery costs; some budget also from State
 - CED helps with local and regional planning, feasibility analysis, strategic planning (organizational and community) financial analysis, market and economic research
 - Recently, CED began coordinating accredited certification courses for the International Economic Development Council, to certify IECD economic development professionals
 - NB: Currently, there is not a single certified economic development professional working in Alaska

- **Small Business Development Centers**
 - Works at level of small, individual entrepreneurs
 - Provide free- and low-cost consulting to small business and micro-enterprise
 - Funded by US Small Business Administration with matching funds from state.
 - Provides consulting services and low-cost educational programs to entrepreneurs
 - Program's "business advisors" are certified through the Alaska SBDC's professional Certification program
 - Has a rural outreach program

How are Other State Governments Doing Economic Development?

Several states are recognized for their innovation in economic development within state government. Some of these are profiled below.

The states profiled below were selected because of their recognition as successful models, or commonalities with Alaska (rural Western). This report profiles North Dakota, Wyoming, Indiana, and Kentucky, which are all recognized for their economic development programs, as well as Oregon, which shares some similarities with Alaska as a Western state with large rural areas. All of these states have advisory and/or policy bodies that primarily comprise private sector leaders.

NB: Descriptions below reference "primary" or "basic" industries. These are industries that bring new dollars into a state's economy. Oftentimes these are because the business outputs are produced for markets outside the state. In some cases federal government programs, which bring dollars into state economies, can also be seen as contributing to the primary/basic sectors. This differs from support sector businesses, which provide services within the state. Primary/basic businesses are the economic pumps for an economy.

North Dakota www.business.nd.gov

- Economic Development & Finance is a division within a department that also houses Tourism and Community Development
 - Tourism is separate because development approach differs significantly from standard "primary/basic" sector activities.
- North Dakota has an Economic Development Foundation, a private foundation established by the Legislature, to provide guidance and private-sector oversight of state economic development efforts. It maintains a strategic plan for economic development.
 - 23 "business leaders," meet quarterly
 - has the ability to raise private funding to support state efforts
- Division heads are professional positions, not appointed
- Majority of staff at Economic Development and Finance Division are certified economic development professionals through the IEDC
- Primary function of division is to work with businesses to identify the state programs and resources that will help them establish, grow, or retain in North Dakota; deal structuring (not technical assistance, which is pointed to university, SBDCs, etc.)
- North Dakota has a development bank, the Bank of North Dakota, which manages nearly all of the state's loan and investment programs, with very few exceptions
- Department **only works on inquiries/investments that are in the Basic sector of the economy** (Basic industries bring new money into the economy from out of state, while secondary industries provide services to support the basic industries)

- Web presence: North Dakota has <http://www.business.nd.gov/>, which is a user-friendly portal to information necessary to do business in North Dakota
- 17 staff for ED&F, including 2 finance people to run loan programs outside the Bank of North Dakota

Wyoming www.wyomingbusiness.org

- Wyoming Business Council is the economic development group in state government
 - It has a corporate structure, incorporates private business practices, regional offices
 - Has a Board of Directors and CEO, though it is within state government
 - Board members are successful business owners from Wyoming
 - Board members appointed by Governor; CEO hired by Board
 - Employees of agency are at-will
 - Board does “business plan” for department
 - Staff of 53 for WBC, plus 19 for Tourism
 - 7-8 administrative staff, all other work on economic development and management of community grant programs
 - History of the WBC: <http://www.wyomingbusiness.org/about/history.aspx>
 - Enabling Legislation: Wyoming Statutes 9-12-101 through 9-12-804 (<http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title9/T9CH12.htm>)
 - WBC focuses on basic industries, with few exceptions in rural areas where basic service infrastructure (grocery stores) do not exist
 - Industries have to produce something sold outside the region to get WBC attention.
 - WBC works closely with university programs, including SBDCs, Intellectual property, incubators, etc.

Kentucky www.thinkkentucky.com

- Primary state agency for economic development is the Cabinet for Economic Development, which is governed by the Kentucky Economic Development Partnership Board
- Kentucky Economic Development Partnership Board
 - Enabled in 1992 by HB 89.
 - Thirteen members representing each of eight congressional districts and different industries, plus secretaries from four cabinets (Econ. Development, Finance and Administration, Environmental and Public Protection, and Tourism), plus Governor
 - Cabinet includes
 - Office of Secretary
 - Department for Business Development
 - “Responsible for coordinating the recruitment and attraction of new companies that will enhance the overall viability of the state’s economy, as well as assisting and encouraging job retention and creation by working with existing Kentucky business. The Department partners with outside agencies and communities to conduct workshops, community assessments, and business surveys to support local development efforts”
 - Department of Financial Incentives
 - Department of Commercialization and Innovation

- “Responsible for developing and implementing a strategy to create, attract, and assist knowledge-based companies to Kentucky.”

Indiana www.in.gov/iedc

- Primary state group for economic development is the Indiana Economic Development Corporation
 - Created in February 2005 to replace the former Department of Commerce
 - Has a board of 12, including governor and 11 private industry participants
 - According to IEDC website, “The IEDC is focused exclusively on economic development and has incorporated all state entities with economic development responsibilities into its organizational structure.”

Oregon www.oregon4biz.com

- Economic development is a division within the Oregon Business Development Department, which also houses community development functions
 - About 25% of department budget goes to economic development
- Economic development overseen by the Oregon Business Development Commission, which is statutorily authorized, and consists of seven private sector individuals (not agency) appointed by the Governor
 - Entity sets policy direction for agency activity
- Department head is appointed, but division heads are professional staff
- 13 people working in field around Oregon, plus five people specializing in international development
- No certification/training requirements specific to department; some perhaps specific to positions, particularly for international development people
- Primary role of business development division is deal structuring, pulling state resources together to support creation or retention of jobs
- Staff only work on primary (basic) sector industries, refer others to university, SBDCs, other partners

Points to Consider about Alaska’s Current System

- State government’s oversight and/or policy direction from private sector is currently limited to two of five seats on the board of AIDEA.
 - There is no private sector input built into OED or DOI
 - Without private sector input it may be difficult to align state programs across divisions with real needs in Alaska economy
- Incentive programs in Alaska Statute are limited
 - New Business Incentive Program (DCCED), established under 45.81.010, is not funded
 - Film Incentive office supported by two staff at OED (DCCED)
 - Exploration Incentive Credits (DNR)
 - AGIA (DNR)
 - Various AIDEA Programs
- Economic Development functions are distributed between several divisions and/or offices, including:
 - Division on Investments (Greg Winegar, Division Director)
 - Office of Economic Development (Joe Austerman, Director)
 - Alaska Industrial Development and Export Authority (Ted Leonard, Executive Director)

- Economic development staffing in these offices are about 15% of total DCCED personnel
 - Viewed alone they are 8%, 2%, and 6% respectively
 - May have difficulty getting strategic focus within larger mission of department
- No certified economic developers currently working in state (compares to other states where professional certification is common among economic development staffers)
 - University's Center for Economic Development has started offering training modules several times per year (the standard for these courses is multi-day intensives) for certification through the International Economic Development Council
 - This is a relatively new service
 - Department estimates cost in training to reach certification goals, before travel and lost work time, is \$3,400 per person
 - Currently there are no practicing certified economic development professionals working in Alaska (in state government or out of state government)
- State government's interaction with University resources may be inefficient; economic development resources may be "siloed"
 - Do OED and AIDEA have regular practice of directing inquiries to existing University resources?
 - Do agencies and universities work closely to avoid duplicating tools and services?
 - What gaps should agencies fill that are not natural to the University?
- State government, through OED, is currently focused on a small set of industries
 - Focus may be broadened to allow room for additional industries/ideas
- Alaska state government does not maintain a web presence focused on attracting or retaining business
 - For contrast, see Oregon, <http://www.oregon4biz.com/>, found in two clicks from the State of OR homepage); North Dakota, <http://www.business.nd.gov>; Kentucky <http://www.thinkkentucky.com/>

Possible Areas of Discussion for Legislature

1. Restructuring economic development functions within state government under alternate models such as public/private partnerships, corporate structures, strengthened divisions, or others.
2. Consideration of creation of a non-governmental (private sector) policy group at head of state economic development. Depending on departmental structure the advisory entity could be modeled on corporate, foundation, policy, or other board structures
3. Establishment or reestablishment of incentive programs to support economic development programs
4. Budgeting for ARDOR programs
5. Budgeting for University programs that support small business development
6. Oversight hearings prior to and within the budget process to assess focus and resources of state offices with economic development missions
7. Establishment of additional loan programs to support small business economic development

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Additional Resources

- Alaska Economic Development Programs, prepared by Office of Economic Development
 - Document available through Office of Representative Austerman
 - Note: This matrix does not differentiate between Economic Development and Community Development programs (see definition on Page 1). True “economic development” programs are fewer than one dozen.
- Department and subunit missions: Office of Management and Budget
 - See <http://gov.state.ak.us/omb/results/agencies.php#10> for missions related to DCCED and its divisions
- Alaska SourceLink www.aksourcelink.com. A web portal hosted by the university that provides information on all economic development support resources in the state

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Robert Shively

2 Community Development or Economic Development?

Love and marriage, love and marriage...
You can't have one without the other.
—Sammy Cahn

SO GOES THE refrain from an old song. The same holds true for community development and economic development. *You can't have one without the other.* The two activities are complementary, not competitive. They are different sides of the same coin.

I had a professor in college who used to tell his students, "The line of demarcation between a genius and a maniac is very hard to draw." Similarly, one could easily say, "The line of demarcation between community development and economic development is very hard to draw." For example, suppose a new four-lane highway is built around a small city and serves a 160-acre industrial site. Is that economic development or community development? Who knows? Who cares?

Community development is capacity building; economic development is wealth creation.

Community development involves public facilities—schools, libraries, parks, hospitals, cultural attractions, recreational facilities. These are quality of life factors, and companies look closely at them when considering an investment in a town.

Economic development represents the creation of wealth, primarily through the attraction of investment. Economic development and its concomitant wealth creation provide the financial resources and tax base that make community development possible.

You can't have one without the other.

The Relationship between Community and Economic Development

Stanford Research Institute alludes to the relationship of community and economic development in its definition of economic development: "The process by which your community will improve its *capacity* to grow and develop—economically, educationally, socially, and culturally" (Kotler, Haider, and Rein 1993, p. 75, emphasis added).

Community development is not only about physical structures and their contents, but also involves leadership training and development. It includes building the social structures for governance and community involvement while facilitating citizen participation and input. Capacity building includes creating a critical mass of an involved, informed, and enthusiastic citizenry, giving a community the capacity to solve its problems and create a better quality of life.

While many community leaders are frequently involved in both community and development activities, there are distinct differences in the management, supervision, and funding of the

two. Community development activities are primarily the province of governmental bodies—the city council, board of education, or county commissioners, for example. These governing bodies are elected by the people and allocate public funds to capacity-building projects. Private entities may provide funds for a community facility such as a library, hospital, or museum, but the management of the facility is usually the responsibility of the appropriate governmental body.

Economic development, on the other hand, has historically been a project of the private sector, usually the local chamber of commerce and/or a local development corporation. Because of the close relationship between community and economic development and state and federal grant programs available only to political subdivisions, the current trend is to create a public-private partnership in which the financing and the governance of the economic development program are shared by the private and public sectors. This is more thoroughly discussed in chapter 4, “Organizing the Economic Development Program,” and chapter 10, “Funding the Economic Development Program.”

Defining Economic Development

Though accurate, it is not sufficient to define economic development simply as wealth creation. It deserves a more comprehensive definition.

A generation ago, the American Economic Development Council (which recently merged with the Council on Urban Economic Development to form the International Economic Development Council) adopted the following definition:

Economic development—the process of creating wealth through the mobilization of human, financial, capital, physical, and natural resources to generate marketable goods and services.

Although not universally accepted by the profession, this definition established two important concepts:

1. It established that economic development is a process, a continuum, a game that never ends. A specific event such as the ground-breaking for a new industry is an event, the result of the continuing process.
2. It identified wealth creation as the goal and result of the process of economic development.

Other organizations and individuals have developed other definitions. MDC, an economic development think tank primarily serving the Southern states, uses this definition:

Economic development—the process by which a community creates, retains and reinvests wealth. The goal of economic development should be to raise people's standard of living (MDC 1999).

This definition reasserts wealth creation as the result of economic development and introduces two very important functions—the retention and reinvestment of wealth. Retention of wealth-creating enterprises is an important part of any economic development program; it is usually referred to as retention and expansion, or R and E. (See chapter 8, “Building a Manufacturing Base.”)

The reinvestment of wealth in a community is a key part of community and economic development, especially in small towns. The location of a new industry from outside the community is an important event, but how often does it occur? For a community to prosper, it is essential that people of means reinvest their wealth in the community even though it may not attract the publicity that a new industry does. Reinvesting in a community involves expanding existing businesses; real es-

tate acquisition and development; and investing in entrepreneurial ventures, housing development, and similar activities.

The Aspen Institute developed this definition:

Economic development is essentially the process by which individuals and organizations make decisions to invest in an area. Through innovations and adaptations these investors increase their capacity to create wealth.

This definition reinforces the concepts of process, wealth creation, and investment. More importantly, it recognizes the role of individuals and organizations in the economic development process.

M. Ross Boyle, president of Growth Strategies Organization, Inc., a long-time leader in the field and past chairman of the American Economic Development Council, used this definition in his many presentations at the Economic Development Institute, University of Oklahoma: "Economic development is investment for the purpose of creating wealth: the use of people, money, and materials to produce profits." Boyle's definition

stresses the importance of investment in creating wealth. His reference to profits, although not stated specifically, implies that investors produce profits for themselves and also increase profit potential for all businesses in a community.

The Economic Development Council of Colorado states that economic development is "creating and retaining community wealth which results in jobs, payroll, tax revenues, and a higher per capita income."

These definitions are all consistent in identifying process, wealth creation, investment, reinvestment, and retention of wealth as the driving forces of economic development. To bring these essential concepts together, I offer the following definition:

Economic development is the process of creating wealth through investment and reinvestment in a community resulting in more jobs, higher incomes, an expanded tax base, a more diversified economy, business improvement, and a better quality of life.

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Legislation, Executive Orders and Policy from Other States

1. North Dakota
2. Wyoming
3. Oregon
4. Indiana
5. Washington

54-60-04. North Dakota economic development foundation - Executive committee - Duties. The North Dakota economic development foundation is created.

1. The foundation is composed of a minimum of fifteen and a maximum of thirty members appointed by the governor for two-year terms, except the governor shall appoint approximately one-half of the initial foundation members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the foundation members must ensure a cross section of business, tourism, and economic development representation, and must ensure that at least one member represents rural concerns.

2. The foundation members shall elect an executive committee with a minimum of five and a maximum of seven foundation members, which shall include a chairman, vice chairman, secretary, treasurer, and up to three members at large.

3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities in the state.

4. The foundation shall:

- a. Provide the governor advice and counsel in selecting the commissioner.
- b. Serve in an advisory role to the commissioner.
- c. Develop a strategic plan for economic development in the state and set accountability standards, measurements, and benchmarks to evaluate the effectiveness of the department in implementing the strategic plan.
- d. Develop a strategic plan for the development of value-added agriculture in the state.
- e. Monitor tourism and economic development activities and initiatives of the department.
- f. Recommend state and federal legislation relating to strengthening the state's economy and increasing the state's population.
- g. Monitor state and federal legislation and initiatives that may impact the state's economy and population.
- h. Serve as a source of expertise for developing public and private initiatives to strengthen the state's economy and increase the state's population.

54-60-05. Compensation and reimbursement of foundation members. The foundation may establish the level of compensation to which a foundation member is entitled. A foundation member is entitled to reimbursement for mileage and expenses as provided for state officers.

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2110

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Commerce)

1 A BILL for an Act to create and enact two new sections to chapter 54-60 of the North Dakota
2 Century Code, relating to the rural development office and the North Dakota rural development
3 council; to amend and reenact sections 10-30.5-04, 54-34.3-01, 54-34.3-03, and 54-34.3-04,
4 subsection 2 of section 54-34.3-13, sections 54-34.3-15, 54-34.4-01, and 54-34.4-02,
5 subsection 1 of section 54-34.4-03, subsection 3 of section 54-60-04, and sections 54-60-06
6 and 54-60-17 of the North Dakota Century Code, relating to the powers of the North Dakota
7 Development Fund, Incorporated, the department of commerce division of economic
8 development and finance, the department of commerce division of tourism, the state tourism
9 policy, the North Dakota economic development foundation, the North Dakota commerce
10 cabinet, and the department of commerce division of workforce development; and to repeal
11 sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code, relating to
12 the finance office, the motion picture development office, and target industries.

13 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

14 **SECTION 1. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **10-30.5-04. ~~(Effective through July 31, 2009)~~ Powers.** The corporation must be
17 organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the
18 corporation may:

- 19 1. Cooperate and contract with any private or public entity.
- 20 2. Receive appropriations from the legislative assembly and other public moneys as
21 well as contributions from other private or public contributors.
- 22 3. ~~Borrow funds not to exceed ten million dollars from the Bank of North Dakota for~~
23 ~~the purpose of investing in North Dakota alternative and venture capital~~
24 ~~investments and early stage capital funds. The corporation may provide~~ Provide

management services for the Bank's alternative and venture capital investments and early-stage capital funds.

~~(Effective after July 31, 2009) Powers. The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:~~

- ~~1. Cooperate and contract with any private or public entity.~~
- ~~2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.~~

SECTION 2. AMENDMENT. Section 54-34.3-01 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-01. Department of commerce division of economic development and

finance established - Mission. The department of commerce division of economic development and finance is established to assume the functions, powers, and duties of the department of economic development and finance with respect to programs and other efforts intended to enhance the economic development of the state. The mission of the division is to develop strategies and programs to:

1. Facilitate the growth, diversification, and expansion of existing enterprises and the attraction and creation of new wealth-generating enterprises in the state;
2. Promote economic diversification and innovation within the basic industries and economic sectors of this state, including strategies and programs designed to specialize and focus the state's economy on ~~advanced agriculture and food processing, energy byproduct development, export services and tourism, and advanced manufacturing~~ identified target industries;
3. Promote increased productivity and value-added products, processes, and services in the state, and the export of those goods and services by North Dakota enterprises to the nation and to the world;
4. Maintain and revitalize economically depressed rural areas by working in close collaboration with local communities and by encouraging communities to enter into cooperative relationships for more efficient and effective education, health care, government service, and infrastructure maintenance;
5. Forge a supportive partnership with the Bank of North Dakota, the board of higher education and the state's institutions of higher education, regional planning

councils, local development organizations and authorities, the ~~Myron G. Nelson Fund, Incorporated,~~ the state's nonprofit development corporations, and other appropriate private and public sector organizations in achieving the economic goals of the state; and

6. Identify those statutes, administrative rules, and policies that impede the attraction, creation, and expansion of businesses and job creation in this state.

SECTION 3. AMENDMENT. Section 54-34.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-03. Division structure. The division consists of:

- ~~1. A finance office;~~
- ~~2. An international business and trade office;~~
- ~~3. Offices established by statute; and~~
2. Offices the director organizes and establishes as necessary to carry out most efficiently and effectively the mission and duties of the division.

SECTION 4. AMENDMENT. Section 54-34.3-04 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-04. Director - Compensation - Duties. A director shall supervise and control the division. The director shall:

1. Manage the internal operations of the division and establish policies that promote the orderly and efficient administration of the division;
2. Appoint personnel as may be determined necessary to carry out this chapter and fix their compensation within the limits of legislative appropriations;
3. Assume central responsibility to develop, implement, and coordinate within state government a comprehensive program of economic development consistent with the mission of the division;
4. Coordinate that program of economic development with all other appropriate state and local government departments, agencies, institutions, and organizations that perform research, develop and administer programs, gather statistics, or perform other functions relating to economic development, and those government entities shall advise, cooperate, and provide reasonable assistance to the director in carrying out this chapter;

5. Advise, and cooperate with, departments and agencies of the federal government and of other states, private business and agricultural organizations and associations, research institutions, and any individual or other private or public entity, and call upon those entities or individuals for consultation and assistance in their respective fields of endeavor or interest in order that the division and the state may benefit from up-to-date technical advice, information, and assistance;
6. Cooperate with individuals and both public and private entities, including the state's congressional delegation, in identifying and pursuing potential sources of funding and to receive those funds to be expended for purposes consistent with this chapter;
7. Have authority to enter into contracts upon terms and conditions as determined by the director to be reasonable and to effectuate the purposes of this chapter; ~~and~~
8. Identify and coordinate sources of capital and financial assistance, including lending programs of the Bank of North Dakota, and administer programs of financial assistance placed under the administration of the division, to business and industry, local governments, and other entities and individuals in the state consistent with the mission of the division; and
9. Have authority to do any and all other things necessary and proper to carry out this chapter.

SECTION 5. AMENDMENT. Subsection 2 of section 54-34.3-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The department shall designate an applicant city as a rural growth incentive city eligible for a loan if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan, ~~prepares an economic development strategic plan,~~ and meets any additional program requirements provided by rule. The source of city funds used for loan matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a loan under this section, subject to the availability of funds, the state shall make a loan to the city in an amount not less than twenty-five thousand dollars and not more than seventy-five thousand dollars. The department shall establish the amount of the interest rate for loans provided to a

city under this subsection. The funding source of the state loan is the North Dakota development fund. The city shall distribute the city and state funds to qualifying new or expanded primary sector businesses in the city. A qualifying business in the city includes a business that provides essential services to the city. For purposes of this subsection, a business that provides essential services does not include a public utility. The governing body of the city determines whether a new or expanded primary sector business qualifies for funding, and the director of the department determines whether a business that provides essential services to the city qualifies for funding. The state shall distribute a loan to a rural growth incentive city once the city establishes the city has chosen a specified qualified business to receive funding.

