

HOUSE BILL NO. 474

INTRODUCED BY D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STATE BANK OF MONTANA KNOWN AS THE
5 MONTANA RESOURCES BANK; REQUIRING THE BOARD OF INVESTMENTS TO REPORT TO THE 64TH
6 LEGISLATURE REGARDING THE MANAGEMENT, OPERATIONAL STRUCTURE, AND CAPITALIZATION OF
7 THE MONTANA RESOURCES BANK; PROVIDING A TRANSITION FOR CERTAIN ACTIVITIES FROM THE
8 BOARD OF INVESTMENTS TO THE MONTANA RESOURCES BANK; EXEMPTING CERTAIN BANK
9 OFFICERS FROM THE STATE CLASSIFICATION AND PAY PLAN; PROVIDING AN APPROPRIATION TO
10 DEVELOP A REPORT; AMENDING SECTIONS 2-15-1808, 2-18-103, 17-5-1650, AND 32-1-102, MCA; AND
11 PROVIDING EFFECTIVE DATES."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. State bank created.** (1) There is a state bank of Montana, known as the
16 Montana resources bank, which is attached to the department of commerce for administrative purposes only as
17 provided in 2-15-121, except that the president and employees of the Montana resources bank are to be hired
18 by the board of investments.

19 (2) The Montana resources bank is a nonprofit, independent public corporation that is to be governed
20 by the board of investments provided for in 2-15-1808.

21 (3) The Montana resources bank must meet all the requirements of a commercial bank as provided in
22 Title 32, chapter 1, except that:

23 (a) the state banking board shall review and make recommendations regarding the application for a
24 certificate of authorization for the Montana resources bank but a certificate of authorization is final upon the board
25 of investments making the final determination and meeting the requirements specified by the division of banking
26 and financial institutions; and

27 (b) the provisions of 32-1-203, 32-1-204, 32-1-322, 32-1-335, 32-1-339, 32-1-340, 32-1-361, 32-1-363
28 through 32-1-365, 32-1-370 through 32-1-372, 32-1-374 through 32-1-377, 32-1-381 through 32-1-384, and Title
29 32, chapter 1, parts 4 through 10, do not apply. However, the board of investments, in consultation with the
30 division of banking and financial institutions, may specifically authorize application of certain provisions of Title

1 32, chapter 1, part 4.

2 (4) The Montana resources bank has the authority and duties provided for by the board of investments
3 pursuant to the management and operational report required under [section 3] and specific responsibilities and
4 duties provided for in [sections 2 and 3].

5 (5) The Montana resources bank shall create a state seal. All the business of the bank must be under
6 the name of "Montana Resources Bank" and must be affixed with the seal.

7
8 **NEW SECTION. Section 2. Montana resources bank -- purpose.** The purpose of the Montana
9 resources bank, established in [section 1], is to promote agriculture, education, community development,
10 economic development, commerce, and industry in this state by:

11 (1) acting in partnership or taking a leadership role with other financial institutions, economic
12 development groups, guaranty agencies, and state agencies to serve as a resource for matching funds committed
13 by persons doing business within this state; and

14 (2) actively engaging in stimulus activities during economic downturns through investments or
15 coordination of other activities within the board of investment's scope as provided in Title 17.

16
17 **NEW SECTION. Section 3. Management and operational structure -- capitalization --**
18 **responsibilities.** (1) The board of investments shall, by December 31, 2014, provide to the 64th regular session
19 of the Montana legislature a report outlining the management and operational structure for the Montana resources
20 bank, which must operate within the board of investments.

21 (2) (a) The report must also include proposed capitalization for the bank within the bounds of the unified
22 investment program required under Article VIII, section 13, of the Montana constitution. In developing the
23 proposed capitalization, the board of investments shall consider and compare the depository and investment
24 criteria of the bank of North Dakota to the depository and investment criteria of the board of investments. The
25 capitalization proposal may include recommendations regarding depositories, bonding, and diversification of
26 investment assets that recognize the purposes of the Montana resources bank and the board of investments as
27 directed by Title 17. The capitalization proposal also may consider the appropriateness of the Montana resources
28 bank acting as a reserve depository and clearinghouse.

