

## HOUSE BILL NO. 76

INTRODUCED BY MCKENNEY

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS AND TREASURE COMMUNITIES; REDIRECTING THE STATUTORY APPROPRIATION TO PROVIDE FUNDING TO CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS; ESTABLISHING THE ECONOMIC DEVELOPMENT ADVISORY COUNCIL ~~AND A LEGISLATIVE CONSULTING PANEL~~; PROVIDING FOR APPOINTMENT AND DUTIES OF ADVISORY COUNCIL; ABOLISHING THE MICROBUSINESS ADVISORY COUNCIL; AMENDING SECTIONS 15-35-108, 17-6-403, 90-1-116, AND 90-8-201, MCA; REPEALING SECTION 17-6-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Economic development advisory council ~~LEGISLATIVE CONSULTING PANEL.~~ (1) There is an economic development advisory council.

(2) The council is composed of up to 19 MEMBERS APPOINTED AS FOLLOWS:

(A) 15 members appointed by the governor and includes TO INCLUDE:

~~(a)(i)~~ (i) the director of the department of commerce;

~~(b)(ii)~~ (ii) the chief business development officer provided for in 2-15-219, who serves as presiding officer of the council;

~~(c)(iii)~~ (iii) one member from a Montana tribal government who represents a tribal economic development organization; and

~~(d)(iv)~~ (iv) up to 12 public members representing each geographic region covered by each of the regional development corporations certified by the department pursuant to 90-1-116; AND

(B) (i) TWO REPRESENTATIVES, INCLUDING ONE FROM EACH PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE;

AND

(ii) TWO SENATORS, INCLUDING ONE FROM EACH PARTY, APPOINTED BY THE COMMITTEE ON COMMITTEES.

(3) THE GOVERNOR IS ENCOURAGED TO APPOINT TO THE INITIAL COUNCIL TWO INDIVIDUALS WHO WERE

1 MEMBERS OF THE MICROBUSINESS ADVISORY COUNCIL IMMEDIATELY PRIOR TO ITS BEING ABOLISHED.

2 ~~(3)(4) Members~~ (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(B), MEMBERS of the council shall serve  
3 staggered 3-year terms subject to replacement at the discretion of the governor. The governor shall designate  
4 five of the initial members to serve 1-year terms and five of the initial members to serve 2-year terms.

5 (B) LEGISLATIVE MEMBERS MUST BE APPOINTED ON OR BEFORE THE 10TH DAY OF EACH REGULAR SESSION OF  
6 THE LEGISLATURE AND SHALL SERVE UNTIL THE CONVENING OF THE NEXT REGULAR SESSION OF THE LEGISLATURE. IF A  
7 VACANCY ON THE COUNCIL OCCURS DURING A LEGISLATIVE INTERIM, THAT VACANCY MUST BE FILLED IN THE SAME MANNER  
8 AS THE ORIGINAL APPOINTMENT.

9 ~~(5) (A) THERE IS A LEGISLATIVE CONSULTING PANEL OF FOUR MEMBERS. THE PANEL:~~

10 ~~—— (i) SHALL MEET WITH THE COUNCIL, PARTICIPATE IN DELIBERATIONS OF THE COUNCIL, AND ADVISE THE COUNCIL~~  
11 ~~IN PERFORMANCE OF ITS FUNCTIONS UNDER SUBSECTION (7) BUT MAY NOT VOTE ON ANY MOTION BEFORE THE COUNCIL;~~  
12 ~~AND~~

13 ~~—— (ii) CONSISTS OF:~~

14 ~~—— (A) TWO REPRESENTATIVES, INCLUDING ONE FROM EACH PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE~~  
15 ~~OF REPRESENTATIVES; AND~~