SECTION 6. AMENDMENT. Section 54-34.3-15 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-15. Local economic developer ~~certification~~ education program. The director shall implement ~~a certification~~ an education program through which the division provides training to assist local economic developers and community leaders in meeting the needs of businesses. The director may contract with a third-party service provider to assist in implementing the program. The director may set and charge a fee for the receipt of services under this program.

SECTION 7. AMENDMENT. Section 54-34.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-01. Division of tourism - Director. The division of tourism is established to foster and promote tourism to, and within, the state and the full development of the state's tourism resources and to serve as a planning and coordinating agency for tourism-related programs of the state and the state's ~~political subdivisions~~ tourism partners. The director shall supervise and control the division of tourism.

SECTION 8. AMENDMENT. Section 54-34.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-02. Duties of director. The director of the department of commerce division of tourism, within the limits of legislative appropriations, shall:

1. Implement the state's tourism policy;

2. Prepare and update annually a tourism ~~master~~ marketing plan for the ~~development~~ promotion and expansion of tourism in the state which identifies the state's tourism resources, estimates the impact of tourism on the state's economy, and proposes a ~~five-year plan~~ marketing strategy for activities of the division;
3. Work with industry groups to prepare a long-term strategic plan each biennium.
4. Measure and forecast visitor volume, receipts, and related social and economic impacts;
- ~~4.~~ 5. Work with the private sector and local, state, and federal agencies to develop the state's tourism-related infrastructure, facilities, services, and attractions, including the state's highways ~~and~~, parks, and historic sites;
- ~~5.~~ 6. Organize and coordinate programs designed to promote tourism to, and within, the state through various means. Those means may include:
 - a. ~~Display~~ Print advertising in magazines ~~and~~, newspapers, and direct mail;
 - b. Advertising on radio ~~and~~, on television, online, in displays, or using other advertising media;
 - c. Publishing pamphlets, brochures, and other graphic and pictorial materials;
and
 - d. Designing the tourism side of the state highway map;
 - e. Aiding and assisting representatives of the media to ensure greater coverage of the state's visitor attractions, events, and recreational opportunities; and
 - f. Other marketing activities and events aimed at increasing visitor volume.
- ~~6.~~ Participate in travel shows;
- ~~7.~~ Supervise and administer visitor information centers that receive funding from the state Work with the department of transportation to improve visitor services along highways in the state and in state rest areas;
8. Develop opportunities for professional and technical education and training in the visitor industry;
9. Foster an understanding among the state's residents of the economic importance to the state of hospitality and tourism;
- ~~10. Cooperate with local, state, and federal agencies and organizations and the private sector for the promotion and development of tourism to, and within, the state;~~

1 ~~44.~~ Provide advice and technical assistance to local, public, and private tourism
2 organizations in promoting and developing tourism; and

3 ~~42.~~ 11. Monitor the policies and programs of state agencies that significantly affect the
4 visitor industry, notify those agencies of the effects of their actions on travel to, and
5 within the state, and if necessary recommend programs or policy changes to those
6 agencies.

7 **SECTION 9. AMENDMENT.** Subsection 1 of section 54-34.4-03 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. The legislative assembly declares that:

10 a. This state is endowed with scenic beauty, historical sites, cultural resources,
11 local festivals, attractions, recreational facilities, and a population whose
12 ethnic diversity and traditions are attractive to visitors;

13 b. These human and physical resources should be preserved and nurtured, not
14 only because they are appreciated by other Americans and by visitors from
15 other lands, but because they are valued by the state's residents;

16 c. Tourism contributes to economic well-being by creating job opportunities,
17 generating revenues for local businesses, and creating new wealth in the
18 economy;

19 d. Tourism is an educational and informational medium for personal growth
20 which informs residents about their state's geography and history, their
21 political institutions, their cultural resources, their environment, and about
22 each other;

23 e. Tourism instills state pride and a sense of common interest among the state's
24 residents;

25 f. Tourism enhances the quality of life and well-being of the state's residents by
26 affording opportunities for recreation, new experiences, and relief from job
27 stress;

28 g. Tourism advertising and marketing improves the image of North Dakota;

29 h. Tourism promotes international understanding and good will, and contributes
30 to intercultural appreciation;

~~h.~~ i. Tourism engenders appreciation of the state's cultural, architectural, technological, agricultural, and industrial achievements and is helpful in attracting new residents;

~~i.~~ j. The development and promotion of tourism to and within the state is in the interest of the people of this state;

~~j.~~ k. Tourism should develop in an orderly manner in order to provide the maximum benefit to the state and its residents;

~~k.~~ l. The development of a strong and competitive state visitor industry depends upon the availability of trained personnel, necessary infrastructure, and a receptive climate for tourism investment; and

~~l.~~ m. A comprehensive tourism policy is essential if tourism in the state is to grow in an orderly manner.

SECTION 10. AMENDMENT. Subsection 3 of section 54-60-04 of the North Dakota Century Code is amended and reenacted as follows:

3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities ~~in~~ of the state.

SECTION 11. AMENDMENT. Section 54-60-06 of the North Dakota Century Code is amended and reenacted as follows:

54-60-06. Commerce cabinet. The North Dakota commerce cabinet is created. The cabinet is composed of the directors of each of the department divisions and of the executive heads, or other authorized representatives, of the state board for career and technical education, the state board of higher education, the Bank of North Dakota, the department of agriculture, workforce safety and insurance, the department of transportation, job service North Dakota, the game and fish department, and of any other state agency appointed by the commissioner. The commissioner is the chairman of the cabinet and shall determine which agencies are members of the cabinet. The cabinet shall:

1. Coordinate and communicate economic development and tourism efforts of the agencies represented.
2. Meet at times determined by the commissioner.

3. ~~Develop and make available before each regular session of the legislative assembly a list that identifies economic development moneys included in budget requests of cabinet agencies.~~

SECTION 12. AMENDMENT. Section 54-60-17 of the North Dakota Century Code is amended and reenacted as follows:

54-60-17. Division of workforce development - ~~Higher education internships~~ Internships, apprenticeships, and work experience opportunities. The division of workforce development shall administer a program to increase use of ~~higher education~~ internships, apprenticeships, and work experience opportunities for higher education students and high school students enrolled in grade eleven or twelve. The primary focus of this program must be higher education internships in target industries. This program shall provide services to employers, communities, and business organizations to increase ~~higher education~~ internship, apprenticeship, and work experience opportunities.

SECTION 13. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Rural development office.

1. The commissioner shall administer the rural development office. The purpose of the office is to assist in the development of rural North Dakota communities.
2. The commissioner may contract with a third party for the provision of services for the rural development office. If the commissioner contracts with a third party under this subsection, all data and databases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the rural development office.

SECTION 14. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

North Dakota rural development council - Composition. The North Dakota rural development council is created.

- 1 1. The North Dakota rural development council is composed of a minimum of nine
2 and a maximum of seventeen members. The commissioner is an ex officio voting
3 member of the council. The governor shall appoint council members for two-year
4 terms, except the governor shall appoint approximately one-half of the initial
5 council members to one-year terms in order to initiate a cycle of staggered terms.
6 Appointment of the council members must ensure representation from eight
7 regions designated by the commissioner. Members of the council serve at the
8 pleasure of the governor.
- 9 2. The council shall select its own officers who shall serve for a term of two years
10 commencing on October first of each year.
- 11 3. The council shall have at least two meetings each year and such additional
12 meetings as the chairman determines necessary at a time and place to be fixed by
13 the chairman. Special meetings must be called by the chairman on written request
14 of any four members. A simple majority of the council constitutes a quorum and
15 may act upon any matter coming before the council. Members of the council are
16 entitled to reimbursement in the same manner and at the same rate provided by
17 law for other state officials.
- 18 4. The council, in cooperation with the rural development office, shall:
 - 19 a. Facilitate collaboration among federal, state, local, and tribal governments
20 and the private and nonprofit sectors in the planning and implementation of
21 programs and policies that have an impact on rural areas of the state;
 - 22 b. Monitor, report, and comment on policies and programs that address, or fail to
23 address, the needs of the rural areas of the state; and
 - 24 c. Facilitate the development of strategies to reduce or eliminate conflicting or
25 duplicative administrative or regulatory requirements of federal, state, local,
26 and tribal governments.

27 **SECTION 15. REPEAL.** Sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North
28 Dakota Century Code are repealed.

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Wyoming Statutes 9-12-101 through 9-12-804

CHAPTER 12 - WYOMING ECONOMIC DEVELOPMENT ACT

ARTICLE 1 - IN GENERAL

9-12-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Economic Development Act."

9-12-102. Definitions.

(a) As used in this act, the following terms have the following meanings, except where the context clearly indicates otherwise:

(i) "Board" means the board of directors of the council;

(ii) "Council" means the Wyoming business council, the body corporate created by this article;

(iii) "Federal agency" means the United States, the President of the United States, and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States;

(iv) "Financial aid" means:

(A) The infusion of risk capital to persons by making investments for use in the development and exploitation of specific products;

(B) The purchase of securities;

(C) Royalty agreements;

(D) Loans and loan guarantees;

(E) Any contractual arrangement in which the council provides technological services to any person involving the development and exploitation of a specific product.

(v) "Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint ventures, and public bodies, including but not limited to the state of Wyoming, any state, and any agency, department, institution, political subdivision or instrumentality of Wyoming or any state;

(vi) "Product" means any product, device, technique or process, which is or may be exploitable commercially and includes products, devices, techniques or processes which have advanced

beyond the theoretic stage and are readily capable of being, or have been, reduced to practice but excludes pure research;

(vii) "Venture" means any contractual arrangement with any person whereby the council obtains rights from or in a product or proceeds therefrom in exchange for the granting of financial aid to the person;

(viii) "This act" means W.S. 9-12-101 through 9-12-1203.

9-12-103. Wyoming business council; creation; composition; compensation; termination; meetings; surety bonds; fiscal control.

(a) There is created the Wyoming business council. The council is a body corporate operating as a state instrumentality operated solely for the public benefit. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter. It shall be governed by a board of directors consisting of fifteen (15) voting directors, appointed by the governor with the advice and consent of the senate. The governor shall be a member and cochairman of the board, but shall not vote. The appointed directors shall have demonstrated leadership and business expertise. An equal number of directors shall be appointed to initial terms of one (1), two (2) and three (3) years. Thereafter, directors shall serve for terms of three (3) years. No appointed director shall serve more than two (2) successive three (3) year terms. If a vacancy occurs, the governor shall appoint a successor in accordance with W.S. 28-12-101. The governor may remove any board member he appoints for cause and shall remove any director who fails to attend three (3) consecutive regular meetings of the council. No appointed council member shall send a designee to attend a council meeting nor vote by proxy. The board shall select one (1) of its members to act as cochairman of the board. The board shall retain a chief executive officer. The chief executive officer serves at the pleasure of the board. All of the appointed directors shall be appointed at large and at least twelve (12) of the appointed directors shall be residents of Wyoming.

(b) The appointed directors shall receive per diem for attending board meetings in the same amount as state legislators and shall receive no other compensation for serving on the board. The board shall fix the salary of the chief executive officer. Subject to the approval of the directors, the chief executive officer shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees which the chief executive officer determines are necessary to carry out the purposes and functions of the council. Employees of the council shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

(c) Upon termination of the council, all its rights and properties shall pass to and be vested in the state.

(d) The council shall determine the date, time, place and method of notice for all regular meetings of the council. A majority of the voting directors of the council constitutes a quorum for the transaction of any business or the exercise of any power or function of the council. Matters shall be decided by a majority vote of the voting members of the council. As unanimously determined by the council members, the council may take action by conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other at the same time.

(e) The council may execute and maintain at its expense a blanket surety bond covering each director, the chief executive officer and the employees or other officers of the council in the penal sum of two hundred fifty thousand dollars (\$250,000.00).

(f) The council may also form committees and advisory councils, which may include representatives who are not members of the board, to undertake more extensive study and discussion of the issues before the board.

(g) Except as specifically provided in this act, the following provisions do not apply to the council:

(i) W.S. 9-2-1001 through 9-2-1026.1;

(ii) W.S. 9-3-101 through 9-3-105;

(iii) The Wyoming Administrative Procedure Act.

(h) Except as specifically provided in this act, the provisions of W.S. 16-4-201 through 16-4-205 and 16-4-401 through 16-4-408 shall apply to the council.

9-12-104. General powers and duties of the council.

(a) Except as otherwise limited by this act, the council may:

(i) Sue and be sued and procure necessary liability insurance;

(ii) Have a seal;

(iii) Make and execute contracts and other instruments;

(iv) Adopt rules and regulations to implement the programs and functions assigned to the council by this act. Any rule adopted by the council shall be submitted to the management council of the legislature in accordance with W.S. 28-9-101 through 28-9-108, approved by the governor as provided in W.S. 16-3-103(d) and filed with the secretary of state;

(v) Acquire or contract to acquire by grant, purchase, option or otherwise, real, personal or mixed property or any interest in property, including patents, copyrights, trademarks or any other evidence of protection or exclusivity as to products;

(vi) Own, hold, clear, improve and rehabilitate, and sell, assign, exchange, transfer, convey, lease and mortgage real, personal or mixed property or otherwise dispose of, or encumber the same;

(vii) Grant options to purchase any interest in or asset arising out of an agreement;

(viii) Provide advisory, consultative or educational services, technical assistance and advice to any person in order to carry out the purposes of the council;

(ix) Mortgage or pledge any or all of its revenue, income, or interest in or asset arising out of a venture agreement;

(x) Except as otherwise provided in this act, deposit any funds of the council in any financial institutions located within the state;

(xi) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers it deems desirable;

(xii) Engage the services of consultants on a contract basis for rendering professional, financial and technical assistance and advice, including for studies and investigation likely to lead to business development;

(xiii) Contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and pass through or otherwise comply, subject to the provisions of this chapter, with the terms and conditions thereof;

(xiv) Enter into agreements with persons doing business or who will do business in this state for the advancement of financial assistance to those persons for research and the development of specific products, procedures and techniques to be developed and produced in this state conditioned upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in and accrue to this state;

(xv) Consent to the modification of the terms of any mortgage, loan or contract to which the council is a party;

(xvi) Organize, conduct, sponsor or cooperate in and assist the conduct of special institutes, conferences and demonstrations relating to the stimulation and formulation of business development;

(xvii) Make investments in projects that have potential to stimulate economic development in the state;

(xviii) Render advice and assistance and to provide services to state agencies, local and regional economic development entities, private firms and other persons providing services or facilities for economic development in Wyoming;

(xix) Do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other act;

(xx) Provide a program for severance pay and other transitional employment services to employees of the department of commerce who lost their employment with the state of Wyoming due to this act and who are not reemployed with the council within sixty (60) days of having their employment terminated with the department of commerce;

(xxi) Repealed by Laws 2008, Ch. 6, 2.

(b) The board, consistent with this act, shall develop guidelines for each of the areas specified in subsection (a) of this section relative to definitions, types of grants or loans, level of funding and repayment requirements.

9-12-105. Economic development services.

(a) It shall be the duty of the council to encourage, stimulate and support the development and expansion of the economy of the state. The council is charged with the following duties and responsibilities:

(i) To see that there are prepared and carried out effective economic development marketing and promotional programs;

(ii) To make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

(iii) To formulate, promulgate and advance programs throughout the state for encouraging the location of new businesses in the state and the retention and growth of existing businesses;

(iv) To encourage and solicit private sector involvement, support and funding for economic development in the state;

(v) To encourage the coordination of the economic development efforts of public institutions, regions, communities and private industry and collect and maintain data on the development and utilization of economic development capabilities;

(vi) To establish such offices within and without the state that are necessary to the expansion and development of industries and trade. The council shall establish economic development regions and offices within the state based upon socioeconomic and geographic similarities;

(vii) To encourage the export of products and services from the state to national and international markets; and

(viii) To advise the University of Wyoming and the Wyoming community college commission in designating technical training and other educational programs in Wyoming's community colleges and the University of Wyoming beneficial to economic development activities in this state.

9-12-106. Planning and research.

(a) It shall also be the duty of the council to:

(i) Develop a comprehensive economic development strategy for the state, starting the first year of each new gubernatorial administration, consistent with the provisions of this act; and

(ii) Conduct such studies and research, in collaboration with state agencies, university and community colleges, local and regional industrial authorities and organizations, and other persons within

and without the state, as the council may deem necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations and advice on the improvement of economic development and related programs and strategies across the state.

(b) The council may establish a Wyoming market research center to conduct regional, national and international market research for Wyoming manufacturers and to conduct market feasibility studies for value added projects across all economic sectors, including agriculture. If a center is formed:

(i) The council and center shall develop a plan to phase-in fees for services and a formula for commissions payable by manufacturers for sales which are directly attributable to the center's research. The plan shall be directed to make the center self-sufficient by July 1, 2003;

(ii) The center may utilize the services of student interns from the University of Wyoming and community colleges to provide those students with practical marketing experience.

9-12-107. Tourism promotion and development.

(a) Repealed By Laws 2007, Ch. 5, 2.

(b) Repealed By Laws 2003, Ch. 8, 2.

9-12-108. Coordination of business permits.

(a) The council shall:

(i) Compile information on the federal, state and local requirements necessary to begin and operate a business in Wyoming and make this information available to the public on request;

(ii) Develop application procedures to expedite the state licensing and permitting process;

(iii) Assist prospective businesses in obtaining the necessary federal, state and local permits and licenses;

(iv) Encourage and facilitate the participation of federal, state and local government agencies in permit and license coordination;

(v) Review permit requirements and the value to the state of these permits and prepare recommendations for changes for submission to the appropriate agency, the governor and the legislature.

(b) The council may request assistance from any state agency to carry out its duties under this section. State agencies shall cooperate with the request for assistance.

9-12-109. Promotion of agriculture.

The council shall encourage and promote the development of agriculture in the state including horticulture, apiculture, livestock, poultry, dairying and the kindred industries and including the development of new value-added agribusiness and product uses and markets for Wyoming agricultural products.

9-12-110. Exemptions from taxation; exceptions.

The exercise of the powers granted by this act constitutes the performance of an essential governmental function. The council shall not be required to pay any taxes levied by any municipality or political subdivision of the state, other than to comply with the Wyoming employment security law and for assessments for local improvements, upon its property or monies. Except as provided herein, the council's monies and the income therefrom, shall be free from taxation of every kind by the state, municipalities and political subdivisions of the state.

9-12-111. Investment and management of funds; audit.

(a) Except as otherwise provided in this act, the council may invest funds not required for immediate disbursement in securities in which state funds may be invested as provided by law, sell securities it has purchased and deposit securities in any financial institution. Funds deposited in financial institutions shall be secured by obligations authorized as permissible security for state investments. In investing and managing its funds, the council shall exercise the judgment and care which persons of prudence, discretion and intelligence would exercise under similar circumstances in managing the permanent disposition of their funds, considering the probable income and the probable safety of their capital.

(b) The director of the department of audit or his designee shall conduct an audit of the books and accounts of the council. The examination shall include a financial and compliance audit of the council's operations as the examiner deems appropriate. The audit shall be conducted at least once in each year and copies of the audit report shall be filed with the secretary of state, the joint minerals, business and economic development committee and the legislative service office.

9-12-112. Annual report and budget.

(a) The council shall submit an annual report in the manner provided by W.S. 9-2-1014 and using the benchmarks prescribed in this act. In addition to the requirements of W.S. 9-2-1014, included within the annual report shall be:

(i) The status of the implementation of the comprehensive economic development strategy and recommended legislative and executive actions related to the implementation of the comprehensive economic development strategy;

(ii) A summary of the total investments made by the council under the Wyoming partnership challenge loan program, article 3 of this chapter, including:

(A) The name of each borrower and the amount of each loan;

(B) An evaluation of the loan success in economic development using appropriate performance indicators as identified by the council;

(C) The cost of the loan program to the people of Wyoming in terms of:

(I) Forgone interest that could have been obtained if the funds had been invested by the state treasurer with the permanent funds of the state;

(II) Administrative and other costs associated with the program.

(D) Revenues and any other benefits obtained from the program.

(iii) Repealed By Laws 2003, Ch. 8, 2.

(iv) Progress concerning the development of the research marketing center and its self-sufficiency under W.S. 9-12-106(b);

(v) A report of the film industry financial incentive program as provided in W.S. 9-12-406;

(vi) A summary of the total investments made by the council under the workforce housing infrastructure program under W.S. 9-12-901 through 9-12-905, including:

(A) The name of each borrower and the amount of each loan;

(B) An evaluation of the loan success in providing workforce housing infrastructure;

(C) The cost of the program to the people of Wyoming in terms of administrative and other costs associated with the program.

(b) The council shall submit its budget for review as provided by W.S. 9-2-1010 through 9-2-1014.

9-12-113. Conflicts of interest.

Council members shall be subject to the provisions of W.S. 16-6-118 and shall abstain from voting in accordance with that section.

ARTICLE 2 - SCIENCE, TECHNOLOGY AND ENERGY FINANCIAL AID

9-12-201. Assumption of science technology and energy authority functions.

In assuming the functions of the science energy and technology authority the council shall administer the program in accordance with the provisions of this act generally and the specific provisions of this article.

9-12-202. Applications for financial aid from the council.

(a) All applications for financial aid shall be submitted to the council who shall investigate and prepare a report concerning the advisability of approving the proposed financial aid for the applicant and concerning any other factors deemed relevant by the council.

(b) The investigation and report shall include such facts about the applicant under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition

and structure, pro-forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility.