29 (b) Recommended changes in existing statutes, if necessary, must be included in the report required
30 under subsection (2)(a).

1 (3) The report must reflect the Montana resources bank's responsibilities for:

2 (a) entering into agreements or contracts to purchase participation interests in commercial mortgage
3 loans or residential mortgage loans made or held by Montana-owned financial institutions or other financial
4 institutions inside or outside the state; and

5 (b) purchasing, holding, or selling, but not originating, commercial mortgage loans or residential
6 mortgage loans made to Montana businesses, including farms, and to residents. For the purposes of this section,
7 the terms of 17-6-201(3)(d) apply to the purchase of a loan or a portion of a loan originated by a financial
8 institution.

9 (4) The report must also provide a timeline for the Montana resources bank to be licensed as a
10 commercial bank pursuant to Title 32, chapter 1, and subject to [section 1(3)(b)], and after the board of
11 investments has satisfied the state banking board that recommendations from the banking commissioner have
12 been incorporated into the application for a certificate of authorization, the Montana resources bank's application
13 must be automatically approved.

14 (5) The report must further include a transition period to allow for certain functions, as determined by the
15 board of investments, to be transferred from the board of investments to the Montana resources bank subject to
16 the approval of the 64th legislature.

17

18 **Section 4.** Section 2-15-1808, MCA, is amended to read:

19 **"2-15-1808. Board of investments -- allocation -- composition -- quasi-judicial.** (1) There is a board
20 of investments within the department of commerce.

21 (2) Except as otherwise provided in this subsection, the board is allocated to the department for
22 administrative purposes as prescribed in 2-15-121.

23 (3) (a) The board may employ a chief investment officer and an executive director who have general
24 responsibility for selection and management of the board's staff and for direct investment and economic
25 development activities. The board shall prescribe the duties and annual salaries of the chief investment officer,
26 executive director, and six professional staff positions. The chief investment officer, executive director, and six
27 professional staff serve at the pleasure of the board.

28 (b) The board may employ a president and three professional staff of the Montana resources bank
29 provided for in [section 1]. The board shall prescribe the duties and annual salaries of the bank president and the
30 three professional staff. The bank president and the three professional staff serve at the pleasure of the board.

1 ~~(3)~~(4) The board is composed of nine members appointed by the governor, as prescribed in 2-15-124,
2 and two ex officio, nonvoting members. The members are:

3 (a) one member from the public employees' retirement board, provided for in 2-15-1009, and one
4 member from the teachers' retirement board provided for in 2-15-1010. If either member of the respective
5 retirement boards ceases to be a member of the retirement board, the position of that member on the board of
6 investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

7 (b) seven members who will provide a balance of professional expertise and public interest and
8 accountability, who are informed and experienced in the subject of investments, and who are representatives of:

9 (i) the financial community;

10 (ii) small business;

11 (iii) agriculture; and

12 (iv) labor; and

13 (c) two ex officio, nonvoting legislative liaisons to the board, of which one must be a senator appointed
14 by the president of the senate and one must be a representative appointed by the speaker of the house. The
15 liaisons may not be from the same political party. Preference in appointments is to be given to legislators who
16 have a background in investments or finance. The legislative liaisons shall serve from appointment through each
17 even-numbered calendar year and may attend all board meetings. Legislative liaisons appointed pursuant to this
18 subsection ~~(3)(c)~~ (4)(c) are entitled to compensation and expenses, as provided in 5-2-302, to be paid by the
19 legislative council.

20 ~~(4)~~(5) The board is designated as a quasi-judicial board for the purposes of 2-15-124."

