BUSINESS & LABOR
EXHIBIT NO. 11
DATE 3-26-09
BILL NO. HB 635

MONTANA
Department of Commerce

Montana Equity Capital Investment Act

Senate Bill 133 – 1995 (Mangen/McKenney)
MCA 90-10

SB133 - Purpose

- attracting out of state venture investment funds interested in providing equity capital and near-equity capital to Montana entrepreneurs and economic innovators in Montana
- nourish creation of a private seed and venture capital industry in Montana to fund academic, technological, and innovative startup companies and other companies that are expanding or restructuring
- encourage lead local investors with which out-of-state venture investors can partner

Tax Credits

- $60 million in contingent, deferred tax credits available.
  - No more than $25 million issued before January 1, 2009
  - No more than $12 million in tax credits may be claimed in one year
  - Tax credits may not be claimed before July 1, 2010 or after July 1, 2031
  - Tax credits may be carried forward for up to 12 years

Tax Credit "Certificates"

- Certificates may be transferred from one holder to another and must permit a person with an interest in the tax credit to record that interest.
- A Certificate is binding on the Board and the Department of Revenue once capital is provided to the Montana Equity fund.
- A Certificate may not be modified, rescinded, or terminated except that redemption terminates the certificate.
- Certificates will include the conditions for claiming a tax credit including;
    - A scheduled rate of return
    - The formula by which a shortfall in returns of invested principal and interest is to be calculated
    - The upper limit of tax credits available under the certificate
    - The dates by which the tax credits may first be redeemed and last redeemed

Montana Capital Investment Board

- Five voting members serving staggered 4 year terms
- Selected based upon demonstrated expertise and competence in the;
    - Supervision of investment managers
    - Fiduciary management of investment funds
    - Management and administration of tax credit allocation programs
- Governor designates presiding officer
- Attached to the Montana Department of Commerce for Administrative Purposes

Duties of the Board

- Select and certify one designated investor group to organize, capitalize, manage, and direct the funds.
- Approve the timing and the initial sale of tax credit certificates and the implementation of the investment plan.
- Approve the designated investor groups scheduled return of capital and rate of return on capital to the certificate holder.
- Charge the designated investor group a reasonable fee commensurate with the costs of implementing the Act.
- Develop a tax credit registration system with the Department of Revenue to identify all eligible certificate holders.
- Develop a system for the redemption of tax credits if a shortfall occurs in the scheduled return of capital and rate of return on capital listed on the certificate.

Designated Investor Group

- Invest funds in venture capital funds
- Maintain an office in Montana
- May receive fees for services.
- May not invest more than 25% of the fund in one business,
- May not have a controlling interest along with individual fund investors in a portfolio company.
- Shall "seek to cause" at least $1 of investment in Montana projects for each $1 invested by the Montana equity fund in its aggregate portfolio of investment funds.
- Provide an annual audit to the Board, the Governor, and the Legislative Audit Committee.
- Publish an annual report.

Budget

- 2 FTE
- Authorized $146,936 in FY08 – spent $62, 820 in FY08
- Authorized $146,936 in FY09 – spent $17,729 in FY08