(c) After consideration of the report, the council shall approve or deny the application. The applicant shall be promptly notified of the decision. In making the decision as to approval or denial of an application, the council shall give priority to those applicants whereby:

(i) The proceeds of the seed capital aid will only be used to cover the initial capitalization needs of the enterprise within Wyoming except as otherwise authorized in this article;

(ii) The enterprise has a reasonable chance of success;

(iii) Participation by the council is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(iv) The enterprise seed capital has the reasonable potential to create a substantial amount of primary employment within the state;

(v) The entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise;

(vi) There is a reasonable possibility that the council will recoup at least its initial investment from seed capital contracts; and

(vii) Binding commitments have been made to the council by the applicant for adequate reporting of financial data to the council including a requirement for an annual or other periodic audit of the books of the enterprise, and for control by the council over the management of the enterprise, so as to protect the investment including the right of access to financial and other records of the enterprise.

(d) In determining the level of financial support to be advanced, the council shall limit its proportion of financial aid consistent with the existence of a market failure in product development financing but shall not provide more than twenty percent (20%) of the funds of the council for any one (1) project. Any financial aid toward product development financing granted pursuant to this section shall be equally matched or exceeded by the applicant. No financial aid granted pursuant to this section shall in any manner be pledged as collateral by the applicant.

(e) Before granting any seed capital financial aid, the council shall enter into an agreement with the applicant providing for a return to the council which is commensurate with the level of risk and amount of the financial aid.

ARTICLE 3 - WYOMING PARTNERSHIP CHALLENGE LOAN PROGRAM

9-12-301. Definitions.

(a) As used in this article:

(i) "Business" means any proposed or existing enterprise which employs people within the state, provides services within the state, uses resources within the state or otherwise adds economic value to goods, services or resources within the state, and includes farm and ranch operations;

(ii) "Community development organization" means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes throughout its community or county, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof;

(iii) "Economic development account" means the economic development enterprise account within the revolving investment fund created under article XVI, section 12 of the Wyoming constitution. The account shall consist of funds from payments as provided in W.S. 9-12-305 and other funds as provided by law;

(iv) "State development organization" means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof;

(v) "Economic disaster" means an event occurring in Wyoming that has an economic impact with total lost revenues to impacted businesses in a twelve (12) calendar month period of at least four million dollars (\$4,000,000.00) or an economic impact with total lost revenues to impacted businesses in four (4) or less counties in a twelve (12) calendar month period of at least one million dollars (\$1,000,000.00). The business council may use good faith estimates of lost revenues to businesses in determining whether an event qualifies as an economic disaster. Calculation of lost revenues shall only include actual losses incurred and shall not include any future losses;

(vi) "Bridge financing" means the provision of financing for that portion of the total project cost which is calculated by subtracting from total project cost the sum of ownership debt and equity. The council shall not consider a proposal in which the bridge financing component exceeds thirty-five percent (35%) of total project cost or five hundred thousand dollars (\$500,000.00), whichever is less, and the business does not contribute more than fifteen percent (15%) of the total project cost;

(vii) "Guarantee loan participation" means a provision of financing by the council in which the council participates with a lender that has secured a federal guaranteed loan to guarantee repayment of a loan made to a business. The maximum participation by the council shall be fifty percent (50%) of the loan or one million dollars (\$1,000,000.00), whichever is less;

(viii) "Loan guarantee" means a provision of financing by the council in which the council guarantees a portion of a bank loan made to a business;

(ix) "Wyoming main street loan participation" means a provision of financing by the council in which the council participates with a lender that has made a loan to a business for building improvements

to maintain the structure's historical character. The maximum participation by the council shall be seventy-five percent (75%) of the loan or one hundred thousand dollars (\$100,000.00), whichever is less.

9-12-302. Wyoming partnership challenge loan program; creation; rulemaking; administration account.

(a) The council shall establish and administer a partnership challenge loan program under this article and may contract for necessary professional services. Loans authorized under the program shall be limited, except as otherwise provided under W.S. 9-12-304(c) through (g), to community development organizations and state development organizations and made in accordance with the provisions of W.S. 9-12-304. Any community development organization or state development organization may submit an application to the council to participate in the program on forms prescribed by and subject to rules promulgated by the council.

(b) The council, shall establish all fees and interest rates to be charged for each loan as it is underwritten for this program. The interest rate for loans made under this program shall be not less than four percent (4%) per annum. Fees on loans under the program shall be paid monthly and deposited into a program administration account which is continuously appropriated to the council to be expended solely for the purpose of administering this article and loans authorized under it.

9-12-303. Council duties; actions on loan applications.

All complete applications to participate in the loan program established under this article which conform with the criteria established by law and rules promulgated under this article which are submitted to the council shall be considered by the council. The council shall review the application and may communicate directly with the applicant and other lenders or potential lenders of the applicant. The council shall approve or disapprove each application it considers in accordance with this article and rules promulgated under it. In making its determination under this section, the council shall consider whether approval of the application would cause unfair competition with any existing business in the area. The council shall establish loan amortization schedules, terms and conditions for each loan approved.

9-12-304. Criteria for loans.

(a) Except as otherwise provided under subsections (c) through (g) of this section, loans under this article may only be made by the council to community development organizations and state development organizations which meet the following eligibility criteria:

(i) The community development organization or state development organization will contribute an amount of cash or cash equivalent at least equal to the loan it receives under this article to a program of investment in its area of local economic development;

(ii) The community development organization or state development organization will consolidate the loan it receives under this article and its required contribution under paragraph (i) of this subsection and make loans to Wyoming businesses and investments in support of Wyoming businesses, such as infrastructure construction loans and occupational training loans;

(iii) The community development organization has been endorsed by a resolution of the legislative body of its municipality or county or, in the case of a state development organization, has been endorsed by a resolution of the council; and

(iv) As part of any agreement under this article and to ensure funds loaned or committed under this section are invested by the community development organization or the state development organization in local economic development in a reasonable period of time, the council shall reserve the right to terminate the agreement.

(b) Loans, loan commitments or loan guarantees or any combination thereof shall be made under this article only:

(i) If the total amount to a single community development organization, or to a business for an economic disaster loan as provided under subsection (c) of this section or to a business for bridge financing as provided under subsection (d) of this section, does not exceed five hundred thousand dollars (\$500,000.00), if the total amount to state development organizations does not exceed three million five hundred thousand dollars (\$3,500,000.00), if the amount to a business for a federally guaranteed loan as provided under subsection (e) of this section does not exceed one million dollars (\$1,000,000.00), if the amount to a business for a loan guarantee does not exceed one hundred thousand dollars (\$100,000.00) per loan guaranteed or eighty percent (80%) of any net loan loss by the bank, whichever is less or if the amount to a business for a Wyoming main street loan participation as provided under subsection (g) of this section does not exceed one hundred thousand dollars (\$100,000.00);

(ii) If there are sufficient funds in the economic development enterprise account to fully fund it and all other outstanding commitments, loans, loan guarantees and guarantee loan participations;

(iii) If funds provided by the state are adequately collateralized. The adequacy of the collateral shall be determined by the council;

(iv) If the application for the loan or loan commitment is submitted on or after September 1, 1996.

(c) Any business or group of businesses may apply to the council for designation of an area of this state as an area in which an economic disaster as defined in W.S. 9-12-301(a)(v) has occurred. The council shall prescribe the form and contents of such applications. The council shall review each application and make a determination as soon as practicable as to whether an economic disaster area designation shall be made. The council may make loans to any business located within the designated economic disaster area that has lost revenue as a result of the economic disaster. Subsection (a) of this section does not apply to economic disaster loans under this subsection.

(d) Any business may apply to the council for bridge financing as defined in W.S. 9-12-301(a)(vi). The council shall prescribe the form and contents of such application. The council shall review each application and make a determination as soon as practicable. In the event of a default for any loan made under this subsection, liability shall be shared proportionately between the state and the lending institution in the same percentage as the source of the loan. The interest of the state and the lending institution shall have priority over any claim of the business receiving the bridge financing or any other third party.

(e) Any business may apply to the council for a guarantee loan participation as defined in W.S. 9-12-301(a)(vii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. The council shall structure any guarantee loan participation so that in the event of default of any loan which is participated in under this subsection:

(i) Liability shall be shared proportionally between the state and the lending institution in the same percentage as the source of the funding for the loan; and

(ii) The interest of the state and the lending institution shall have priority over any claim of the business receiving the financing or any other third party.

(f) Any business may apply to the council for a loan guarantee as defined in W.S. 9-12-301(a)(viii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. The council shall structure any loan guarantee so that in the event of default of any loan that is guaranteed under this subsection:

(i) Liability to the state under the guarantee shall not exceed one hundred thousand dollars (\$100,000.00) per loan guaranteed or eighty percent (80%) of any net loan loss by the bank, whichever is less; and

(ii) The interest of the state and the lending institution shall have priority over any claim of the business receiving the financing or other third party.

(g) Any business may apply to the council for a Wyoming main street loan participation as defined in W.S. 9-12-301(a)(ix). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. In the event of a default for any loan made under this subsection, liability shall be shared proportionately between the state and the lender in the same percentage as the source of the loan. The interest of the state and the lender shall have priority over any claim of the business receiving the main street loan participation or any other third party.

9-12-305. Economic development enterprise fund account; deposits; continuous appropriation; loans.

Except for fees deposited in accordance with W.S. 9-12-302(b), all repayments of principal and interest to the state in connection with loans made under this article and other funds as appropriated by the legislature for the challenge loan program shall be deposited into the economic development enterprise account within the revolving investment fund. All funds in the account may be used for and are continuously appropriated for loans authorized to be made under this article. The total principal balance of outstanding loans shall not exceed the amounts appropriated by the legislature plus interest accrued and collected less any losses of loan principal or interest.

9-12-306. Audit; report.

(a) The director of the state department of audit or his designee shall annually examine the loan program created under this article and submit his report of examination to the governor, the legislature and the council. This examination shall include a financial and compliance audit of the council's operations, and

such financial audit of borrowers under this article as the examiner deems appropriate. As a condition of any loan under this article, the borrower shall agree to allow the examiner to examine its books and records. The examiner shall treat all proprietary information received in the course of the examination or audit as confidential.

(b) On or before July 15 of each year, the council shall submit a written report to the joint minerals, business and economic development interim committee reviewing rules adopted by the council during the reporting period, presenting a portfolio of loans made under the program and presenting a risk analysis of the portfolio of loans prepared by the state banking commissioner. The report, portfolio of loans and risk analysis required under this subsection shall be public records. The risk analysis prepared by the state banking commissioner shall not be subject to the limitations of W.S. 9-1-512.

9-12-307. Penalty.

Any person who knowingly makes a false statement to the council in connection with an application under this article or article 9 of this chapter is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand dollars (\$2,000.00), or both.

ARTICLE 4 - FILM AND VIDEO PROMOTION

9-12-401. Repealed By Laws 2003, Ch. 8, 2.

9-12-402. Film industry financial incentive program; creation.

There is created the film industry financial incentive program to encourage the use of this state as a site for filming and providing production services for filmed entertainment. The program shall be administered by the Wyoming tourism board.

9-12-403. Film industry financial incentive program; definitions.

(a) As used in this article:

(i) "Filmed entertainment" means any one (1) motion picture, television production, commercial or music video to be sold or displayed in electronic medium or film motion pictures;

(ii) "Production costs" means the total cost of producing filmed entertainment;

(iii) "Program" means the film industry financial incentive program created under this article;

(iv) "Qualified expenditures" mean expenditures for goods purchased or leased or services purchased, leased or employed from a vendor or supplier who is located and doing business in this state if the expenditure was made in this state and was made for a qualified production. Qualified expenditures for which reimbursement may be made are limited to:

(A) Salaries and employment benefits for services rendered in and to residents of this state;

(B) Rents for real and personal property located in this state used in the production;

(C) Payments for preproduction, production, post-production and digital media effects services provided in this state;

(D) Costs of set construction provided in this state.

(v) "Qualified production" means filmed entertainment totally or partially produced and filmed in this state that would have widespread public appeal and would likely encourage members of the public to visit the state of Wyoming;

(vi) "Board" means the Wyoming tourism board.

9-12-404. Film industry financial incentive program; reimbursement eligibility; submission of required documentation; payment.

(a) The board may contract with the makers of a qualified production to provide a reimbursement of up to fifteen percent (15%) of the production's qualified expenditures if a minimum of two hundred thousand dollars (\$200,000.00) in total qualified expenditures are made.

(b) The sum of all contractual obligations under this section shall not exceed the total appropriation available for the program for any fiscal biennium.

(c) A qualified production applying for a payment under this section shall submit documentation for claimed qualified expenditures to the board.

9-12-405. Film industry financial incentive program; contract required; procedure; approval process.

(a) The board may contract with any entity engaged in this state in producing filmed entertainment for reimbursement of qualified expenditures as provided in this article. The board shall be provided information required to determine if the production is a qualified production and to determine the qualified expenditures, production costs and other information necessary for the council to determine both eligibility for and the appropriate level of reimbursement. No reimbursement shall be made unless the board has entered into an agreement which provides for adequate consideration to the state in exchange for the reimbursement provided. No reimbursement of qualified expenditures shall be made by the board until the qualified production is complete and substantially all contractual commitments made to the board have been fulfilled. If a qualified production is not completed according to a reasonable schedule, the contract shall be terminated and funds reallocated to other qualified productions.

(b) The board shall establish a process by which a contract under this article is formulated and executed and reimbursement amounts are determined. The board shall require information including, but not limited to:

(i) Production related employment;

(ii) Proposed total production budgets;

(iii) Planned expenditures in this state which are intended for use exclusively as an integral part of preproduction, production or post-production activities engaged in primarily in this state; and

(iv) A signed affidavit by a person authorized to commit the entity that the information provided to the board has been verified and is correct.

(d) The board shall not contract with any qualified production for reimbursement of qualified expenditures under this article unless the board determines that adequate consideration to the state in exchange for the reimbursement will be provided under the contract. The reimbursement shall not exceed the amount of measurable benefit gained by the state resulting from the qualified production expenditures. The consideration may include but is not limited to:

(i) Providing a storyline that is set in Wyoming;

(ii) Providing additional Wyoming behind the scenes footage;

(iii) Using Wyoming props and product placement; and

(iv) Providing a clear statement in the credits that the product was filmed in Wyoming.

9-12-406. Film industry financial incentive program; rules and regulations; fraudulent claims; reporting.

(a) The board may adopt rules and regulations to implement this article, including, but not limited to, requirements for the contract process, requirements for substantial completion of contractual commitments, records required for submission for substantiation of reimbursement and determination of and qualification for reimbursement.

(b) An entity that obtains payment under this article through a claim that is fraudulent is liable for reimbursement of the amount paid plus an amount double the payment plus reimbursement of reasonable costs. The amounts under this subsection are in addition to any criminal penalty for which the entity is liable for the same acts. The entity shall also be liable for costs and fees incurred by the state in investigating and prosecuting the fraudulent claim.

(c) The board shall report to the joint travel, recreation, wildlife and cultural resources interim committee and the joint appropriations interim committee by October 1 each year, expenditures under this article and the return to the state on funds expended pursuant to this article.

9-12-407. Sunset provision.

W.S. 9-12-402 through 9-12-406 are repealed effective June 30, 2011.

ARTICLE 5 - WYOMING COUNCIL FOR WOMEN'S ISSUES

9-12-501. Creation; areas of attention.

(a) The Wyoming council for women's issues is created within the Wyoming business council. The council for women's issues shall focus attention on the status of women in Wyoming with emphasis on the following areas:

- (i) Employment practices;
- (ii) Educational opportunities;
- (iii) Home and community;
- (iv) Legal rights and responsibilities.

(b) As used in this article, unless otherwise specified, "council" means the Wyoming council for women's issues.

9-12-502. Membership; term; appointments; vacancies; removal; officers; acceptance of gifts and donations; expenses.

(a) The council shall be composed of fourteen (14) members, each of whom shall serve for a term of six (6) years. The governor shall make the appointments and fill any vacancies for unexpired terms. The governor may remove any member as provided in W.S. 9-1-202. The council shall be composed of one (1) woman from each of the judicial districts in the state, four (4) persons chosen at large and the chief executive officer of the Wyoming business council or his designee who shall be an ex officio member. Not more than nine (9) members shall be from the same political party. Of the initial members appointed from each of the judicial districts, three (3) members shall be appointed for terms of two (2) years, three (3) members shall be appointed for terms of four (4) years and three (3) members shall be appointed for terms of six (6) years.

(b) The council shall elect a chairman and vice-chairman from its members. The Wyoming business council may employ a secretary on a part-time basis to assist the council. The council may accept gifts and donations.

(c) Members of the council shall receive no compensation but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for per diem and travel expenses incurred in the performance of their duties.

ARTICLE 6 - COMMUNITY INFRASTRUCTURE PROGRAM

9-12-601. Wyoming business ready community program; purpose; creation; rulemaking.

(a) It is the purpose of this article to promote economic development at the city, town and county level in order to create additional economic health and a stronger state economy.

(b) The council shall establish and administer a Wyoming business ready community program as provided by this article. Any city, town or county may submit an application to the council for a grant or loan under the program on forms prescribed by and subject to rules promulgated by the council. Grants or loans

may be applied for by a joint powers board with the approval of all participating agencies to the joint powers agreement. Grants and loans may be made by the council for economic or educational development infrastructure projects, including the purchase of land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or other infrastructure determined by the council to be consistent with the purposes of this article. In adopting rules and making grants and loans under this article the council shall require all projects to be related to economic or educational development infrastructure, which shall not include rehabilitation or expansion of existing infrastructure unless the council determines the rehabilitation or expansion is necessary to meet the purposes of this article. All grants, loans or cooperative agreements made under this article shall be referred by the council to the state loan and investment board for final approval or disapproval. The state loan and investment board may adopt rules as necessary to implement its duties under this article.

(c) Grants shall be matching grants as determined by the council. Loans shall be made at no or low interest rates.

(d) Grants or loans shall be made under this article, only if the applicant demonstrates that upon receipt of the grant or loan, all projected project costs will be funded. Grants or loans for one (1) project may not exceed a maximum annual amount established by rule of the council. Multi-year projects may be awarded up to the maximum annual amount each year, for a period not to exceed three (3) years, as approved by the state loan and investment board. The application shall identify the source of all funds to be used for the project.

(e) Grants or loans may be used to fund project costs in accordance with approved applications and rules of the council. Grant or loan funds may be used to contract with community development organizations and state development organizations in accordance with the purposes of this article and approved applications.

(f) Loans provided under this article shall be adequately collateralized as determined by the council. No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(g) Repayments of loans under this section shall be credited to the business ready community account.

(h) The council may also enter into cooperative agreements with the Eastern Shoshone Tribe and the Northern Arapaho Tribe in order to promote the purposes of this article.

(j) Grants may be made by the council for projects, in accordance with rules of the council, which:

(i) Improve the development of businesses that will provide data generation and information technology storage capabilities statewide or in municipalities of the state;

(ii) Encourage and provide for the expansion of existing businesses providing information technology storage enterprises in the state, including those developed through the University of Wyoming business technology center;

(iii) Provide a reduction of the costs of electrical power or bandwidth, or both, to businesses meeting the provisions of paragraph (j)(i) or (ii) of this section. In exchange for providing these reductions in costs, the political subdivision receiving the grant and providing the reduction in costs shall contract with the business to receive direct benefits and indirect economic development benefits including:

(A) A specific amount of capital investment by the business;

(B) A specific minimum payroll created by the business;

(C) The provision of information technology storage services to the state or the political subdivision at a price discounted from the fair market value of the services; and

(D) An agreement to repay with a reasonable rate of return any funds received to reduce costs if the business relocates from the political subdivision prior to the expiration of five (5) years from the date of first receiving funds.

(k) As used in this article:

(i) "Community development organization" means as defined by W.S. 9-12-301(a)(ii);

(ii) "State development organization" means as defined by W.S. 9-12-301(a)(iv).

9-12-602. Wyoming business ready community program account.

There is created the business ready community account. Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the council to be used only for cooperative agreements, grants or loans authorized to be made under this article.

9-12-603. Council duties; actions on grant and loan applications.

All complete applications to participate in the grant and loan program established under this article which conform with the criteria established by law and rules promulgated under this article which are submitted to the council shall be considered by the council. The council shall approve or disapprove each application it considers in accordance with this article and rules of the council.

ARTICLE 7 - AIR SERVICES FINANCIAL AID

9-12-701. Amended and Renumbered as W.S. 10-3-601 by Laws 2005, ch. 13, 1.

9-12-702. Amended and Renumbered as W.S. 10-3-602 By Laws 2005, ch. 13, 1.

ARTICLE 8 - WYOMING COMMUNITY FACILITIES PROGRAM

9-12-801. Wyoming community facilities program; purpose; creation; administration by council; rulemaking authority; eligible projects.

(a) It is the purpose of this article to assist communities to preserve former school and government facilities that have existing or future community uses.

(b) The council shall administer a Wyoming community facilities program as provided by this article, subject to the approval of grants and loans by the state loan and investment board as provided by this article.

(c) Any qualifying community with a demonstrated need for a community facility, including a city, town, county, joint powers board or other local governmental entity, may submit an application to the council for a grant or loan under this program on forms prescribed by and subject to rules promulgated by the council. Application by a joint powers board shall require the approval of all participating agencies to the joint powers agreement.

(d) Grants or loans may be recommended by the council and awarded by the state loan and investment board for economic development community facilities projects which provide:

(i) Space for community gatherings and functions;

(ii) Appropriate recreational, swimming and athletic facilities for community members, particularly youth;

(iii) Other functions or uses determined by the council to be consistent with the purposes of this article.