21

22 **Section 5.** Section 2-18-103, MCA, is amended to read:

23 **"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following
24 officers and employees in state government:

25 (1) elected officials;

26 (2) county assessors and their chief deputies;

27 (3) employees of the office of consumer counsel;

28 (4) judges and employees of the judicial branch;

29 (5) members of boards and commissions appointed by the governor, the legislature, or other elected
30 state officials;

- 1 (6) officers or members of the militia;
- 2 (7) agency heads appointed by the governor;
- 3 (8) academic and professional administrative personnel with individual contracts under the authority of
4 the board of regents of higher education;
- 5 (9) academic and professional administrative personnel and live-in houseparents who have entered into
6 individual contracts with the state school for the deaf and blind under the authority of the state board of public
7 education;
- 8 (10) at the board of investments:
- 9 (a) investment officer, assistant investment officer, executive director, and five professional staff positions
10 ~~of the board of investments; and~~
- 11 (b) the Montana resources bank president and three professional staff positions of the Montana
12 resources bank;
- 13 (11) four professional staff positions under the board of oil and gas conservation;
- 14 (12) assistant director for security of the Montana state lottery;
- 15 (13) executive director and employees of the state compensation insurance fund;
- 16 (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- 17 (15) executive director of the Montana wheat and barley committee;
- 18 (16) commissioner of banking and financial institutions;
- 19 (17) training coordinator for county attorneys;
- 20 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- 21 (19) chief information officer in the department of administration;
- 22 (20) chief business development officer and six professional staff positions in the office of economic
23 development provided for in 2-15-218;
- 24 (21) chief public defender appointed by the public defender commission pursuant to the Montana Public
25 Defender Act, Title 47, chapter 1, and the employees in the positions listed in 47-1-201(3)(a), who are appointed
26 by the chief public defender; and
- 27 (22) chief appellate defender in the office of appellate defender."
- 28

29 **Section 6.** Section 17-5-1650, MCA, is amended to read:

30 "**17-5-1650. Annual report.** (1) By December 31 of each year, the board shall publish a financial report

1 for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished by
2 providing two copies to the legislative services division and a copy to a legislator on request.

3 (2) (a) The report must include a statement of the board's current financial position with respect to its
4 activities under this part, a summary of its activities pursuant to this part during the previous year (including a
5 listing of the eligible governmental securities purchased by the board, a listing of the bonds and notes sold by the
6 board, and a summary of the performance of any other investments of the board's funds received under this part),
7 an estimate of the levels of activities for the next year, and a comparison of the activities during the previous year
8 with the estimates of those activities that were made in the previous annual report.

9 (b) The report must include a review of the management and operational structure proposed for the
10 Montana resources bank and for reports filed after January 1, 2015, a separate statement on the Montana
11 resources bank's activities."
12

13 **Section 7.** Section 32-1-102, MCA, is amended to read:

14 **"32-1-102. Institutions to which chapter is applicable.** (1) The word "bank" as used in this chapter
15 means any corporation that has been incorporated to conduct the business of receiving money on deposit or
16 transacting a trust or investment business, as defined in this chapter.

17 (2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business is
18 doing a commercial or savings bank business, whether the deposit is made subject to check or is evidenced by
19 a certificate of deposit, a passbook, a note, or other receipt. This section does not apply to or include money or
20 its equivalent left in escrow or left with an agent pending investment in real estate or securities for or on account
21 of the agent's principal.

22 (3) It is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking
23 business within this state except by means of a corporation duly organized for that purpose.

24 (4) Banks are divided into the following classes:

25 (a) commercial banks;

26 (b) savings banks;

27 (c) trust companies;

28 (d) investment companies.

29 (5) This chapter does not apply to any investment company or corporation established prior to March
30 8, 1927, under authority of the law of Montana not accepting, receiving, or holding money on deposit.

1 (6) This chapter does not apply to a student financial institution, as defined in 32-1-115.

2 (7) Except as specified in [section 1], this chapter applies to the Montana resources bank."

3
4 **NEW SECTION. Section 8. Appropriation.** There is appropriated \$9,500 from the general fund to the
5 board of investments for the purpose of developing a report on the management, operational structure, and
6 capitalization of the Montana resources bank within the board of investments. The money must be spent by
7 December 31, 2014. Any money unexpended or unencumbered by December 31, 2014, for the purpose
8 described in this section must revert to the general fund, and the provisions of 17-7-304(4)(a) do not apply.

9
10 **NEW SECTION. Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as an
11 integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].

12 (2) [Sections 2 and 3] are intended to be codified as an integral part of Title 17, and the provisions of Title
13 17 apply to [sections 2 and 3].

14
15 **NEW SECTION. Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is
16 effective July 1, 2013.

17 (2) [Sections 4, 5, and 7] are effective July 1, 2015.

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