16 ~~—— (B) TWO SENATORS, INCLUDING ONE FROM EACH PARTY, APPOINTED BY THE COMMITTEE ON COMMITTEES;~~

17 ~~—— (B) THE MEMBERS:~~

18 ~~—— (i) MUST BE APPOINTED ON OR BEFORE THE 10TH DAY OF EACH REGULAR SESSION OF THE LEGISLATURE AND~~  
19 ~~SHALL SERVE UNTIL THE CONVENING OF THE NEXT REGULAR SESSION OF THE LEGISLATURE. IF A VACANCY ON THE PANEL~~  
20 ~~OCCURS DURING A LEGISLATIVE INTERIM, THAT VACANCY MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL~~  
21 ~~APPOINTMENT.~~

22 ~~—— (ii) ARE ENTITLED TO COMPENSATION IN THE SAME MANNER AS MEMBERS OF THE COUNCIL, AS PROVIDED IN~~  
23 ~~SUBSECTION (6):~~

24 ~~(6)(5) MEMBERS OF THE COUNCIL, OTHER THAN LEGISLATIVE MEMBERS, ARE NOT ENTITLED TO COMPENSATION~~  
25 ~~FOR THEIR SERVICES EXCEPT FOR REIMBURSEMENT OF EXPENSES AS PROVIDED IN 2-18-501 THROUGH 2-18-503.~~  
26 ~~LEGISLATIVE MEMBERS OF THE COUNCIL ARE ENTITLED TO COMPENSATION PURSUANT TO 5-2-302, WHICH MUST BE PAID~~  
27 ~~BY THE DEPARTMENT OF COMMERCE.~~

28 ~~(4)(7)(6)~~ The council shall:

29 (a) advise the department concerning the distribution of funds to certified regional development  
30 corporations for business development purposes in accordance with 90-1-116 and this section;

(b) advise the department regarding the creation, operation, and maintenance of the microbusiness finance program and the policies and operations affecting the certified microbusiness development corporations;

(c) advise the governor and the department on significant matters concerning economic development in Montana;

(d) prescribe allowable administrative expenses for which economic development funds may be used by certified regional development corporations; and

(e) encourage certified regional development corporations to promote economic development on Indian reservations in their regions.

~~(5)(b)(7)~~ The council is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

**Section 2.** Section 15-35-108, MCA, is amended to read:

**"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) For the fiscal year ending June 30, 2003, the amount of 10% and for fiscal years beginning on or after July 1, 2003, the amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) For the fiscal year ending June 30, 2003, the amount of 6.01% and for fiscal years beginning on or after July 1, 2003, the amount of 7.75% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) For fiscal years beginning on or after July 1, 2003, the amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development,

operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) For fiscal years beginning on or after July 1, 2003, the amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) (a) Subject to subsections (7)(b) and (7)(c), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) ~~for the fiscal year beginning July 1, 2001, \$1.25 million, for the fiscal year beginning July 1, 2002, \$925,000, and~~ for fiscal years beginning on or after July 1, 2003, \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) ~~except for the fiscal year beginning July 1, 2002, \$425,000 for certified communities~~ regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement;

(iv) \$175,000 to the office of economic development for business recruitment and retention; and

(v) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the department of revenue. This documentation must be provided to the budget director and to the legislative fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner

1 of property within the district.

2 (c) ~~For the fiscal year beginning July 1, 2001, there is transferred from the interest income referred to~~  
3 ~~in subsection (7)(b) \$4.85 million to the research and commercialization state special revenue account created~~  
4 ~~in 90-3-1002. For the fiscal year beginning July 1, 2002, there is transferred from the interest income referred~~  
5 ~~to in subsection (7)(b) \$3.165 million to the research and commercialization state special revenue account~~  
6 ~~created in 90-3-1002.~~ Beginning July 1, 2003, there is transferred annually from the interest income referred to  
7 in subsection (7)(b) \$3.65 million to the research and commercialization state special revenue account created  
8 in 90-3-1002. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000; sec. 8(1), Ch. 12, Sp. L. August  
9 2002.)

10 **15-35-108. (Effective July 1, 2005) Disposal of severance taxes.** Severance taxes collected under  
11 this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

12 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article  
13 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
14 17-6-203(6) and invested by the board of investments as provided by law.

15 (2) Twelve percent of coal severance tax collections is allocated to the long-range building program  
16 account established in 17-7-205.