(e) In adopting rules and recommending grants and loans under this article, the council shall require all projects to be related to economic development or enhancement of quality of life in a community. Projects may consist of:

(i) The expansion, renovation or remodeling of existing surplus government facilities;

(ii) The purchase of an interest in or cooperative agreements for the expansion, renovation or conversion of school facilities to the extent the facilities exceed statewide school building and facility adequacy standards established by the school facilities commission under W.S. 21-15-115. No ownership interest to the project or facility under a project shall remain with the school district upon expenditure of any funds under this program for any project.

(f) All grants, loans or cooperative agreements recommended by the council shall be referred by the council to the state loan and investment board for final approval or disapproval in accordance with this article.

9-12-802. Community facility qualifications; demonstration of need.

(a) To qualify for a grant or loan under this article, an applicant shall demonstrate:

(i) A commitment by the applicant community to adequately maintain the project facility for which the grant or loan is requested during a reasonable period of time;

(ii) A partnership or other working arrangement or agreement with other local governmental entities to ensure the viability of the project facility over a reasonable period of time;

(iii) The project facility is not otherwise provided in the community or that such a facility exists except that the financing of that facility has not been paid in full;

(iv) The project will not compete with existing governmental organizations or businesses;

(v) The relationship of the project facility to a community economic development plan or to the enhancement of quality of life in the community;

(vi) That all project costs will be funded at the time of receipt of a grant or loan under this article, with funding sources specified within the project application;

(vii) The availability of funds sufficient to maintain the project facility. The project application shall clearly identify maintenance funding sources sufficient to cover maintenance costs for a period of not less than four (4) years;

(viii) Any other criteria developed by the council consistent with the purposes of this article.

9-12-803. Community facility grant and loan; approval by state loan and investment board.

(a) Grants shall be awarded on a matching basis at match proportions recommended by the council and approved by the board.

(b) Grants or loans may be used to fund project costs in accordance with approved applications and rules and regulations established by the council. Grant or loan funds may be used to contract with community development organizations and state development organizations in accordance with this article and approved project applications. For purposes of this subsection, "community development organizations" shall be as defined under W.S. 9-12-301(a)(ii) and "state development organizations" shall be as defined under W.S. 9-12-301(a)(iv).

(c) Loans provided under this article shall be adequately collateralized as determined by the council. No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(d) Repayments of loans under this article shall be credited to the community facilities program account.

(e) The council shall prioritize proposed cooperative agreements, grants and loans it recommends to the state loan and investment board in accordance with rules it adopts under this article.

(f) The state loan and investment board shall adopt rules as necessary to implement its duties under this article governing the approval or disapproval of projects recommended by the council.

9-12-804. Wyoming community facilities program account.

The community facilities program account is created within the special revenue fund and shall consist of funds credited to the account as provided by law. Funds in the account are continuously appropriated to the council to be used only for cooperative agreements, grants or loans authorized by the state loan and investment board under this article.

9-12-805. Tribal participation in community facilities program.

The council may enter into cooperative agreements with the business council of the Eastern Shoshone Indian Tribe, the business council of the Northern Arapaho Indian Tribe or the joint business council of the Eastern Shoshone and Northern Arapaho Indian Tribes to promote the purposes of the community facilities program and to allow those entities to participate in the program.

ARTICLE 9 - COMMUNITY WORKFORCE HOUSING PROGRAM

9-12-901. Wyoming workforce housing infrastructure program; purpose; definitions.

(a) The legislature finds and declares that:

(i) There is in this state by reason of the location and expansion of mineral extractive industries and other economic developments, a critical shortage of adequate housing;

(ii) It is in the public interest of the citizens of this state to facilitate the provision of adequate housing in order to promote the economic welfare of the state and its residents by increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, furthering health care and improving the balance of the state's economy;

(iii) It is the purpose of this article to promote and continue economic development by providing adequate housing necessary to create additional economic health and a stronger state economy;

(iv) This article constitutes a valid public purpose, of primary benefit to all citizens of the state of Wyoming.

(b) As used in this article:

(i) "Community development organization" means as defined by W.S. 9-12-301(a)(ii);

(ii) "Community land trust" means land held in trust as a public investment for the long-term benefit of a community to provide secure, affordable access to land and workforce housing for community residents;

(iii) "State development organization" means as defined by W.S. 9-12-301(a)(iv);

(iv) "Workforce housing" means owner-occupied, residential dwellings;

(v) "Workforce housing infrastructure" means publicly owned infrastructure to a workforce housing subdivision or development, and if determined by the council to be consistent with the purposes of this article, through a workforce housing subdivision or development. To be considered "workforce housing infrastructure" under this article, the infrastructure shall be for a workforce housing subdivision or development for which the political subdivision making application under this article has required, through zoning or otherwise, the inclusion of a specified percentage or number of housing units at specified maximum initial sale prices or to have a specified initially finished, maximum square footage. In addition, the following shall apply:

(A) "Workforce housing infrastructure" includes:

- (I) Rights of way;
- (II) Sewer and water distribution projects;
- (III) Storm water control and drainage facilities;
- (IV) Streets, roads and bridges;
- (V) Curbs, gutters and sidewalks;
- (VI) Lift stations;
- (VII) Traffic signals;
- (VIII) Street lighting;
- (IX) Payment for the additional costs of over-sizing water and sewer distribution lines through or to a subdivision to accommodate future expansion;
- (X) The purchase of land as necessary to accommodate infrastructure projects;
- (XI) Other infrastructure determined by the council to be consistent with the purposes of this article.

(B) "Workforce housing infrastructure" shall not include:

- (I) Projects, the primary purpose of which is to bring public infrastructure to existing housing which is supplied by a well or uses a septic system. Nothing in this subdivision prohibits the use of funding under this article to provide such infrastructure as incidental to an approved project;
- (II) Refinancing of existing projects that have been financed previously with other resources;

(III) Financing any project under the Wyoming water development program established by W.S. 41-2-112 through 41-2-124;

(IV) Financing any project that does not provide for the construction of additional housing units or that involves rehabilitation or expansion of existing infrastructure unless the council determines the rehabilitation or expansion is necessary to meet the purposes of this article;

(V) Financing any infrastructure project which is not under public ownership.

9-12-902. Wyoming workforce housing infrastructure program; creation; rulemaking.

(a) The council shall establish and administer a Wyoming workforce housing infrastructure program as provided by this article. Any city, town, county or special improvement district may submit an application to the council for a loan under the program on forms prescribed by and subject to rules promulgated by the council. Loans may be applied for by a joint powers board with the approval of all participating agencies to the joint powers agreement. Loans may be made by the council for workforce housing infrastructure projects and community land trust projects. In adopting rules and making loans under this article the council shall require all projects to be related to workforce housing infrastructure or community land trusts.

(b) Loans may be made at zero interest rate, up to an annual interest rate equal to the average prime interest rate as determined in accordance with subsection (e) of this section. The council shall establish criteria for determining the maximum loan amounts subject to final approval by the state loan and investment board.

(c) Loans shall be made under this article, only if the applicant demonstrates that upon receipt of the loan, all projected project costs will be funded. Loans for one (1) project may not exceed a maximum annual amount established by rule of the council. Multi-year projects may be awarded up to the maximum annual amount each year, for a period not to exceed three (3) years, as approved by the state loan and investment board. The application shall identify the source of all funds to be used for the project.

(d) Loans may be used to fund project costs in accordance with approved applications and rules of the council. Loan funds may be used to contract with community development organizations, state development organizations and nonprofit organizations in accordance with the purposes of this article and approved applications.

(e) Loans provided under this article shall be adequately collateralized as determined by the council. The council shall establish interest rates to be charged for loans under the program, but the interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Interest rates shall be established in recognition of the repayment abilities and needs of the local governmental entity eligible for loans under the program. The council shall establish loan amortization schedules, terms and conditions for each loan approved.

(f) No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(g) Loans and loan commitments or any combination thereof shall be made under this article only:

(i) If there are sufficient funds in the workforce housing infrastructure program account to fully fund it and all other outstanding commitments and loans;

(ii) If repayment of any loan provided by the state is adequately collateralized. The adequacy of the collateral shall be determined by the council, subject to final approval by the state loan and investment board.

(h) Repayments of loans under this section shall be credited to the Wyoming workforce housing infrastructure program account.

(j) The council may also enter into cooperative agreements with the Eastern Shoshone Tribe and the Northern Arapaho Tribe in order to promote the purposes of this article.

(k) After approval of loans, the applicants shall report to the council, as required by the approved application. The report shall include:

(i) The progress of the project until the project is completed;

(ii) Any additional information required by the council to ensure compliance with loan requirements or compliance with this article.

9-12-903. Council duties; actions on loan applications.

(a) All complete applications to participate in the program established under this article, which conform with the criteria established by law and rules promulgated under this article and which are submitted to the council, shall be considered by the council. The council shall approve or disapprove each application considered in accordance with this article and rules promulgated by the council. All loans or cooperative agreements made under this article shall be referred by the council to the state loan and investment board for final approval or disapproval. The state loan and investment board may adopt rules as necessary to implement its duties under this article.

(b) In adopting rules and making funds available under this article, the council shall provide a competitive application and scoring system adequate to measure the benefits of each application. The application scoring system shall target the projects based on ranking criteria which address:

(i) The need for the proposed housing;

(ii) The affordability of the proposed housing;

(iii) The number of additional housing units to be developed, with consideration of the percentage of critical workforce housing needs in the community to be served;

(iv) The extent to which the project is part of an overall community and economic development plan;

(v) The extent to which the project demonstrates readiness;

(vi) Any other criteria determined by the council to be consistent with the purposes of this article.

(c) The council may negotiate and enter into appropriate contracts or memoranda of understanding with Wyoming state agencies, authorities or instrumentalities as necessary or convenient to facilitate the council's duties under this article.

9-12-904. Community land trusts; eligibility; requirements.

(a) Loans made under this article for community land trusts, in addition to meeting other requirements of this article, shall require that:

(i) The land subject of the trust be owned or leased by a political subdivision of the state, including a city, town, county, special improvement district or a housing authority authorized under W.S. 15-10-116;

(ii) The land be used for workforce housing with lots for housing leased and with the political subdivision remaining the owner of the land or the primary lessee;

(iii) The leases of lots be upon such terms as to allow commercial lenders to lend funds for housing construction on terms comparable to housing built on fee owned lands;

(iv) The housing development on lands subject to the trust include a specified percentage or number of housing units at specified maximum initial sale prices or be required to have a specified initially finished, maximum square footage as required by the political subdivision making application under this article, through zoning or otherwise;

(v) The lease terms for housing constructed on the land subject to the trust provide for continuation of the initial long term community benefit through subsequent sales of the housing.

(b) The political subdivision owning or leasing the land subject to the community land trust may fulfill the requirements of this section directly, through a housing authority created pursuant to W.S. 15-10-116, or by agreement with private nonprofit entities.

9-12-905. Wyoming workforce housing infrastructure program account.

(a) There is created the workforce housing infrastructure program account. Funds shall be credited to the account as provided by law. Funds in the account shall be used only upon legislative appropriation for cooperative agreements and loans authorized to be made under this article. All funds including any

earned interest and repayments of principal on loans under this article remaining in the workforce housing infrastructure program account at the end of a biennium shall not lapse and shall not revert as provided in W.S. 9-4-207 but shall remain in the account to implement the purposes of this section.

(b) Interest and repayments of principal on loans under this article shall be redeposited into the workforce housing infrastructure program account.

(c) Accrued interest and other earnings on unexpended funds within the account shall be credited to the workforce housing infrastructure program account.

ARTICLE 10 - WYOMING TOURISM BOARD

9-12-1001. Wyoming tourism board; creation; composition; appointment; terms; compensation.

(a) There is created the Wyoming tourism board. The board shall serve as the leading proponent of Wyoming's tourism and hospitality industry and shall provide governance and oversight for the division of travel and tourism.

(b) The board shall be comprised of nine (9) members who shall be employed in or associated closely with the travel industry. The board shall be appointed by the governor, and approved with the advice and consent of the senate, in accordance with W.S. 28-12-101 through 28-12-103, as follows:

(i) One (1) member shall be from tourism appointment district 1, consisting of Albany, Carbon and Laramie counties;

(ii) One (1) member shall be from tourism appointment district 2, consisting of Converse, Goshen, Natrona, Niobrara and Platte counties;

(iii) One (1) member shall be from tourism appointment district 3, consisting of Campbell, Crook, Johnson, Sheridan and Weston counties;

(iv) One (1) member shall be from tourism appointment district 4, consisting of Lincoln, Sweetwater and Uinta counties;

(v) One (1) member shall be from tourism appointment district 5, consisting of Big Horn, Hot Springs, Park and Washakie counties;

(vi) One (1) member shall be from tourism appointment district 6, consisting of Fremont, Sublette and Teton counties;

(vii) Three (3) members shall be at-large members appointed to provide geographic and tourism industry balance.

(c) Each appointed member shall serve for three (3) years, except that the initial appointments of the members shall be:

(i) One (1) year for one (1) of the at-large members and the members appointed from tourism appointment district 2 and tourism appointment district 5;

(ii) Two (2) years for one (1) of the at-large members and the members appointed from tourism appointment district 1 and tourism appointment district 3; and

(iii) Three (3) years for one (1) of the at-large members and the members appointed from tourism appointment district 4 and tourism appointment district 6.

(d) No appointed member shall serve more than two (2) consecutive three (3) year terms.

(e) The board shall select a chairman and a vice-chairman from among its members.

(f) The governor may remove any member as provided by W.S. 9-1-202.

(g) Members of the board shall receive mileage and per diem for attending board meetings or other meetings as assigned by the board, in the same amount as state legislators and shall receive no other compensation for serving on the board.

(h) For purposes of this article, "board" means the Wyoming tourism board.

9-12-1002. General powers and duties of the board; rulemaking authority.

(a) The board shall be responsible for implementing the tourism program and functions assigned to the Wyoming business council under the Wyoming Economic Development Act, including the expenditure of all funds appropriated for the tourism program and shall:

(i) Assemble and distribute information concerning the scenic and recreational opportunities and resources of Wyoming;

(ii) Encourage close cooperation between public and private agencies engaged in stimulating recognition of Wyoming recreational resources;

(iii) Implement programs to promote tourism in Wyoming; and

(iv) Administer the film industry financial incentive program as provided in W.S. 9-12-402 through 9-12-406.

(b) The board shall assign a member to attend all regularly scheduled meetings of the Wyoming business council.

(c) The board shall promulgate rules and regulations necessary to implement this article.

ARTICLE 11 - MAINSTREET PROGRAM

9-12-1101. Definitions.

(a) As used in this article:

(i) "Board" means the Wyoming main street advisory board;

(ii) "Business area" means a commercial area existing at the time services under the Wyoming main street program are requested by a municipality;

(iii) "Municipality" means a city, town, county or district;

(iv) "Revitalization" means the process of engaging in activities to increase economic activity while preserving and building upon a location's historically significant characteristics.

9-12-1102. Wyoming main street advisory board.

(a) There is created a Wyoming main street advisory board. The board shall consist of seven (7) members appointed by the governor, not more than four (4) of whom shall be from the same political party. Board members shall elect from their membership a chairman, vice-chairman and secretary.

(b) The governor may remove any member of the board as provided by W.S. 9-1-202.

(c) Board members shall serve a three (3) year term provided that of the initial board, two (2) members shall be appointed for a one (1) year term, two (2) members for two (2) year terms and three (3) members for three (3) year terms. Vacancies on the board shall be filled by appointment of the governor for the unexpired term.

(d) Members of the board shall receive the same per diem, expenses and travel allowance as members of the legislature while in actual attendance at meetings of the board and the performance of their duties relative thereto.

(e) The department shall provide staff services as required by the board to carry out the board's duties.

(f) The board shall meet as often as necessary to conduct business, but not less than three (3) times each year. Meetings shall be called by the chairman. A majority of members of the board shall constitute a quorum.

9-12-1103. Duties of the board.

(a) The board shall:

(i) Assist the council in developing a plan to operate the Wyoming main street program;

(ii) Annually review the program and report findings and recommendations, including recommendations for future legislation, to the governor;

(iii) Provide a comprehensive evaluation of the Wyoming main street program annually to the joint minerals, business and economic development interim committee no later than September 1 of

each year. The report shall include findings and recommendations, including recommendations for future legislation.

9-12-1104. Duties of the council.

(a) The council shall establish and administer a Wyoming main street program to coordinate state and local participation in programs offered by the national main street center, created by the national trust for historic preservation, to assist municipalities in planning, managing and implementing programs for the revitalization of business areas.

(b) In carrying out subsection (a) of this section, the council shall:

(i) Enter into contracts to obtain business area revitalization services;

(ii) Subject to legislative authorization, employ any staff necessary to operate the Wyoming main street program;

(iii) With advice from the board, develop a plan describing the objectives of the Wyoming main street program and methods by which the council shall:

(A) Coordinate the activities of that program with private and public sector revitalizations of business areas;

(B) Solicit and use private sector funding for revitalization of business areas;

(C) Assist municipalities engaged in the revitalization of their business areas.

(iv) Coordinate with other state and local public and private entities that provide services to municipalities undertaking projects for the revitalization of business areas;

(v) Provide training, technical assistance and information on the revitalization of business areas to municipalities which do not participate in the Wyoming main street program;

(vi) Repealed By Laws 2009, Ch. 8, 2.

(c) The council shall promulgate rules necessary to carry out the provisions of this article.

9-12-1105. Main street program.

(a) The council with advice from the board shall determine the number of municipalities to participate in the Wyoming main street program. The council shall select program participants that represent different geographical regions or populations. The council shall hold at least one (1) public hearing before making selections under this subsection.

(b) In making its selection pursuant to subsection (a) of this section, the council, with the assistance of the board, shall develop criteria for use in selecting program participants which relate to at least the following issues:

(i) Private and public sector interest in and commitment to revitalization of a business area selected by the municipality;

(ii) Potential private sector investment in a business area selected by the municipality;

(iii) Local organizational and financial commitment to employ a program manager for not less than three (3) years;

(iv) Local assistance in paying for the services of a design consultant recommended by the advisory board;

(v) Local commitment to assist in training programs to direct activities related to business areas in municipalities that do not participate in the Wyoming main street program.

ARTICLE 12 - WYOMING ENERGY PERFORMANCE PROGRAM

9-12-1201. Definitions.

(a) As used in this article:

(i) "Agency" means a branch, agency, department, board, instrumentality or institution of the state of Wyoming, a county, a municipal corporation, a school district, a community college district, the University of Wyoming, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe, a joint powers board formed pursuant to this act or a special district specifically involved in providing facilities or functions enumerated in W.S. 16-1-104(c);

(ii) "Energy conservation measure" means an energy study, audit, improvement or equipment that is designed to provide energy, water and operational cost savings at least equivalent to the amount expended by a facility owner for such energy study, audit, improvement or equipment over a period of not more than twenty (20) years after the date such improvement or equipment is installed or becomes operational;

(iii) "Energy performance contract" means the contract that allows a facility owner to accomplish energy or water efficiency projects without upfront capital costs or capital appropriations. An energy performance contract shall not be considered to be a contract for public improvement pursuant to W.S. 15-1-113;

(iv) "Energy services company" means the contractor not organized under the auspices of a utility regulated by the public service commission with demonstrated technical, operational, financial and managerial capabilities to design and implement energy conservation measures and the ability to secure necessary financial measures to ensure related guarantees for operational cost savings and who is responsible for the audit, design, implementation, measurement, verification and guarantee of savings for individual projects;

(v) "Facility owner" means an agency or group of agencies, a public hospital or other public entity responsible for an individual facility or group of facilities;

(vi) "Investment grade energy audit" means the detailed engineering investigation and report of a facility's current energy and water consuming equipment inventory, condition, operation, maintenance and performance, energy baseline, potential energy and water efficiency upgrades, life cycle costs and risks for future performance that provides the justification for the energy performance contract project;

(vii) "Wyoming energy conservation improvement program" means the Wyoming business council state energy office program designed to enable and support development and implementation of energy performance contract projects.

9-12-1202. Energy performance contracting.

The council shall establish a Wyoming energy conservation improvement program which provides support development and implementation of energy performance contract projects to facility owners voluntarily participating in the program. In order to participate in the program, facility owners and energy services companies shall be subject to the provisions of this article and rules adopted pursuant to this article.

9-12-1203. Energy performance contracting.

(a) Upon receipt of a request from a facility owner, the Wyoming business council shall provide the facility owner with a list of energy service companies interested in providing services to the facility owner and qualified by the Wyoming business council to participate in the Wyoming energy conservation improvement program.

(b) The energy services company participating in the Wyoming energy conservation improvement program shall provide an investment grade audit showing the estimated energy and operational cost savings that would result from the proposed energy conservation measures. Before executing any contract or lease purchase agreement under subsection (c) of this section, the energy services company shall provide the facility owner with plans for the proposed energy conservation measures prepared by an engineer licensed to practice in Wyoming.

(c) Notwithstanding W.S. 15-1-113 and subject to the provisions of subsection (e) of this section, a facility owner may enter into an installment payment contract or lease purchase agreement for an energy or water conservation measure which meets the criteria of this section. Any documents related to negotiations entered into pursuant to this section with individual energy services companies by an agency or facility owner shall be considered trade secrets pursuant to the provisions of the Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205. After a contract has been executed by an agency, the contract and all proposals from energy service companies shall be open records available for public inspection in accordance with the Wyoming Public Records Act.

(d) Energy performance contracts entered into pursuant to the Wyoming energy conservation improvement program shall require the energy services company to provide to the facility owner an annual reconciliation of the guaranteed energy savings. If the reconciliation reveals a shortfall in annual energy savings, the energy services company shall be liable for compensation to the facility owner for such

shortfall under the provisions of the energy performance contract. If the reconciliation reveals an excess in annual energy savings, the excess savings shall be retained by the facility owner and shall not be used to cover potential energy savings shortages in subsequent contract years.

(e) An energy performance contract entered into pursuant to the Wyoming energy conservation improvement program may provide for financing, including tax exempt financing, by a third party. The contract for third party financing may be separate from the energy performance contract. A separate contract for third party financing shall include a provision that the third party financier shall not be granted rights or privileges that exceed the rights and privileges available to the energy services company.

(f) The Wyoming business council may provide support under the Wyoming energy conservation improvement program as requested by facility owners for purposes of this section. The Wyoming business council state energy office may fix, charge and collect reasonable fees for any administrative support and resources or other services provided by the Wyoming business council pursuant to this subsection.

(g) If the facility owner fails to appropriate or receive an appropriation of money for a periodic payment due for improvements made through an energy performance contract, any security interest in any property created pursuant to the energy performance contract, may be enforced by the holder of such a security interest against the property.

(h) The term of an energy performance contract shall not exceed twenty (20) years after the date on which the work required by the energy performance contract to implement all energy conservation measures is completed.

(i) The Wyoming business council shall submit to the joint minerals, business and economic development interim committee by October 1, an annual report on the energy performance contracting performed under the Wyoming energy conservation improvement program. The report shall include the number of applications submitted, the number of facility owners, the number of energy performance contracts, the results of the investment grade energy audits and the results of the energy performance contracts.

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EXECUTIVE ORDER NO. 08-11

RESTRUCTURING OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

The continued vitality of Oregon's complex economic landscape requires thriving communities, a strong and well-educated workforce, a healthy environment and the establishment of diversified, progressive industries. Oregon must manage its assets and position itself today for continued economic success into the 21st Century.

Oregon faces the unprecedented challenges of population growth, aging community infrastructure and pressing climate change concerns. While there are opportunities in the global marketplace for Oregon companies, there is also intense competition from other states and nations. By aggressively taking advantage of economic development opportunities, particularly those presented by promoting industries fighting global warming with innovation and new technologies, Oregon can stimulate new businesses and jobs.

The Oregon Economic and Community Development Department (OECDD) is the state agency primarily responsible for job creation in Oregon. The OECDD's broad scope of work has created disparate expectations of OECDD's mission. Two of OECDD's three program divisions are focused on job retention, creation and recruitment. The primary focus of OECDD's third division, the Community Development Division, is to help Oregon communities meet their infrastructure goals, particularly in the areas of safe drinking water and water and wastewater systems. The absence of a clear and focused agency-wide mission has hindered OECDD's ability to successfully partner with stakeholder groups around the state to promote economic development.

OECDD's realignment will provide an essential, strategic framework to address the challenges facing Oregon and position the state for long-term success into the 21st Century and provide clarity, accountability and viability for the department's distinct missions. To this end, OECDD's community and business development functions will be separated.

OECDD's business development divisions should form a stand-alone department with the mission of serving as a catalyst of sustainable economic growth. This department will focus on the retention and expansion of Oregon companies, leveraging Oregon's innovation and strategic partnerships in the global economy, recruitment of new businesses to the state, creation of jobs by transferring innovative knowledge into the marketplace and raising real wages.



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OECD's community development programs are best served in an agency with a complementary structure and focus as the division's core functions. Community-based resources will be realigned to ensure the most efficient and effective delivery of services. At the same time, infrastructure-based activities will be focused to ensure a sustainable relationship between the natural and built environments, with an asset management model serving as its structural framework.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. OECD's Community Development Division shall be considered separate and distinct from all other activities and functions of OECD's Business and Trade Development Division and Innovation and Economic Strategies Division within OECD.

2. The OECD Director shall work with the OECD Commission to ensure that Community Development policies and programs be pursued, and oversight administered, in a manner that is separate and distinct from the oversight and administration of all other Business Development programs, activities and functions within OECD.

3. The OECD Director shall work with the OECD Commission to establish a framework that enables Community Development to more effectively focus its activities on infrastructure-related projects and other community-based resource programs.

4. The OECD Director shall work with the OECD Commission to ensure that staff from the Central Operations Division is assigned appropriately to provide direct support separately for Community Development activities and functions and for Business Development activities and functions.

5. The OECD Director shall seek and consider input from stakeholders and legislators throughout the state, particularly regarding policy and structural details to ensure the effective design and implementation of a strategic redesign of the department.

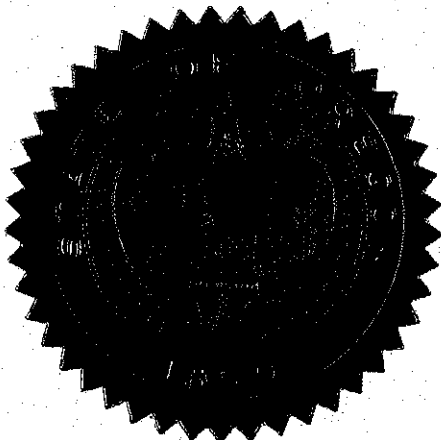
6. OECD and other appropriate state agencies shall identify areas of overlapping authority and coordinate activities and resources to facilitate the structural reorganization.




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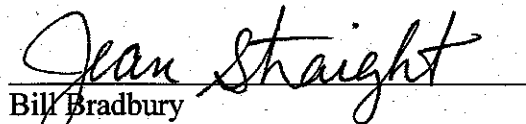
7. OECDD and other appropriate state agencies shall begin necessary planning to implement a proposed reorganization if legislation to restructure the agency is adopted by the Legislative Assembly.

Done at Salem, Oregon, this 12th day of May, 2008.




Theodore R. Kulongoski
GOVERNOR

ATTEST:


Bill Bradbury
SECRETARY OF STATE

Enrolled House Bill 2152

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Economic and Community Development Department)

CHAPTER

AN ACT

Relating to economic development; creating new provisions; amending ORS 183.635, 200.025, 200.045, 200.055, 200.057, 200.065, 200.110, 200.120, 200.170, 285A.010, 285A.020, 285A.040, 285A.045, 285A.050, 285A.055, 285A.060, 285A.070, 285A.075, 285A.080, 285A.116, 285A.152, 285A.185, 285A.188, 285A.190, 285A.192, 285A.200, 285A.206, 285A.213, 285A.224, 285A.227, 285A.306, 285A.346, 285A.349, 285A.600, 285A.615, 285A.627, 285A.654, 285A.657, 285A.660, 285A.669, 285A.672, 285A.678, 285A.681, 285A.684, 285A.687, 285A.690, 285A.693, 285A.696, 285A.702, 285A.705, 285A.708, 285B.050, 285B.053, 285B.056, 285B.059, 285B.062, 285B.065, 285B.068, 285B.080, 285B.081, 285B.086, 285B.089, 285B.092, 285B.093, 285B.126, 285B.132, 285B.135, 285B.138, 285B.141, 285B.147, 285B.168, 285B.178, 285B.179, 285B.200, 285B.206, 285B.209, 285B.215, 285B.218, 285B.230, 285B.233, 285B.236, 285B.260, 285B.266, 285B.283, 285B.286, 285B.290, 285B.323, 285B.326, 285B.329, 285B.335, 285B.338, 285B.341, 285B.344, 285B.362, 285B.371, 285B.410, 285B.413, 285B.419, 285B.422, 285B.428, 285B.437, 285B.440, 285B.449, 285B.455, 285B.460, 285B.462, 285B.465, 285B.467, 285B.470, 285B.473, 285B.482, 285B.503, 285B.506, 285B.512, 285B.515, 285B.533, 285B.551, 285B.560, 285B.563, 285B.572, 285B.575, 285B.581, 285B.584, 285B.590, 285B.593, 285B.599, 285B.740, 285B.743, 285B.746, 285B.749, 285B.758, 285C.612, 468B.415, 657.665, 777.267, 777.277, 777.282, 777.284 and section 32, chapter 773, Oregon Laws 2003, sections 2, 3 and 4, chapter 756, Oregon Laws 2005, and sections 7 and 9, chapter 746, Oregon Laws 2007; repealing ORS 285A.483, 285A.486, 285A.489, 285A.495, 285B.239, 285B.242, 285B.245, 285B.248, 285B.263, 285B.264 and 285B.269; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

OREGON INFRASTRUCTURE FINANCE AUTHORITY CREATION AND ADMINISTRATIVE PROVISIONS

SECTION 1. Sections 1a to 7 of this 2009 Act are added to and made a part of ORS chapter 285A.

SECTION 1a. (1) The Oregon Infrastructure Finance Authority Board is created as a policy-making and advisory body within the Oregon Business Development Department. The board consists of nine members as follows:

(a) One nonvoting member appointed from members of the Senate by the President of the Senate;

(b) One nonvoting member appointed from members of the House of Representatives by the Speaker of the House of Representatives;

(c) One member appointed by the State Treasurer; and

(d) Six members appointed by the Governor.

(2) Persons appointed members of the board must be Oregon residents, well qualified by experience to make policy and recommendations in areas of concern to the Oregon Infrastructure Finance Authority and to perform the duties of office. Members shall be appointed with consideration given to knowledge and experience:

(a) In the field of state and municipal finance;

(b) Of the infrastructure and public works needs in Oregon cities;

(c) Of the infrastructure and public works needs in Oregon counties;

(d) Of issues related to ports that affect the state;

(e) Of issues related to special service district services furnished across the state; and

(f) Of infrastructure and public works necessary to further Oregon's long term economic growth.

(3) The office of the State Treasurer may recommend persons with expertise in the field of state and municipal finance for membership on the board.

(4) The term of a member of the board appointed by the Governor, the State Treasurer or the President of the Senate is four years. The term of a member appointed by the Speaker of the House of Representatives is two years.

(5) In case of a vacancy on the board for any cause, the appointing authority shall appoint a successor to serve for the unexpired term.

(6) A member of the board may be appointed to serve two consecutive terms. A member who serves two consecutive terms is not eligible for reappointment within one year following the expiration of the second term.

(7) The board shall select one of its members to chair the board for such term and with duties and powers necessary to perform the functions of the office as the board determines.

(8) A majority of the voting members of the board constitutes a quorum for the transaction of business.

SECTION 2. The Oregon Infrastructure Finance Authority Board shall:

(1) Serve as a body to advise municipalities, state agencies and private persons on the development and implementation of state policies and programs relating to the infrastructure needs of this state and its communities.

(2) Advise the Governor, the Director of the Oregon Business Development Department and the Oregon Business Development Department on all matters relating to infrastructure and public works programs and activities administered by the Oregon Infrastructure Finance Authority.

(3) Develop a recommended biennial budget for the operation of the authority and submit the budget to the director and the Governor.

(4) Seek and receive the views of all levels of government and the private sector with respect to state policies and programs to address the infrastructure needs of this state.

(5) Prepare and submit to the Director of the Oregon Business Development Department suggested administrative rules that the board determines are necessary for the operation of the programs under the direction of the authority.

(6) Establish policies and procedures for loan and grant programs administered by the authority.

SECTION 3. (1) The Oregon Infrastructure Finance Authority is established as an administrative section within the Oregon Business Development Department, subject to the supervision of the administrator of the authority. The authority consists of the administrator and all personnel employed by the authority.

(2) The authority shall develop and administer programs and funds of the department that address the infrastructure needs of this state pursuant to the policies of, and as may be recommended by, the Oregon Infrastructure Finance Authority Board.

(3) The authority shall provide the Oregon Infrastructure Finance Authority Board with staff and other assistance as necessary for the board to perform its duties.

(4) The authority shall employ, in accordance with the State Personnel Relations Law, the staff necessary to allow the authority to carry out its responsibilities.

SECTION 3a. (1) The Oregon Infrastructure Finance Authority may:

(a) Conduct hearings and conferences to develop facts, explain programs and activities, and obtain advice;

(b) Enter into agreements with other public bodies, as defined in ORS 174.109, or associations or private persons for services to assist the authority and the Oregon Infrastructure Finance Authority Board;

(c) Enter into agreements with other public bodies, as defined in ORS 174.109, the federal government, associations or private persons for cooperative endeavors that further programs administered by the authority;

(d) Subject to applicable policies and procedures, enter into agreements for loans, grants or other assistance, including, but not limited to, direct purchase of goods or services, with local governments, as defined in ORS 174.116, special government bodies, as defined in ORS 174.117, or other eligible applicants for infrastructure development;

(e) Appoint committees, consultants or other persons with expertise in infrastructure-related matters to advise the Oregon Infrastructure Finance Authority Board or the authority;

(f) Obtain assistance or data from any state agency; or

(g) Perform any other act necessary to carry out the duties of the authority.

(2) The authority shall administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.

SECTION 4. (1) The Director of the Oregon Business Development Department, upon consultation with and the approval of the Oregon Infrastructure Finance Authority Board, shall appoint an administrator of the Oregon Infrastructure Finance Authority who shall serve at the pleasure of the director.

(2) The administrator shall receive such salary as may be provided by law or as fixed by the director.

(3) The administrator shall be the administrative head of the authority.

(4) The administrator may suggest rules to the director for the government of the authority, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property.

(5) The administrator shall hire the staff necessary to allow the authority to carry out its duties. In accordance with the State Personnel Relations Law, the administrator and any manager hired by the administrator shall be in the unclassified service.

SECTION 5. (1) The Oregon Infrastructure Finance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Infrastructure Finance Fund shall be credited to the fund. The Oregon Infrastructure Finance Fund consists of all moneys credited to the fund, including moneys from the Administrative Services Economic Development Fund, federal funds collected or received and fees, moneys or other revenues, including miscellaneous receipts, collected or received by the Oregon Infrastructure Finance Authority. The moneys in the Oregon Infrastructure Finance Fund are continuously appropriated to the Oregon Business Development Department for the authority for the purposes of sections 1a to 7 of this 2009 Act.

(2) The authority may finance programs and projects determined to further infrastructure development within this state by making grants or loans using moneys in the fund.

(3) The Oregon Infrastructure Finance Authority Board may suggest to the Director of the Oregon Business Development Department administrative rules for establishing standards, objectives and criteria for use of moneys in the fund. The department shall adopt rules to establish standards, objectives and criteria for use of moneys in the fund.

SECTION 6. The Oregon Infrastructure Finance Authority may not direct, supervise or control the policy, programs, personnel or administration of any program or entity unless specifically authorized by statute.

SECTION 7. The Director of the Oregon Business Development Department, in accordance with ORS chapter 183, may adopt rules for the operation of the Oregon Infrastructure Finance Authority as the director determines necessary or convenient for the authority to perform its duties and functions and as are consistent with and necessary to carry out the policies established by the Oregon Infrastructure Finance Authority Board.

OREGON BUSINESS DEVELOPMENT COMMISSION ADMINISTRATIVE PROVISIONS

SECTION 8. ORS 285A.010 is amended to read:

285A.010. As used in ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C, unless the context requires otherwise:

(1) **“Administrator” means the administrator of the Oregon Infrastructure Finance Authority.**

(2) **“Association” means a nonprofit, private, incorporated or unincorporated institution, foundation, organization, entity or group, whether local, state, regional or national, that is operating or doing business in Oregon.**

(3) **“Authority” means the Oregon Infrastructure Finance Authority.**

(4) **“Board” means the Oregon Infrastructure Finance Authority Board.**

[(1)] (5) **“Commission” means the [Oregon Economic and Community Development Commission] Oregon Business Development Commission.**

[(2)] (6) **“Community” means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may be, limited by political boundaries.**

[(3)] (7) **“Department” means the [Economic and Community Development Department] Oregon Business Development Department.**

[(4)] (8) **“Director” means the Director of the [Economic and Community Development Department] Oregon Business Development Department.**

[(5)] (9) **“Distressed area” means a county, city, community or other geographic area that is designated as a distressed area by the department, based on indicators of economic distress or dislocation, including but not limited to unemployment, poverty and job loss.**

[(6)] (10) **“International trade” means the export and import of products and services and the movement of capital for the purpose of investment.**

(11) **“Local government” has the meaning given that term in ORS 174.116.**

(12) **“Municipality” means an Oregon city or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, a tribal council of a federally recognized Indian tribe in this state or an airport district organized under ORS chapter 838.**

(13) **“Public body” has the meaning given that term in ORS 174.109.**

[(7)] (14) **“Rural area” means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of cities with populations of 30,000 or more.**

[(8)] **“Traded sector” means industries in which member firms sell their goods or services into markets for which national or international competition exists.]**

[(9)] (15) **“Small business” means a business having 100 or fewer employees.**

(16) “State agency” includes state officers, departments, boards and commissions.

(17) “Traded sector” means industries in which member firms sell their goods or services into markets for which national or international competition exists.

SECTION 9. ORS 285A.020 is amended to read:

285A.020. (1) The Legislative Assembly finds that:

(a) Oregon possesses [*many*] unique and sustaining virtues that will guide and assist in maintaining the state’s economic health, including but not limited to Oregon’s:

(A) Special heritage;

(B) Respect for and cultivation of the environment; and

(C) Attention to quality of life issues that are important to the state’s economic development, including but not limited to access to quality, affordable child care for all children in Oregon.

(b) Oregon is strategically placed to compete and succeed in the global [*community.*] **market-place.**

(c) All regions of the state should share in Oregon’s economic recovery.

(d) Creating and retaining quality jobs [*is*] **are** vital to the state’s [*continued economic development.*] **economic health.**

(e) Oregon’s agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable [*economic*] **business** development activities.

(f) A well educated and trained workforce is necessary to [*advance in today’s global economy.*] **support business and industry needs throughout the state.**

(g) The ability of existing businesses to grow [*and prosper*] is critical to Oregon’s [*economy.*] **prosperity.**

(h) [*Utilizing the state’s*] **The state must utilize its** competitive advantages [*is essential*] to retain existing businesses and attract new companies and investment into the state.

(i) Continued [*economic*] development **in Oregon** depends on strengthening traded sector industries.

(j) International trade **and** development [*and promotion is invaluable*] **of international trade are essential** for future [*economic*] **business** development opportunities.

(k) Small businesses remain a critical element of the state’s [*economic development, comprising more than 90 percent of Oregon’s businesses.*] **economy.**

(L) Capacity building **to support business development** in rural and distressed areas is a key component of economic development and revitalization efforts.

(m) Oregon’s ports are important partners in the state’s economic development efforts and are key components of local and state economic development strategies.

(n) Improving and enhancing infrastructure is necessary to the state’s future economic development.

(o) Federal, state and local agencies working together will continue to enhance industrial site development and other economic development activities.

[(p) *The Economic and Community Development Department should be encouraged to convene community development partners to explore the prospect of making loans to private industrial land-owners from the Brownfields Redevelopment Fund for future development opportunities.*]

(2) It is the purpose of ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C [*to advance Oregon’s economy.*] **to enable the creation, retention, expansion and attraction of businesses that provide sustainable, living wage jobs for Oregonians through public-private partnerships and leveraged funding and to support economic opportunities for Oregon companies and entrepreneurs.**

(3) The Legislative Assembly declares that it is the immediate economic strategy of the state to:

(a) Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages;

(b) Improve the national and global competitiveness of Oregon companies; and

(c) Assist [*Oregon communities in building capacity*] **and further efforts** to retain, expand and attract businesses.

(4) To promote the advancement of the Oregon economy and implement the immediate economic strategy of the state, the [*Economic and Community*] **Oregon Business** Development Department shall invest resources in accordance with the following principles:

(a) Processes for making public investments and working with local and regional issues must be designed for flexibility so that actions can adapt to the constantly changing conditions and demands under which communities and businesses operate.

(b) Partnerships among local, state and federal governments and public and private organizations and entities should be strengthened to further the economic strategy of the state.

(c) The expected impact of public investment and assistance shall be identified, in terms of measurable outcomes, whenever possible.

(d) State, federal and community goals, constraints and obligations should be identified at the beginning of the planning process, and the state should work actively with community partners, regions and state and local agencies to address and accomplish their mutual objectives.

(5) When the department provides funds or assistance for projects, programs, technical support or other authorized activities pursuant to ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C, the department shall give priority to projects, programs and activities that:

(a) Retain and create jobs and raise real wages;

[*(b) Promote capacity building, emphasizing rural and distressed areas;*]

(b) Promote capacity building, emphasizing rural and distressed areas to further economic development initiatives;

(c) Assist small business creation and expansion;

(d) Invest and engage in training a skilled workforce;

(e) Retain and expand existing companies and recruit new investment to Oregon;

(f) Capitalize on Oregon's competitive advantages and strategically invest resources to offset competitive disadvantages;

(g) Support innovation and research;

(h) Assist industry clusters to succeed;

(i) Market Oregon's advantages;

(j) Promote international trade and attract foreign direct investment;

(k) Support the development of industrial and commercial lands;

(L) Advance the efforts of ports to promote economic development activities; and

(m) Build capacity in Oregon's arts and cultural organizations, creative businesses and individual artists.

SECTION 10. ORS 285A.040 is amended to read:

285A.040. (1) There is established the Oregon [*Economic and Community*] **Business** Development Commission consisting of nine members appointed as follows:

(a) One nonvoting[, *ex officio*] member appointed from among the members of the Senate by the President of the Senate;

(b) One nonvoting[, *ex officio*] member appointed from among the members of the House of Representatives by the Speaker of the House of Representatives; and

(c) Seven members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The Governor shall appoint members of the commission in compliance with all of the following:

(A) Members shall be appointed with consideration given to representation of the different geographic regions of the state, and at least one member shall be a resident of the area east of the Cascade Range.