17 (3) The amount of 7.75% must be credited to an account in the state special revenue fund to be  
18 allocated by the legislature for local impacts, provision of basic library services for the residents of all counties  
19 through library federations and for payment of the costs of participating in regional and national networking,  
20 conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be  
21 made only from this account. Money may not be transferred from this account to another account other than the  
22 general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

23 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
24 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
25 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
26 described in 23-1-102.

27 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
28 resource loan debt service fund.

29 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
30 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding

unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

**Section 3.** Section 17-6-403, MCA, is amended to read:

**"17-6-403. Definitions.** As used in this part, the following definitions apply:

~~(1) "Certified community lead organization" means an organization that has sponsored community certification under the certified communities program of the department.~~

~~——(2)(1)~~ "Certified microbusiness development corporation" means a microbusiness development corporation certified pursuant to 17-6-408.

~~(3) "Council" means the microbusiness advisory council established in 17-6-411.~~

~~——(4)(2)~~ "Department" means the department of commerce provided for in 2-15-1801.

~~(5)(3)~~ "Development loan" means money loaned to a certified microbusiness development corporation by the department for the purpose of making microbusiness loans under the provisions of this part.

~~(6)(4)~~ "Microbusiness development corporation" means a nonprofit corporation organized and existing under the laws of the state to provide training, technical assistance, and access to capital for the startup or expansion of qualified microbusinesses.

~~(7)(5)~~ "Microbusiness loan" means a loan made from or guaranteed by a revolving loan fund contributed to by the microbusiness finance program.

~~(8)(6)~~ "Program" means the microbusiness finance program established in 17-6-406.

~~(9)(7)~~ "Qualified microbusiness" means a business enterprise located in the state that:

(a) produces goods or provides services and has fewer than 10 full-time equivalent employees and annual gross revenues of less than \$500,000; or

(b) produces energy using an alternative renewable energy source as defined in 90-4-102.

~~(10)(8)~~ "Revolving loan fund" means a fund required to be established by a certified microbusiness development corporation that receives a development loan."

**Section 4.** Section 90-1-116, MCA, is amended to read:

**"90-1-116. State matching funds program for economic development -- distribution of proceeds**

-- **criteria for grants -- local economic development matching funds.** (1) As used in this section, the following definitions apply:

(a) ~~"Certified community lead organization" means the entity that has been endorsed by resolution of a local governing body or a tribal government, as defined in 90-6-701(3)(e), and that meets and maintains requirements for certification established by the department~~ "Certified regional development corporation" means a private, nonprofit corporation that has been designated by the department through a competitive process to manage and administer funds and programs for the department on a regional basis.

(b) "Council" means the economic development advisory council established in [section 1].

~~(b)(c)~~ "Department" means the department of commerce provided for in 2-15-1801.

(d) "Treasure community" means a community that meets and maintains requirements for certification established by the department and administered by the certified regional development corporation.

(2) The department shall create a program to provide state funds to match local economic development funds and to fund ~~the certified communities program up to 12 certified regional development corporations.~~ The provision of state matching funds is contingent upon specific appropriations to the department for that purpose. ~~The department shall distribute the funds in the following manner:~~

~~—— (a) 91% to certified community lead organizations, in the form of assistance grants;~~

~~—— (b) 8% to the department for administration of the certified communities program; and~~

~~—— (c) 1% to the department for certification assistance for noncertified communities. If there are no requests for certification assistance, the 1% allocation may be used by the department for administration of the certified communities program.~~

(3) ~~An assistance grant to a certified community lead organization is based on an annual per capita payment for the area served by the organization, according to its population in the last completed federal census. The grant may not exceed \$75,000 and may not be less than \$3,000 a year~~ regional development corporation will be made based on rules adopted by the department for the state matching funds program. The rules for distribution of funds must include consideration of:

(a) the size of the geographic area represented by the certified regional development corporation;

(b) the number of communities served by the certified regional development corporation;

(c) the population served by the certified regional development corporation; and

(d) the services offered by the certified regional development corporation.