(B) Not more than five members may belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(C) Members shall be appointed with consideration given to representation of the following areas of expertise or training:

- (i) International trade;
- (ii) Traded sector business development;**
- [(ii)] **(iii) Small business** *[needs and issues;]* **development;**
- [(iii)] **(iv) Local** *[government needs and issues;]* **economic development;**
- [(iv)] *Marketing and branding;*
- [(v)] *Arts and culture;*
- [(vi)] **(v) Finance and business investment;**
- [(vii)] **(vi) Innovation; or**
- [(viii)] *Telecommunications; or]*
- [(ix)] **(vii) Other areas of training or expertise identified by the** *[commission.]* **Governor.**

(2)(a) The term of office of each member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member appointed by the Governor, the Governor shall appoint a successor whose term begins on July 1 of the following year. A member appointed by the Governor is eligible for reappointment. In case of a vacancy among the members appointed by the Governor for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(b) The term of office of the member appointed by the President of the Senate is four years. In case of a vacancy for any cause, the President of the Senate shall appoint a Senator to fill the office for the unexpired term.

(c) The term of office of the member appointed by the Speaker of the House of Representatives is two years. In case of a vacancy for any cause, the Speaker of the House of Representatives shall appoint a Representative to fill the office for the unexpired term.

(3) A member of the commission who is appointed by the Governor is entitled to compensation and expenses as provided by ORS 292.495. *[Ex officio]* **Legislative** members of the commission are prohibited from receiving compensation and reimbursement for expenses.

(4) Subject to confirmation by the Senate, the Governor shall appoint one of the voting commissioners as presiding officer of the commission. The presiding officer shall have duties and powers as the commission determines are necessary for the office.

(5) Five voting members of the commission constitute a quorum for the transaction of business.

(6) The commission shall meet at least quarterly at a time and place determined by the commission. The commission shall also meet at other times and places as are specified by the call of the presiding officer or by the call of a majority of the voting members of the commission.

(7) A vacancy among the voting members of the commission does not impair the right of the remaining voting commissioners to exercise all the powers of the commission. If the remaining voting commissioners are unable to agree, the Governor shall have the right to vote as a member of the commission.

(8) A member of the commission appointed due to expertise or training in local economic development described in subsection (1)(c)(C)(iv) of this section shall also be an elected local government official with experience in economic development matters.

SECTION 11. ORS 285A.045 is amended to read:

285A.045. (1) As its primary duty, the Oregon *[Economic and Community]* **Business** Development Commission shall develop and maintain *[an]* **the** economic *[and community]* development policy **and strategy** for this state *[that implements the strategy declared]* **outlined** in ORS 285A.020 *[(3)]*.

(2) The commission shall provide oversight and direction to the *[Economic and Community]* **Oregon Business** Development Department in carrying out the *[duties and creating]* **economic development** policies *[to further the economic]* **and** strategy *[set forth in ORS 285A.020.]* **established by the commission.** In addition, the commission may perform any other duty vested in the commission by law.

(3) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the *[Economic and Community Development]* department.

(4) When a power, duty or function is vested in the commission, the commission may designate department officers, agents, employees or committee members to exercise the power, duty or function of the commission. When the commission designates a person in writing to exercise a power, duty or function of the commission, the person may exercise the power, duty or function.

(5) In carrying out its duties under subsection (1) of this section, the commission shall coordinate its activities with federal, state and local agencies, community partners and regions, when appropriate.

(6) The commission may prepare and submit suggested administrative rules to the Director of the Oregon Business Development Department that the commission determines are necessary for the objectives and programs of the department.

SECTION 12. ORS 285A.050 is amended to read:

285A.050. (1) The Oregon [*Economic and Community*] **Business** Development Commission shall report biennially to the Governor and the Legislative Assembly on the success of economic development efforts. The report shall include the progress toward achievement of performance measures for the [*Economic and Community*] **Oregon Business** Development Department as adopted by the Legislative Assembly. At a minimum, the report shall include the following:

(a) For the overall [*Economic and Community Development*] department and for [*each*] identifiable [*program*] **programs** and funding [*source*] **sources**:

(A) The number of jobs created and retained;

(B) The average wage levels of jobs created and retained; and

(C) Other measures identified by the commission.

(b) The status of the Oregon economy as it relates to the economic strategy outlined in ORS 285A.020.

(c) Other issues identified by the commission.

(2) Reports to the Legislative Assembly required under this section shall be made in accordance with ORS 192.245.

SECTION 13. ORS 285A.055 is amended to read:

285A.055. Prior to the approval of bond financing of economic development projects under ORS 285B.320 to 285B.371[,] **or** the making of [*a loan*] **loans** [*under ORS 285A.666 to 285A.732 or the making of any loan*] or the granting of any moneys from any source, the Oregon [*Economic and Community*] **Business** Development Commission[, *or the Economic and Community Development Department as the designee of the commission*], **or the Oregon Business Development Department as the designee of the commission**, shall:

(1) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(2) Find that the project will produce goods or services which are sold in markets for which national or international competition exists or, if the project is to be constructed and operated by a nonprofit organization, that the project will not compete with local for-profit businesses;

(3) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys;

(4) Find that the project involved is consistent with the [*Economic and Community*] **Oregon Business** Development Department's comprehensive policy and programs; and

(5) Find that the project involved is consistent with applicable adopted local economic development plans.

SECTION 14. ORS 285A.060 is amended to read:

285A.060. (1) To aid and advise the Oregon [*Economic and Community*] **Business** Development Commission in the performance of its duties, the commission may establish such advisory and technical committees as it considers necessary. Such committees may be continuing or temporary. The presiding officer of the commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members. Members shall be appointed with due consideration given to the geographic representation described in ORS 285A.040 (1). The Director

of the [*Economic and Community*] **Oregon Business** Development Department, or designee, shall be an ex officio member of each committee.

(2) Members of the committees appointed pursuant to this section shall receive no compensation, but may receive payment for their actual and necessary travel and other expenses while engaged in the performance of their official duties.

OREGON BUSINESS DEVELOPMENT DEPARTMENT ADMINISTRATIVE PROVISIONS

SECTION 15. ORS 285A.070 is amended to read:

285A.070. (1) The [*Economic and Community*] **Oregon Business** Development Department is established.

(2) The department shall be under the supervision of the Director of the [*Economic and Community*] **Oregon Business** Development Department, who shall be appointed by and shall hold office at the pleasure of the Governor.

(3) The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

(4) Subject to policy direction by the Oregon [*Economic and Community*] **Business** Development Commission, the director shall:

(a) Be the administrative head of the department;

(b) Administer the laws of the state relating to economic development; and

(c) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies that may substantially affect economic development within Oregon.

(5) In addition to duties otherwise required by law, and subject to policy direction by the commission, the director shall prescribe rules for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property, based on best managerial practices as determined by the director and in a manner consistent with applicable law.

(6) The director shall organize the department in whatever manner the director considers necessary to conduct the work of the department efficiently and effectively, subject to approval by the commission.

(7) The director may appoint all subordinate officers and employees of the department and may prescribe their duties, assignments and reassignments and fix their compensation, subject to any applicable provisions of the State Personnel Relations Law. Subject to any other applicable law regulating travel expenses, the officers and employees of the department shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties.

(8) The director may delegate the exercise or discharge of any power, duty or function that is vested in or imposed by law upon the director to any department employee for the purpose of conducting an official act in the name of the director. The official act of any person acting in the name of the director by the authority of the director is an official act of the director.

(9) The director may require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The director shall fix the amount of the bond, except as otherwise provided by law, and approve the sureties. The department shall pay the premiums on the bond.

(10) The [*Oregon Economic and Community Development*] commission shall report periodically to the Governor on the director's performance and make appropriate recommendations.

SECTION 16. ORS 285A.075 is amended to read:

285A.075. (1) The [*Economic and Community*] **Oregon Business** Development Department shall:

(a) Implement programs and adopt rules in accordance with applicable provisions of ORS chapter 183 that are consistent and necessary to carry out the policies established by the Oregon [*Eco-*

nomic and Community] **Business** Development Commission and the duties, functions and powers vested by law in the department.

(b) Act as the official state liaison agency for persons interested in locating industrial or business firms in the state and for state and local groups seeking new industry or business, and maintain the confidentiality of negotiations conducted pursuant to this paragraph, if requested.

(c) Coordinate state and federal economic and community development programs.

[(d) *Administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.*]

[(e)] (d) Actively recruit domestic and international business firms to those communities desiring business recruitment.

(e) **Work with existing Oregon companies to assist in their expansion or help them retain jobs in the state.**

(f) Consult with local governments to establish regions for the purpose of job development [*and community assistance*] to facilitate economic activities in the region. Regions established for this purpose need not be of the same size in geographic area or population.

(g) Establish and operate foreign trade offices in foreign countries in which the department considers a foreign trade office necessary. The department shall use department employees, contracts with public or private persons or a combination of employees and contractors to establish and operate foreign trade offices. Department employees, including managers, who are assigned to work in a foreign trade office shall be in the unclassified service, and the director shall set the salaries of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.

(h) Consult with other state agencies and with local agencies and officials prior to defining or designating distressed areas for purposes of ORS 285A.020.

(i) Budget moneys for travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel to accomplish the purposes of ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other expenses of such persons if the director determines the expense may promote the purposes of this subsection.

(j) Promulgate rules to govern contracts.

(k) Develop strategies to address issues that are necessary and appropriate to Oregon's future and adopt goals that include measurable indicators of success (Oregon benchmarks) that show the extent to which each goal is being achieved.

(L) Use practices and procedures that the department determines are the best practices for carrying out the duties of the department.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

(3) Notwithstanding ORS 279A.140, the department may award grants or enter into contracts as necessary or appropriate to carry out the duties, functions and powers vested in the department by law.

SECTION 17. ORS 285A.080 is amended to read:

285A.080. The Director of the [*Economic and Community*] **Oregon Business** Development Department and all unclassified personnel shall receive such salary as may be provided by law or be fixed by the Oregon [*Economic and Community*] **Business** Development Commission. In addition to salaries, the director and all unclassified personnel, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties.

SECTION 18. ORS 285A.116 is amended to read:

285A.116. (1) The Oregon [*Economic and Community*] **Business** Development [*Commission*] **Department** shall establish regions for the purpose of job development [*and community assistance by the Economic and Community Development Department*]. When establishing the regions, the [*commission must*] **department shall** consider the optimal size for each region that will most effectively facilitate economic development activities in the region. Regions established by the [*commission*] **department** do not have to be of the same size or population.

(2) The Director of the [*Economic and Community*] **Oregon Business** Development Department shall provide for economic innovation coordination in the central office, which shall assist the field representatives in establishing contacts between local businesses and universities and community colleges in Oregon to promote the use of the research capacities of these institutions for development of new products.

SECTION 19. ORS 285A.152 is amended to read:

285A.152. (1) The Fujian Sister State Committee established under ORS 285A.148 may:

- (a) Organize activities for and host visiting delegations from Fujian Province;
- (b) Organize activities for and participate in delegations visiting Fujian Province and China;
- (c) Provide for the exchange of information between the State of Oregon and Fujian Province;
- (d) Work with representatives of Fujian Province on joint projects; and
- (e) Take all actions necessary to facilitate and promote relations between the State of Oregon and Fujian Province.

(2) The Fujian Sister State Committee [*shall*] **may** visit Fujian Province at least biennially for the purpose of fulfilling the objectives described in subsection (1) of this section.

**DIVISION OF DUTIES AMONG
OREGON BUSINESS DEVELOPMENT COMMISSION,
OREGON BUSINESS DEVELOPMENT DEPARTMENT
AND OREGON INFRASTRUCTURE FINANCE AUTHORITY**

Note: there are 67
additional pages of
legislation in HB
2152

SECTION 20. ORS 285A.185 is amended to read:

285A.185. (1) As used in this section, "brownfield" means real property whose development is complicated by actual or perceived environmental contamination.

(2) The [*Economic and Community*] **Oregon Business** Development Department shall assist private persons and local governments to redevelop brownfields.

(3) The [*Economic and Community Development*] department shall:

- (a) Act as the primary point of contact for information regarding public and private funding options available to a person interested in redeveloping a brownfield;
- (b) Facilitate the funding process involving landowners or prospective purchasers, lending institutions, other state agencies, local jurisdictions, consultants and interested citizens;
- (c) Serve as a key advocate for the redevelopment of brownfields in Oregon;
- (d) Provide information to private persons and local governments on brownfield redevelopment funding;

(e) Enhance the availability of funding resources through program development, grant proposals and other appropriate opportunities; and

(f) Adopt rules necessary to carry out this section.

SECTION 21. ORS 285A.188 is amended to read:

285A.188. (1) As used in this section:

(a) "Environmental action" means activities undertaken to:

(A) Determine if a release has occurred or may occur, if the release or potential release poses a significant threat to human health or the environment or if additional remedial actions may be required at the site;

(B) Conduct a remedial investigation and a feasibility study;

(C) Plan for remedial action or removal action; or

(D) Conduct a remedial action or removal action at a site.

OREGON

ECONOMIC & COMMUNITY
DEVELOPMENT DEPARTMENT



2007-09

STRATEGIC PLAN

OUR MISSION: TO ADVANCE OREGON'S ECONOMY



Bob Repine, Director

econ.oregon.gov
www.oregon4biz.com

MISSION:

TO ADVANCE OREGON'S ECONOMY

GOALS:

Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages.

- Invest and engage in training a skilled workforce
- Retain and expand existing companies and recruit new investment
- Capitalize on competitive advantages and strategically invest resources to offset disadvantages

Assist Oregon communities to build capacity to retain, expand and attract businesses.

- Support the development of industrial and commercial lands
- Advance ports' efforts to promote economic development activities
- Promote capacity building, emphasizing rural and distressed areas
- Build capacity in Oregon's arts and cultural organizations, creative businesses and individual artists

Improve national and global competitiveness of Oregon companies.

- Support innovation and research
- Assist industry clusters to succeed
- Market Oregon's advantages
- Promote international trade and attract foreign direct investment

When we began the process to set the new direction for the Oregon Economic & Community Development Department, it was understood that this wasn't simply an exercise for the sake of going through the motions. We weren't creating a plan that sits on a bookshelf never to be looked at again. This was about setting our objectives, and defining a clear, measurable path for success that creates hope and opportunity for all Oregonians.



We identified the three core objectives of the department:

- Promote favorable investment climate to strengthen businesses, create jobs and raise real wages.
- Assist Oregon communities to build capacity to retain, expand and attract businesses.
- Improve national and global competitiveness of Oregon companies.

With a clear direction, we identified the strategies, resources and people to take us there. These are summarized in this document, but there are many specific tactics that have been produced to achieve each strategy. For information on our specific programs and services, please contact our offices to see how we can assist your business or community.

We believe the three objectives listed above best serve our mission to expand Oregon's economy. Fulfilling our mission means our work will enhance both rural and urban communities; expand both existing and emerging industries; and assist both small and large businesses. We look forward to paving the way for continued sustainable economic development in Oregon, and working with Governor Kulongoski, private industry and other state agency partners to ensure opportunity for Oregonians in 2007 and beyond.

A handwritten signature in dark ink, reading "Bob Repine".

Bob Repine,
Director

SUSTAINABLE
ECONOMIC
DEVELOPMENT

EXPAND
GLOBAL
COMPETITIVENESS

CREATE JOBS

ASSIST
COMMUNITIES

STRENGTHEN
BUSINESSES

GOAL

Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages.

"We're looking at having our best year ever. Partly as a result of good planning, but most of the credit belongs to the superior workforce we've found here in Oregon."

*Matt Conable, President
William Henry Knives*

Oregon is strategically located to engage in the global economy and must continue to ensure that existing businesses are able to prosper and grow through global trade. Being competitive globally means Oregon must have a well-educated and trained workforce. Oregon recognizes that continuous investment in workforce training is essential for all businesses to remain competitive in the new global market.

Oregon will **invest in programs that provide training opportunities for the existing workforce**, strengthening the capacity of the individual worker and enabling companies to be more productive. Oregon also will develop strategies to identify common skill and training needs within clusters of industries throughout the state. Oregon will use leveraged resources to strengthen industry cluster consortia as a way to take advantage of common opportunities and strategies.

Oregon will **concentrate on strengthening "traded-sector" industries**, those trading outside the local economies, as a way of ensuring our place in the global economy. This approach will be comprehensive and will integrate all available resources and techniques to retain, strengthen and expand traded-sector businesses in the state. Financing, tax incentives, workforce training and technical assistance will be marketed to local partners.

Oregon will **capitalize on competitive advantages and strategically invest resources to offset disadvantages**. Industrial land availability is one of several investment areas the Oregon Economic & Community Development Department (OECD) will focus on. Existing Oregon businesses that are expanding, as well as new startups and businesses being recruited to the state, need properly prepared "project-ready" industrial land in a predictable, timely manner. Oregon will continue to work on a comprehensive approach to expanding the development of properties with high potential and in demand through the industrial site certification process. This includes enhancing the site certification program and marketing sites to potential developers.



Photo courtesy of the Oregon Institute of Technology

GOAL

Assist Oregon communities to build capacity to retain, expand and attract businesses.

As Oregon improves its global competitiveness, it's important that all Oregonians reap the benefits. By **facilitating local capacity building, especially in rural and distressed areas**, OECDD will help ensure that communities have the expertise and infrastructure needed to retain and expand existing companies and attract new businesses.

In coordination with other state and local agencies and partners, the department can help reduce barriers and **support the development of industrial and commercial lands**.

This will allow communities in rural as well as urban areas to improve local opportunities for sound economic growth. A consolidated development fund will make it easier to fund important water and sewer projects, build essential community facilities and plan for the future.

Oregon's 23 ports are important partners in the state's economic development efforts. The leadership and expertise of port officials are critical to the alignment of local and state economic development strategies. Port infrastructure is a key component of local business expansion and retention plans. By **advancing ports' efforts to promote economic development activities** the department can leverage these critical assets.

The Arts Commission and Cultural Trust will **build capacity in Oregon's arts and cultural organizations, creative businesses, and individual artists** by developing and awarding strategic infrastructure funding and organizational technical assistance to Oregon's cultural and creative sector. This will attract artists and creative workers to Oregon, as well as businesses that realize the benefits of locating within a vibrant arts sector. The Arts Commission also recognizes the advantages of incorporating art and culture in rural and community development plans and will provide resources to help these plans succeed.

LOWE'S GROUNDBREAKING



After an extensive search and evaluation process, Lowe's, the world's second-largest home improvement retailer, selected Lebanon, Oregon, as the location for its new west coast regional distribution center. The facility, located on an Oregon Certified Site, will be the state's third largest building at 1.4 million square feet—roughly the size of 31 football fields under one roof.

The Port of Newport recently began the first phase of rebuilding its international terminal facility. "Project funding is vital to maintain our ability to provide commercial shipping which contributes significantly to economic benefit through wages, products, services and marine transportation."

*Don Mann, General Manager
Port of Newport*

WHY INNOVATION?

Simply put, innovation helps firms compete, communities prosper and people thrive.

Competitive firms that rely on innovation offer good jobs at nearly twice the average wage, cultivate ingenious people who apply their skills at work and in the communities, and anchor key industries by attracting competitors and suppliers seeking proximity.

Most important, these firms inspire their customers, their employees and their neighbors.

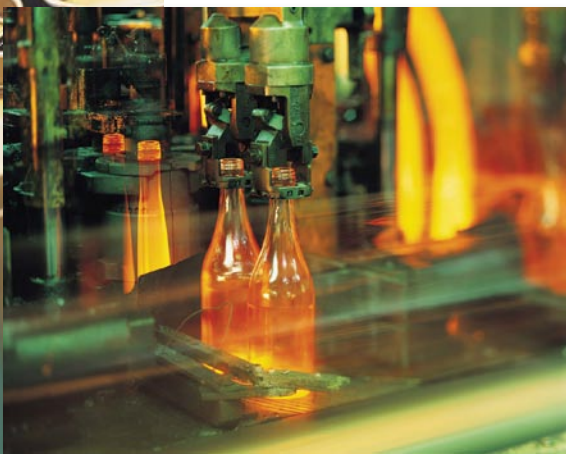
GOAL

Improve national and global competitiveness of Oregon companies.

Future economic growth in our state depends on Oregon's ability to compete on a global scale. Developing and enhancing competitive advantages for Oregon businesses keeps existing businesses thriving and attracts new companies into the state.

To enhance competitiveness, OECDD will leverage public funds with private investments to **support innovation and research** through the Oregon Innovation Council (Oregon InC). Working with OECDD, Oregon InC has recommended 11 high-return projects that will help existing businesses achieve growth through innovation, and help new industries emerge.

Established industries also bring opportunity for economic growth. There is an inherent competitive advantage to multiple companies that operate in the same industry in the same geographic area, making an "industry cluster." Talented workforce, established vendors and existing distribution channels are all benefits of doing business within a cluster. Recognizing this, OECDD will **assist industry clusters to succeed** by identifying clusters and investing resources to support their growth and competitiveness.

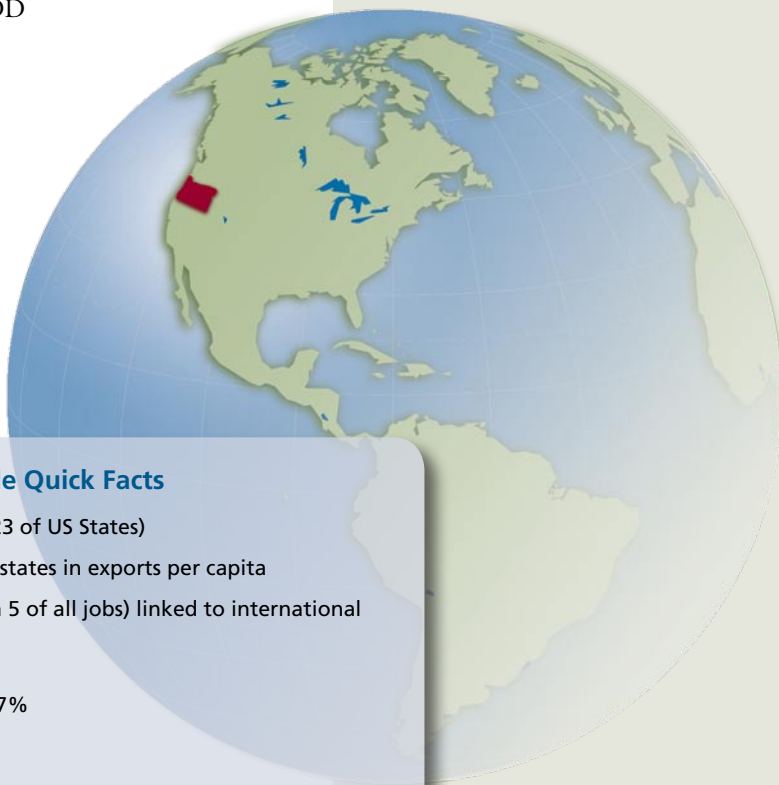


Photos courtesy of Northwest Food Processors Association

In both emerging and existing industries, Oregon is a great place to do business. OECDD will **market Oregon's advantages** to the world, communicating the compelling reasons why businesses should expand to Oregon. This will contribute to enhancing the overall brand image of Oregon including its people, products and places. OECDD will work through Brand Oregon partners such as the Department of Agriculture, Tourism Commission and private industry to identify and communicate all the competitive advantages that make Oregon attractive to business.



Marketing Oregon products and services overseas and establishing new opportunities in foreign markets will help Oregon's economy to grow. OECDD will **promote international trade and attract foreign direct investment** to increase the global competitiveness of Oregon companies.



World Trade Quick Facts

- Total 2005 exports: \$12.38 billion (#23 of US States)
- Consistently ranks among top 15 US states in exports per capita
- One in four manufacturing jobs (1 in 5 of all jobs) linked to international trade
- Top 2005 export sectors (% of total)
 - Computer & electronic products 37%
 - Transportation equipment 13%
 - Crops 12%
 - Machinery manufacturing 11%
 - Chemical manufacturing 4%
 - Primary metal manufacturing 3%
 - Paper products 2%
 - Wood products 2%
- Canada, South Korea and Japan continue to be Oregon's largest export markets but China and Mexico are becoming strong export partners

REPORT OF THE COMMISSION

Introduction

The 2007 Legislature, through a budget note, directed the Oregon Economic and Community and Community Development Commission (the “Commission”) to develop a plan for the future of the Regional Investment Boards (the “Boards” or “RIBs”).

During the period from August through December 2007, the Commission met with representatives of all thirteen Boards to discuss the role of the boards, what each Board saw as strengths and weaknesses of the current structure, and whether there were ways to improve that structure. The Commission also met separately with the Oregon Economic and Community Development Department (“OECDD”) management team on a number of occasions to discuss the same issues.

This report sets forth the Commission’s report to the Legislature in response to the directive the Commission received.

Summary of Conclusions

The following is a summary of the Commission’s conclusions concerning the roles and responsibilities of the Boards:

- The original purpose for creating and funding the Boards was to create a system for deploying state funds at the local level for both economic and community development. The Commission believes the Boards have played, and continue to play, an important role in that respect, at least outside the urban areas of the State.
- The current system works most effectively in more rural parts of the State, where the population is too small to fund the kinds development activities that larger counties and cities can fund independently of the state. The Boards are less important in urban areas of the state.
- The Commission believes it is important for the Boards to maintain a regional perspective as the economic health and growth of areas within a region are interdependent and communities should not be viewed in isolation.
- In recent years, at the direction of the Commission, the Boards have been required to tie all expenditures of state funds to job creation. The Commission believes this has caused the Boards to either discount important needs on the community development side or to create strained connections between expenditures and job creation.
- The Commission believes the Boards should be permitted to direct funds to community development projects regardless of whether there is a direct link to job creation. However, the Commission and OECDD need to develop criteria to determine which community development projects should be funded with state money. The Commission and OECDD also need to develop metrics to measure the outcomes of such expenditures.

- A separate question is what role the Boards should have in setting the agenda for major infrastructure investments. This report does not address that issue, which would require input from cities, counties and other public and private stakeholders to reach an informed recommendation. The Commission does believe, however, that the Boards play a valuable role in economic and community development that is distinct from whatever role they may play with respect to investment in major infrastructure.
- The Commission believes there may be a need to modify the ways in which the Boards are structured to ensure both appropriate representation from various stakeholders and sufficient rotation of membership so as to ensure new perspectives over time.

History

The Regional Investment Program was established by the Legislature in 1987 as the Regional Strategies Program. Recognizing that economic opportunities and challenges often cross jurisdictional boundaries, counties joined together to form regions, self-selecting their partners based on shared economic interests. Volunteer boards were created and the board members, chosen from both public and private sectors, developed strategies to diversify and strengthen Oregon's regional economies. Each Board also was required to identify one industry that was key to the region's economic growth and a plan for developing that industry.

The 1993 Legislature modified the process by expanding the number of key industries for each region from one to three and moving the decision-making for strategy implementation to the local level.

Recognizing that many rural areas were severely impacted by federal forest and salmon policies and not keeping pace with the state's urban economic diversification and growth, the 1995 Legislature created the Rural Investment Fund. This flexible funding source was designed to help Boards meet the economic and community development priorities of small, rural communities. The same volunteer regional Boards added rural action plans to their existing strategies and then funded projects to implement their plans.

As the state's economy grew and the unemployment rate dropped, the focus of both programs was modified in 1999 to give the regional Boards the flexibility to fund community development and capacity building projects and to allow the regional Boards to fund various business development activities regardless of industry.

When the state's economy fell into a recession in 2001, immediate job creation and retention, along with leveraging short- and long-term investments became the emphasis of the two programs. These remain the current program priorities.

The Current Role of the Boards

The Boards currently seek to develop strategies for economic development in each region of the state, focusing on investments that contribute to the creation/retention of jobs and the leverage of short- and long-term investments. This planning involves an assessment of the region's economy, including barriers to economic development and opportunities on which the Board can capitalize. OECDD staff works with the Boards in developing their strategies and staff coordinates those strategies with OECDD's work in the region.

OECD staff considers the Boards to be a critical part of the delivery system for economic and community development in the State. The Commission has been advised by the staff, and the Commission agrees, that the Boards add value in the following categories:

- **The Boards help OECD at a strategic level by developing regional strategies for economic and community development.**

The Boards provide a vehicle for elected and non-elected individuals to meet as a group to coordinate and address issues that cross-jurisdictional boundaries. Rather than individual localities working independently of each other, the Boards assist OECD by developing regional strategies that are consistent with OECD's statewide mission.

- **The Boards are able to target funds for economic and community development on a local and regional basis.**

By directing grants and loans at the regional and local level, the Boards are able provide financial support for economic and community development needs that cannot be administered as effectively at the agency level. OECD staff advises that these grants and loans form an important part of OECD's economic development strategy. Decision-making on grants and loans is improved by the involvement of individuals who live and work in the affected communities.

- **The Boards have created an economic development delivery system that would not otherwise exist.**

The Boards use some of the state funding they receive to fund economic and community development professionals in regions where cities and counties lack the resources to do so themselves. These individuals provide project development assistance to businesses and communities, package and coordinate funding for projects, prepare grant and loan applications for other programs, help communities with complex land-use planning regulations, and manage funded projects on behalf of communities.

The Future Role of the Boards

The Commission believes the Boards play an important role in the delivery of economic and community development services across the State. At the same time, the Commission also believes that lack of clarity in defining and measuring goals, as well as changes in direction over time, have created a climate of uncertainty and disagreement over the role of the Boards.

Part of the challenge lies in the level of unmet needs in many parts of the state. As the Oregon economy has evolved over the past two decades, and as parts of the resource-based economy eroded, the rural parts of the state have lost significant numbers of jobs. Not only have lost jobs been a hardship for families in those areas, but the reduction in employment has reduced revenues for local government. Essentially, the kinds of businesses and organizations that are necessary for communities to thrive have also eroded in those parts of the State.

The Regional Investment Boards have attempted to address these issues by investing in projects that not only are designed to create jobs, but also are designed to maintain or rebuild communities. Such investments inevitably give rise to questions about the advisability of using state funds to support private or government activities where outcomes are difficult to measure.

While the Commission believes the Boards play an important role in the delivery of economic and community development services, we also believe changes need to occur in order to provide better direction to the Boards and accountability for how state funds are expended through the program. The specific changes we would recommend will require additional discussion with interested parties. Therefore, the Commission recommends that we work with OECDD, the Governor's Office, the Legislature, and the Boards to develop further details and legislation for consideration in the 2009 Legislative Session.

Among the issues we need to address are the following:

- **Better define the strategies for the Boards**

The focus of the Boards has changed over time from job creation to community development and back to job creation. In recent years, at the direction of the Commission, the Boards have been required to tie all expenditures of state funds to job creation. The Commission believes this has caused the Boards to either discount important needs on the community development side or to create strained connections between expenditures and job creation.

The Commission recommends that the Boards be permitted to develop strategies that include community development aspects, recognizing that a singular focus on job creation may not be practical in communities that cannot afford some of the basic infrastructure and capacity that is an essential prerequisite to job creation. At the same time, consideration needs to be given to how far the state should go in funding community development through the Boards, particularly given the difficulties involved in measuring the outcomes of these expenditure.

- **Develop better metrics to measure outcomes of expenditures.**

The Boards currently attempt to measure the outcomes of their expenditures by the number of jobs created and retained. Based on the expanded focus of the program described above, the Commission and OECDD need to develop metrics to measure the outcomes of investments in infrastructure and capacity.

- **Focus on opportunities to leverage additional private and public investments**

The Commission has been advised that a regional investment can be an important piece in assembling larger investments. A relatively small grant or loan can demonstrate to a business that it is an important part of the local economy and that the Board, which represents the entire region, supports the growth and development of the business.

Similarly, a number of government and non-governmental organization programs require a demonstration of local support for a community's project before a grant or loan is awarded. Regional Investment Funds are often the only source available to demonstrate this local support.

- **Reserve a portion of the funding for the Regional Investment Program to address cross-regional needs and opportunities**

The Commission believes an important role for the Commission and OECDD is to coordinate issues and opportunities from a statewide perspective. As needs and opportunities are identified at the regional levels, the Commission and OECDD need to consider whether there are needs or

opportunities that cross regional lines. If so, OECDD needs to work with the affected Boards to assist in the funding.

- **Increase interaction between the Commission and the Boards.**

Communication between the Boards and the Commission has been infrequent. The Commission recommends establishing regular meetings with one or more Board representatives to discuss regional strategies and what kinds of assistance the State can and should provide.

- **Evaluate the structure of the Boards**

Based on its review to date, the Commission believes the governance structures of the Boards may need modification to ensure the Boards include appropriate representation from various stakeholders and that there is a sufficient rotation of membership to ensure new perspectives over time. Certain governance changes may also improve communication among the Boards, OECDD, the Commission, and the Legislature.

- **Evaluate the roles of the Boards in setting priorities for infrastructure and other capital improvement needs**

Major infrastructure investments in transportation, water, sewer, and the like are not made directly by the Boards, but some Boards have had a role in setting priorities for these investments. In some regions, the Boards have played a significant role, while participation in other regions has been relatively minor.

The Commission believes the Boards can play a significant role in setting priorities for infrastructure and other capital improvement needs in regions where county and city governments lack the resources to perform these functions themselves or in regions where priorities need to be established regionally, rather than by county or city jurisdiction. If Boards are to play this role effectively, however, they need to be given the resources to do so.

Conclusion

The Boards and their members exemplify the kind of volunteerism and collaboration that help Oregon remain competitive with larger states that invest more in economic and community development than we do.

The Legislature has declared the economic strategy of the State to be to: “(a) promote a favorable investment climate to strengthen businesses, create jobs and raise real wages; (b) improve the national and global competitiveness of Oregon companies; and (c) assist Oregon communities in building capacity to retain, expand and attract businesses.” The Commission finds that the Regional Investment Boards are an important part in how we as a state pursue this strategy.

The more difficult question is how much funding to provide the Boards and what kinds of direction should be provided to the Boards with respect to how that funding should be applied. Some would argue that the Boards, which are comprised of both elected officials and community leaders, know their community needs best and therefore should have broad discretion to apply state funds as they see fit. Others would argue that whenever state funds are spent, the state has a responsibility to the taxpayers to establish concrete goals and measure progress toward meeting those goals.

The Commission believes that goals and metrics for the Regional Investment Boards can and should be established. Such goals and metrics have existed in the past, but we believe they can be improved upon. We propose to bring a more complete set of recommendations on this subject to the Legislature for its 2009 session.

Separate issues for consideration include the role of the Boards in urban parts of the state, where their functions may overlap more with local government than is the case in rural parts of the state, and what role the Boards should play in establishing priorities for major infrastructure investment. Again, we propose to bring a more complete set of recommendation to the Legislature for its 2009 session.

Finally, we would observe that the directive given the Commission by the Legislature caused us to undertake a process that we believe has already had value in itself. By discussing these issues with Boards around the state, we have learned more about the opportunities and challenges we collectively face. We look forward to learning more as the discussion continues.



Business Financing Resources

Business Oregon has a team of professionals to assist businesses with their financing needs by packaging loan programs or by matching a partner service provider with a business.

Oregon Finance Programs

Business Oregon manages the following financing programs to assist businesses:

- Oregon Business Development Fund
- Oregon Capital Access Program
- Oregon Credit Enhancement Fund
- Oregon Industrial Development Bonds
- Entrepreneurial Development Loan Fund
- Business Retention Program
- Brownfields Redevelopment Fund

[Learn more >>](#)

Business Resources and Services

There are several assistance and financing programs available from local and federal resources that may be used to meet business needs. These resources are:

- United States Department of Agriculture (USDA)
- Farm Service Agency (FSA)
- Small Business Administration (SBA)
- Oregon Small Business Development Centers
- SCORE—Counselors to America's Small Business
- Other Small Business Service Providers

[Learn more >>](#)

Starting a Business in Oregon

The business finance team provides a range of financing services to businesses and lending partners. These services include: revolving loan funds for working capital and term loans; loan guarantees on bank loans; loans for startup businesses; and tax-exempt, bond financing for manufacturers.

[Learn more >>](#)

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STATE OF INDIANA

EXECUTIVE DEPARTMENT

INDIANAPOLIS

05-01

EXECUTIVE ORDER

FOR: CREATION OF THE OFFICE OF SECRETARY OF COMMERCE AND COORDINATION OF THE STATE'S ECONOMIC DEVELOPMENT AND JOB TRAINING EFFORTS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, in recent years, Indiana has experienced significant job losses, resulting in diminished hope and opportunity for Hoosiers and a decline in revenues available to address the problems faced by our State;

WHEREAS, fostering opportunities for business growth and job creation is vital to restoring Indiana's economic health and helping Indiana realize its true potential;

WHEREAS, business growth and job creation depend upon the availability of a skilled workforce, resulting in the need for coordination between our State's economic development efforts and its job training and labor programs;

WHEREAS, consistent with the foregoing identification of need, the General Government Subcommittee of the Government Efficiency Commission has recommended the establishment of an office of economic development, headed by a chief economic development officer reporting directly to the Governor with complete responsibility, accountability, and authority for all functions related to economic development and job creation and retention within the State;

WHEREAS, it is in the best interests of the citizens of Indiana to establish the position of Secretary of Commerce to lead Indiana's economic development efforts and to coordinate those efforts with its job training and labor programs;

WHEREAS, the Governor has proposed legislation to the General Assembly that would abolish the Department of Commerce and expedite the transfer of its business development powers and duties to the Indiana Economic Development Corporation (IEDC); and

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the needs and implement the reforms described in this Executive Order;

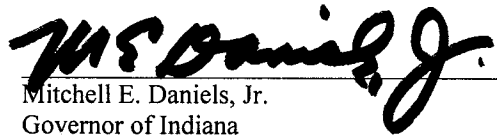
NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The position of Secretary of Commerce is hereby created.
2. The Secretary of Commerce shall be appointed by, report directly to, and serve at the pleasure of the Governor.
3. The Secretary of Commerce, shall, among other things, oversee and coordinate the State's efforts to foster business growth, industry modernization, economic diversification, and job creation and retention.
4. The Secretary of Commerce shall be the chief executive officer of the Department of Commerce and, upon the elimination of such department, of the IEDC, and shall have such powers, duties and responsibilities in such capacity as may be set forth by statute upon enactment of legislation or as may be designated by the Governor from time to time consistent with the exercise of executive authority under the Constitution and laws of the State.
5. In furtherance of the goal of coordinating the State's economic development efforts with its job training and labor programs, the Commissioner of the Department of Workforce Development (DWD) and the Commissioner of the Department of Labor, each of whom is appointed by and serves at the pleasure of the Governor, shall report to the Secretary of Commerce.
6. Consistent with the foregoing, and as a means of providing for the consolidation of all job training programs under the Secretary of Commerce, the Commissioner of the DWD and the Secretary of the Family and Social Services Administration (FSSA) are hereby authorized and directed to enter into such inter-agency agreements or memoranda of understanding and to take such other actions as may be necessary in order to provide for DWD's administration, to the fullest extent permitted by law, of the Indiana Manpower and Comprehensive Training (IMPACT) job training programs currently administered by the FSSA's Division of Family and Children.

7. Upon the enactment of the legislation by the General Assembly to codify the measures described in paragraphs 1 through 5 of this Executive Order, this Executive Order shall expire as to those measures; provided, however, that this Executive Order shall continue in effect as to the measures described in paragraph 6 hereof.



IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.



Mitchell E. Daniels, Jr.
Governor of Indiana



ATTEST: Todd Rokita
Secretary of State

SOURCE: IC 5-28; (05)HE1003.1.34. --> SECTION 34. IC 5-28 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 28. INDIANA ECONOMIC DEVELOPMENT CORPORATION

Chapter 1. Purpose

Sec. 1. (a) It is the intent of the general assembly to improve the quality of life for the citizens of Indiana by encouraging the:

(1) diversification of Indiana's economy and the orderly economic development and growth of Indiana;

(2) creation of new jobs;

(3) retention of existing jobs;

(4) growth and modernization of existing industry; and

(5) promotion of Indiana.

(b) The general assembly finds the following:

(1) Certain activities associated with the functions listed in subsection (a) may not work properly with the traditional responsibilities and activities of state agencies.

(2) The functions listed in subsection (a) can be achieved most efficiently by a body politic and corporate that:

(A) serves the interests of the state by carrying out the programs set forth in this article;

(B) is free from certain administrative restrictions that would hinder its performance; and

(C) possesses broad powers designed to maximize the state's economic development efforts.

(3) The corporation established by this article will:

(A) lead the state's economic development efforts;

(B) carry out the programs under this article, including the providing of grants and loans; and

(C) perform other essential public services for the state.

(4) In return for the corporation's economic development efforts to carry out the functions listed in subsection (a), the general assembly should appropriate state funds to the corporation.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the board of the corporation established under IC 5-28-4.

Sec. 3. Except as otherwise provided, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 4. "Economic development" refers to the purposes described in IC 5-28-1-1.

Sec. 5. "Secretary of commerce" refers to the secretary of commerce appointed under IC 5-28-3-4(a).

Chapter 3. Indiana Economic Development Corporation

Sec. 1. The Indiana economic development corporation is established.

Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

(b) The corporation and the corporation's funds, accounts, and financial affairs shall be

examined biennially by the state board of accounts under IC 5-11.

Sec. 3. Employees of the corporation are not employees of the state.

Sec. 4. (a) The governor shall appoint the secretary of commerce, who shall serve at the pleasure of the governor. The secretary of commerce is the chief executive officer of the corporation.

(b) The governor shall appoint the president of the corporation, who shall serve at the pleasure of the governor. The president shall report to the secretary of commerce.

Chapter 4. Corporation Board

Sec. 1. The corporation shall be governed by a board.

Sec. 2. (a) The board is composed of the following twelve (12) members, none of whom may be members of the general assembly:

(1) The governor.

(2) Eleven (11) individuals appointed by the governor.

The individuals appointed under subdivision (2) must be employed in or retired from the private or nonprofit sector or academia.

(b) When making appointments under subsection (a)(2), the governor shall appoint the following:

(1) At least five (5) members belonging to the same political party as the governor.

(2) At least three (3) members who belong to a major political party (as defined in IC 3-5-2-30) other than the party of which the governor is a member.

Sec. 3. (a) The term of office of an appointed member of the board is four (4) years.

(b) Each member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified. A member is eligible for reappointment.

(c) Members of the board appointed under section 2(a)(2) of this chapter serve at the pleasure of the governor.

Sec. 4. The governor shall serve as chairperson of the board.

Sec. 5. The members of the board are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the board are also entitled to receive reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the members' duties as approved by the budget agency.

Sec. 6. Seven (7) members constitute a quorum for the transaction of business. The affirmative vote of at least seven (7) members is necessary for action to be taken by the board. Members may not vote by proxy.

Sec. 7. Meetings of the board shall be held at the call of the chairperson or whenever any six (6) voting members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the board.

Chapter 5. General Powers

Sec. 1. The corporation shall carry out the economic development functions of the state in conformity with the laws enacted by the general assembly.

Sec. 2. The corporation is granted all powers necessary or appropriate to carry out the corporation's public and corporate purposes under this chapter.