(4) To be eligible to receive a grant, a ~~certified community lead organization~~ regional development

1 corporation:

2 (a) must be designated as the ~~lead organization~~ certified regional development corporation by the ~~local~~  
3 ~~governing body~~ department;

4 (b) shall maintain department requirements for certification;

5 (c) shall match each \$1 of the grant with \$1 raised from public or private sources; ~~and~~

6 ~~(d) shall administer the treasure community designation and reporting process for the communities and~~  
7 ~~counties in the region;~~

8 ~~(e) shall encourage and organize full participation in regional economic development activities,~~  
9 ~~meetings, projects, and planning by the treasure communities in the region; and~~

10 ~~(d)(f) shall participate in regional meetings of certified communities~~ deliver services and resources to  
11 the citizens, businesses, and treasure communities throughout the region.

12 (5) Grants under this section must be used to conduct economic development programs consistent with  
13 strategic plans that are adopted by the certified regional development corporations and the treasure communities  
14 in the region and that are filed with the department.

15 ~~(6) The department shall use its portion of the proceeds to:~~

16 ~~—— (a) administer the certified communities program;~~

17 ~~—— (b) assist noncertified communities in seeking certification; and~~

18 ~~—— (c) organize and conduct regional meetings of certified communities."~~

19  
20 **Section 5.** Section 90-8-201, MCA, is amended to read:

21 **"90-8-201. Certification of Montana capital companies and small business investment capital**  
22 **companies.** (1) The department shall certify Montana small business investment capital companies, and from  
23 time to time, the department shall certify Montana capital companies. A company seeking to be certified as a  
24 Montana capital company or as a Montana small business investment capital company shall make written  
25 application to the department on forms provided by the department. The application must contain the information  
26 required by 90-8-204 and other information that the department requires.

27 (2) The application must show that the applicant's purpose is to increase the general economic welfare  
28 of the state of Montana by:

29 (a) making investment capital available to businesses in Montana; and

30 (b) allowing for investment of up to 25% of its capital base in businesses outside Montana if there is a



1 substantial likelihood that the investment will produce a qualified investment in Montana.

2 (3) Certifiable applicants include but are not limited to local and community development corporations,  
3 small business administration certified development companies, and small business investment companies.

4 (4) Certification is a prerequisite to and must be completed before seeking designation as a qualified  
5 capital company or as a qualified Montana small business investment capital company.

6 (5) To be eligible for certification under this section as a Montana small business investment capital  
7 company, the applicant shall commit to:

8 (a) accumulating private capital with the intention of being licensed as a small business investment  
9 corporation by the United States small business administration as provided in Title III of the Small Business  
10 Investment Act of 1958, as amended, and as implemented under 13 CFR 107;

11 (b) targeting its investments as a small business investment capital company toward commercialization  
12 projects emerging from centers of excellence and entrepreneurship, federal laboratories, the federal small  
13 business innovative research program, the federal cooperative research and development agreement program,  
14 Montana university system research and development, small business incubators, community development  
15 block grant programs, and projects emerging from economic development programs of Montana certified  
16 ~~communities~~ regional development corporations, with the objective of providing significant investment  
17 opportunities in an area where economic development capital is limited;

18 (c) considering investment opportunities originating in any Montana county; and

19 (d) adopting investment guidelines that ensure that not less than 10% of its available capital is invested  
20 in counties with populations of 20,000 or less."

21  
22 **NEW SECTION. Section 6. Repealer.** Section 17-6-411, MCA, is repealed.

23  
24 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send a  
25 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
26 band of Chippewa.

27  
28 **NEW SECTION. Section 8. Codification instruction.** [Section 1] is intended to be codified as an  
29 integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].

1 NEW SECTION. Section 9. Effective date DATES. [This act] (1) EXCEPT AS PROVIDED IN SUBSECTION (2),

2 [THIS ACT] is effective on passage and approval.

3           (2) [SECTION 2] IS EFFECTIVE JULY 1, 2003.

4 - END -