Sec. 3. (a) Subject to approval by the budget agency, the corporation may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.

(b) Subject to approval by the budget agency, the corporation may enter into contracts without the approval of the attorney general.

Sec. 4. (a) The corporation shall determine qualifications, duties, compensation, and terms of service for persons employed by the corporation as employees or as independent contractors.

(b) The board may adopt a resolution providing that the corporation's employees who are eligible to participate in the public employees' retirement fund under the eligibility requirements set forth in IC 5-10.2 and IC 5-10.3 shall participate in the fund.

(c) The board may adopt a resolution to allow the corporation's employees to participate in group insurance and other benefit plans, including the state employees' deferred compensation plan, that are available to state employees.

Sec. 5. The board and the employees of the corporation are:

(1) under the jurisdiction of and rules adopted by the state ethics commission; and

(2) subject to ethics rules and requirements that apply to the executive branch of state government.

However, the board may adopt additional ethics rules and requirements that are more stringent than those adopted by the state ethics commission.

Sec. 6. The board shall establish an advisory committee to advise the board and the corporation on issues determined by the board. The advisory committee must:

(1) have members that represent diverse geographic areas and economic sectors of Indiana; and

(2) include members or representatives of local economic development organizations.

Sec. 7. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board and the employees of the corporation are public employees (as defined in IC 34-6-2-38).

Sec. 8. The corporation shall adopt rules under IC 4-22-2 to carry out its duties under this article. The board may also adopt emergency rules under IC 4-22-2-37.1 to carry out its duties under

this article.

Sec. 9. Except as specifically provided by law, the corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.

Sec. 10. An employee of the corporation is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the employee's duties as approved by the budget agency.

Sec. 11. The corporation may request appropriations from the general assembly to:

(1) carry out the corporation's duties under this article; and

(2) fund economic development and job creation programs.

Sec. 12. (a) The Indiana promotion fund is established within the state treasury.

(b) Except as provided in section 13 of this chapter, the corporation shall deposit the following in the fund:

(1) All funding received from the private sector under IC 5-28-6-1(6).

(2) All other gifts, donations, bequests, devises, and contributions received by the

corporation.

(c) The corporation shall administer the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Except as provided in the terms of a gift, a donation, a contribution, a bequest, a devise, or other private sector funding, money in the fund may be used at the discretion of the board to carry out in any manner the corporation's purposes under this article.

(f) Money in the fund may be transferred to any fund administered by the corporation.

(g) Money in the fund is continuously appropriated to the corporation for the purposes of this article.

Sec. 13. (a) Notwithstanding section 12 of this chapter, the board may establish a nonprofit subsidiary corporation to solicit and accept private sector funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

(1) must use money received under subsection (a) to carry out in any manner the purposes and programs under this article;

(2) must report to the budget committee each year concerning:

(A) the use of money received under subsection (a); and

(B) the balances in any accounts or funds established by the subsidiary corporation;
and

(3) may deposit money received under subsection (a) in an account or fund that is:

(A) administered by the subsidiary corporation; and

(B) not part of the state treasury.

(c) The state board of accounts shall annually audit a subsidiary corporation established under this section.

Chapter 6. Duties

Sec. 1. The corporation shall do the following:

(1) Create and regularly update a strategic economic development plan.

(2) Establish strategic benchmarks and performance measures.

(3) Monitor and report on Indiana's economic performance.

(4) Market Indiana to businesses worldwide.

(5) Assist Indiana businesses that want to grow.

(6) Solicit funding from the private sector for selected initiatives.

(7) Provide for the orderly economic development and growth of Indiana.

(8) Establish and coordinate the operation of programs commonly available to all citizens of Indiana to implement a strategic plan for the state's economic development and enhance the general welfare.

(9) Evaluate and analyze the state's economy to determine the direction of future public and private actions, and report and make recommendations to the general assembly in an electronic format under IC 5-14-6 with respect to the state's economy.

Sec. 2. (a) The corporation shall develop and promote programs designed to make the

best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

- (1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources.
- (2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made

by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts

from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the commissioner of agriculture in promoting and marketing of Indiana's agricultural products and provide assistance to the commissioner of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.

(9) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

Chapter 7. Training 2000 Program and Fund

Sec. 1. As used in this chapter, "business" includes an entity that has the objective of supplying a service or an article of trade or commerce.

Sec. 2. The corporation shall do the following:

(1) Establish policies to carry out a training assistance program, the purpose of which is to provide assistance to the following:

(A) New or expanding businesses, for the training of potential employees and the retraining and upgrading of the skills of potential employees.

(B) Businesses in Indiana, for the retraining and upgrading of employees' skills required to support new capital investment.

(C) Businesses in Indiana, for the development of basic workforce skills of employees, including the following:

(i) Literacy.

(ii) Communication skills.

(iii) Computational skills.

(iv) Other transferable workforce skills approved by the corporation.

(2) Provide promotional materials regarding the training program.

(3) Determine the eligibility of an industry for the training program.

(4) Require a commitment by a business receiving training assistance under this chapter to continue operations at a site on which the training assistance is used for at least five (5) years after the date the training assistance expires. If a business fails to comply with this commitment, the corporation shall require the business to repay the training assistance provided to the business under this chapter.

Sec. 3. The corporation may do the following:

(1) Adopt policies and guidelines necessary to carry out this chapter.
(2) Accept money and other things of value from all sources to carry out the purposes of the training program.

(3) Provide services and materials in order to carry out the

purposes of the training program.

(4) Develop or assist in the development of training plans.
(5) Evaluate the training program with respect to the program's impact on the improvement of workforce skills, job creation, and job retention.
(6) Involve other entities, by contract or otherwise, in carrying out the purposes of the training program.

Sec. 4. Participation in the training program is limited to businesses that:

(1) meet the eligibility requirements of the corporation; and
(2) comply with this chapter.

Sec. 5. (a) The training 2000 fund is established within the state treasury to be used exclusively for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.
(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Chapter 8. Economic Development Fund

Sec. 1. As used in this chapter, "federal agency" means the Economic Development Administration of the United States Department of Commerce.

Sec. 2. As used in this chapter, "federal program" means a federal loan or grant program that promotes economic development.

Sec. 3. As used in this chapter, "fund" refers to the economic development fund established by section 5 of this chapter.

Sec. 4. As used in this chapter, "qualified entity" means the state, a political subdivision of the state, an agency of the state or a political subdivision of the state, a nonprofit corporation, or the Indiana development finance authority established under IC 4-4-10.9 and IC 4-4-11.

Sec. 5. (a) The economic development fund is established within the state treasury. The fund is a revolving fund to provide grants and loans for economic development activities in Indiana for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly and loan repayments.
(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

Sec. 6. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(b) The treasurer of state shall also:

(1) receive cash receipts belonging to the fund, deposit these amounts in the fund, and submit a monthly report to the corporation of these transactions; and

(2) make payments on vouchers authorized by the corporation.

Sec. 7. The auditor of state shall draw warrants on the treasurer of state in payment of properly prepared vouchers signed by the president of the corporation or the president's designee.

Sec. 8. (a) The corporation shall receive grants allocated by a federal program for the purposes specified in section 9(c) of this chapter. Guidelines shall be prepared by the corporation enumerating the qualification procedures for receipt of grants and loans from the fund. These guidelines must be consistent with Indiana law and federal program requirements.

(b) The board, with the approval of the budget agency and the governor, shall allocate parts of the fund for the purposes specified in section 9(c) of this chapter. The corporation shall make allocations on the basis of the need of the qualified entity.

(c) The corporation shall keep complete sets of records showing all transactions by the fund in a manner that enables the corporation to prepare at the end of each fiscal year a complete report for the general assembly. The information in the report must be sufficient to permit a complete review and understanding of the operation and financial condition of the fund. The report must be submitted in electronic format under IC 5-14-6.

Sec. 9. (a) If federal money will not be used in conjunction with

fund money, a qualified entity that wants a grant from the fund must submit an application for the grant to the corporation. The corporation shall review the application and may approve the application if the activities for which the grant money is to be used are activities:

(1) that the qualified entity has statutory authority to perform; and

(2) for which this chapter permits fund money to be used.

(b) When fund money is to be used to match federal money, a qualified entity that wants a grant must submit to the corporation an application for a grant under the federal program. The corporation shall review the application and shall submit the application to the federal agency if the corporation finds that the activities for which the grant money is to be used are activities:

- (1) that the qualified entity has statutory authority to perform; and**
- (2) for which the federal program permits money to be used.**

Before submitting an application to the federal agency, the corporation must also approve the completeness and technical accuracy of the qualified entity's application.

(c) Money from the fund and money from a federal program may be used for the following projects:

- (1) Public works.**
- (2) Technical assistance.**
- (3) Economic adjustment assistance.**
- (4) Other economic development programs.**

(d) If the qualified entity proposes to use its money for a loan program, the application from the qualified entity must contain the conditions under which loans will be made and the interest rate that will be charged.

Sec. 10. (a) A qualified entity may apply to the corporation for a loan from the fund to be used for economic development programs.

(b) An amount loaned to a qualified entity is an obligation of the qualified entity and shall be repaid to the corporation within a time to be fixed by the corporation, not to exceed three (3) years.

(c) The corporation shall determine interest rates for the loans to be made under this section.

(d) Final disbursements of money under this section must be made with the approval of the state board of finance.

(e) If a qualified entity fails to make repayment of money loaned under this section, the amount payable may be:

(1) withheld by the auditor of state from money payable to the qualified entity and transferred to the fund; or

(2) recovered in an action by the state on relation of the corporation, prosecuted by the attorney general, in the circuit or superior court of the county in which the qualified entity is located.

21st Century Research and Technology Fund

The Indiana 21st Century Research and Technology Fund was created to stimulate the process of diversifying the State's economy by developing and commercializing advanced technologies in Indiana. The Board, representing most of the academic and commercial sectors of the State, approves awards.

Industrial Development Grant Fund (IDGF)

This grant provides money to local governments for off-site infrastructure projects associated with an expansion of an existing Indiana company or the location of a new facility in Indiana. State funding through the IDGF program must be matched by a combination of local government and company financial support.

Small Business Innovation Research Initiative (SBIR/STTR)

The Small Business Innovation Research (SBIR) — along with its sister program, the Small Business Technology Transfer program (STTR) — are highly competitive and encourage small businesses to explore their technological potential. SBIR/STTR funding is available from 11 participating agencies throughout the United States and focuses on various technological areas.

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Tax-exempt Bonds

Private Activity Bonds are often called Industrial Revenue Bonds (IRBs) or Industrial Development Bonds (IDBs) and are issued by state or local governmental entities for the benefit of a private company, usually manufacturers. Interest on the bonds is generally exempt from federal income taxes for investors, which typically results in lower long-term interest rates to the borrower.

Loan Guaranty Program

IEDC can provide a loan guaranty to a lender for the benefit of a high-growth/high-skilled company, manufacturer, rural development project, value-added agricultural enterprise or another type of business that creates or retains a significant number of Hoosier jobs.

Capital Access Program (CAP)

The Capital Access Program (CAP) is a small business credit enhancement program that creates a specific cash reserve fund for the lender to use as additional collateral for loans enrolled in the Program. CAP allows lenders to consider loans that might not meet conventional lending requirements.

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Economic Development for a Growing Economy (EDGE) Tax Credit

The Economic Development for a Growing Economy (EDGE) is a refundable tax credit program that rewards companies creating jobs and contributing to the growth of Indiana's economy. EDGE credits are calculated as a percentage of payroll tax withholding for net new Indiana jobs. EDGE credits may be awarded for a period of up to 10 years.

Headquarters Relocation Tax Credit

When a business relocates its corporate headquarters (defined as the location of the principal office of the principal executives) to Indiana, it is entitled to a credit against its state tax liability equal to half of the costs incurred in relocating the headquarters. A company must have a worldwide annual revenue of at least \$100 million to qualify.

Hoosier Business Investment Tax Credit (HBITC)

This program encourages capital investment in Indiana by providing a credit against a company's Indiana tax liability. The credit amount is based on a company's qualified capital investment with the final credit amount determined by the Indiana Economic Development Corporation, based on an analysis of the economic benefits of the proposed investment.

Industrial Recovery Tax Credit

The Industrial Recovery tax credit provides an incentive for companies to invest in facilities requiring significant rehabilitation or remodeling expense. After a building has been designated as an industrial recovery site, companies may be eligible for a tax credit calculated as a percentage of qualified rehabilitation expense.

Venture Capital Investment Tax Credit

The Venture Capital Investment Tax Credit was established to improve access to capital to fast growing Indiana companies by providing individual and corporate investors an additional incentive to invest in early stage firms. Investors who provide qualified debt or equity capital to Indiana companies receive a credit against their Indiana income tax liability.

Media Production Sales Tax Exemption

The Media Production Expenditure Tax Credit (MPETC) was established to further grow the Indiana production industry by providing individuals and companies a refundable tax credit of up to 15 percent of the amount spent in Indiana for qualified production expenditures.

Patent Tax Exemption

The Patent Tax Exemption allows certain income derived from qualified patents to be exempt from taxation. The Tax Exemption for Patent-Derived Income defines qualified patents to include only utility patents and plant patents. The total amount of exemptions claimed by a taxpayer in a taxable year may not exceed \$5 million.

Certified Tech Parks

The Certified Technology Parks program supports the attraction and growth of high-technology business in Indiana and promotes technology transfer opportunities. Designation as a Certified Tech Park allows for the local recapture of certain state and local tax revenue which can be invested in the development of the park.

Regional Economic Development Partnership Programs

In order to spur further regional economic development initiatives, this program was created to encourage communities to think, plan and act regionally, and to provide additional resource support for regional initiatives. The objective is to build on the work already done to define regional economies, develop regional growth strategies, accelerate effective regional economic development.

• [click for more information](#)

Regulatory Ombudsman

The Indiana Economic Development Corporation's regulatory ombudsman assists in the process of obtaining the permits and approvals necessary for a business operation. The ombudsman serves as a liaison between companies, communities, local economic development organizations and regulatory agencies.

Shovel Ready

The Shovel Ready Program is a new state program created to help communities certify sites as "ready for development." Shovel Ready is designed to ultimately help companies locate and develop a property site quickly. This provides a competitive advantage for Indiana and gets Hoosier jobs here faster.

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Department of Commerce
Innovation is in our nature.

Appendix A: Commerce Legislation Excerpt

This appendix includes relevant language from EHB2242 (Chapter 565, Laws of 2009), the legislation that directs Commerce to develop this report

Appendix A: Legislation related to the Department of Commerce.

EHB 2242 was passed during the 2009 legislative session.

The bill was originally sponsored by:

Representatives Kenney, Probst, Maxwell, Hunt, Lias, Ormsby, Kelley, Sullivan, Hasegawa, Quall, White and Chase; by request of Governor Gregoire.

Votes on Final Passage:

House 96-1

Senate 47-0 (Senate amended)

House 93-1 (House concurred)

Effective: July 26, 2009

Partial Veto Summary: The Governor vetoed the section that de-codified the State Energy Program statute.

The following information is from the final bill report produced by legislative staff:

Background: The Department of Community, Trade and Economic Development (DCTED) is an executive branch agency that was created in 1994 through the consolidation of the Department of Community Development and the Department of Trade and Economic Development. The DCTED is responsible for promoting community and economic development statewide by (1) assisting communities to increase economic vitality and the quality of citizen's lives, and (2) assisting the state's businesses to maintain and increase economic competitiveness while maintaining a healthy environment.

Summary:

A Department of Commerce (Department) is created. By November 1, 2009, its director must develop a report for the Governor and appropriate legislative committees. This report must include analyses and recommendations for statutory changes that ensure the Department will have: a concise core mission; be aligned with the state's comprehensive economic development plan; be accountable and transparent; leverage state private and federal resources; maximize partnerships and use intermediaries; be focused and flexible in response to changing conditions; and increase local capacity building to respond to opportunities and needs. The report must include recommendations for creating or consolidating programs important to meeting the Department's core mission, as well as recommendations for terminating or transferring programs that are inconsistent with the core mission.

The Director of the Department must collaborate with the Governor's Office, the Office of Financial Management, the Economic Development Commission, and

ten legislative committee chairs and ranking minority members, as well as soliciting input from businesses, employees, economic development practitioners, local governments, planning professionals, community and housing organizations, and other key community and economic development stakeholders. A number of statutory references to the "Department of Community, Trade and Economic Development" are changed to the "Department of Commerce."

Excerpted important sections of the bill codified in Chapter 43.330 RCW:

RCW 43.330.007 Management responsibility. The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions and to make recommendations for changes.

[2009 c 565 § 1; 1993 c 280 § 2.]

RCW 43.330.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an

intermediary between the department of commerce and local microenterprise development organizations.

[2009 c 565 § 2; 2007 c 322 § 2; 1993 c 280 § 3.]

RCW 43.330.020 Department created. A department of commerce is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation.

[2009 c 565 § 3; 1993 c 280 § 4.]

Because Section 4 is temporary it will not be codified into the RCW; here it is reproduced in bill format, as it reads in the final version of EHB 2242:

Sec. 4. A new section is added to chapter 43.330 RCW to read as follows:

(1) The director shall, in collaboration with the office of the governor, the office of financial management, the Washington economic development commission, the chairs and ranking minority members of the community and economic development and trade committee of the house of representatives and the economic development, trade and innovation committee of the senate, and the chairs and ranking members, or their designees, of the ways and means committees of the house of representatives and the senate and the house of representatives capital budget committee, develop a report with analysis and recommendations on statutory changes that would ensure that the department's efforts are efficient, effective, and:

(a) Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to leveraging state resources or procuring private and federal resources;

(e) Maximize results through partnerships and the use of intermediaries;
and

(f) Provide transparency and increased accountability to the public, the governor, and the legislature.

(2) The report shall include recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission.

(3) In developing the recommendations, the director shall solicit the input of businesses, employees, economic development practitioners, local governments, planning professionals, community and housing organizations, and other key economic and community development stakeholders.

(4) The recommendations must be delivered to the governor and the appropriate legislative committees by November 1, 2009.

Economic Incentive Summaries

In addition to the program responses summarized in the previous section, Washington state has a number of economic programs that provide tax credits, rebates or deferrals. Thirty eight of those incentive programs are summarized below.

Each of these programs is managed by the Washington Department of Revenue. For more information about any of these programs, visit the website at:

<http://dor.wa.gov/Content/FindTaxesAndRates/TaxIncentives/IncentivePrograms.aspx>

or contact:

Mr. Gary Grossman
Office of Legislation and Policy, Washington State Department of Revenue
Capital Plaza Building, Suite 400
PO Box 47467
Olympia, WA 98504-7467
Telephone: (360) 570-6118
Email: garyg@dor.wa.gov

The programs are outlined in Table 11 below. For easier access, the incentive programs have been categorized according to the major industry or group benefiting.

Table 11: Economic Incentive Programs

Aerospace

- Reduced B&O Tax Rate for Aerospace Businesses
- Sales & Use Tax Exemption for Aerospace Manufacturers for Computer Hardware/Software/Peripherals
- Aerospace Reduced B&O Rate for FAR Part 145 Repair Stations
- Aerospace B&O Credit for Preproduction Development Expenditures
- B&O Credit for Property/Leasehold Taxes paid on Aerospace Manufacturing Facilities

Aluminum Smelters

- Power & Gas Tax Exemption for Aluminum Smelters
- B&O Tax Credit for Property Tax on Aluminum Smelter
- B&O Tax Credit For State Portion of Sales Tax on Materials Used in Aluminum Smelter
- Reduced B&O Tax Rate for Aluminum Smelting

Anaerobic Digesters

- Sales/Use Tax Exemption for Anaerobic Digesters

Table 11: Economic Incentive Programs (continued)

Biofuels

B&O Tax Deduction for Retail Sales of Biofuels/Alcohol Fuels
Property/Leasehold Tax Exemption for Manufacturers of Biodiesel/Alcohol Fuel, etc
Reduced B&O Tax Rate for Manufacturing Biodiesel/Alcohol Fuel, etc.

Electrolytic Processing

Public Utility Tax Exemption for Power for Electrolytic Processing

Energy Systems and Facilities

Sales/Use Tax Exemption for Energy Generating Facilities
Reduced B&O Tax Rate for Solar Energy System Manufacturers & Wholesalers

Farm and Livestock Uses

Sales/Use Tax Exemption for Farm Fuel Users
Sales/Use Tax Exemption for Livestock Nutrient Management Equipment & Facilities

Food Manufacturing

Sales Tax Deferral/Waiver on Construction of Cold Storage & Certain Food
Manufacturing/Processing Facilities
B&O Tax Exemption for Manufacturers of Dairy and Seafood Products
B&O Tax Exemption for Manufacturers of Fresh Fruit & Vegetables

Help Desk Operations

B&O Credit for Third Party Help Desk Services in Rural Counties

International Business

B&O Tax Credit for New Employment in International Services

Machinery and Equipment

Sales/Use Tax Exemption for Replacement Parts for Farm Machinery & Equipment
Sales/Use Tax Exemption for Machinery/Equipment, Delivery Vehicles & Construction of
Facilities for Retail Sales of Biofuels

Manufacturing

B&O Credit for New Employees in Manufacturing and Research & Development in Rural
County
Rural County Sales & Use Tax Deferral/Waiver for Manufacturing Facilities
Sales and Use Tax Exemption for Manufacturing Machinery & Equipment

Public Utilities

Main Street Tax Credit – B&O Tax/Public Utility Tax Credit

Semiconductors

Sales/Use Tax Exemption for Purchases of Semiconductor Gasses & Chemicals
Reduced B&O Tax Rate for Manufacturers of Semiconductor Materials