

SENATE BILL NO. 390
INTRODUCED BY J. MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND RESTRUCTURING THE STATE'S ECONOMIC DEVELOPMENT FUNCTIONS; RECONSTITUTING THE BOARD OF RESEARCH AND COMMERCIALIZATION AS THE BOARD OF ECONOMIC DEVELOPMENT; TRANSFERRING THE FUNCTIONS OF THE OFFICE OF ECONOMIC DEVELOPMENT TO THE BOARD OF ECONOMIC DEVELOPMENT; AUTHORIZING THE BOARD OF ECONOMIC DEVELOPMENT TO HIRE THE CHIEF ECONOMIC DEVELOPMENT OFFICER; AMENDING SECTIONS 2-15-219, 2-15-1819, 2-18-103, 5-5-223, 15-35-108, 90-1-102, 90-1-105, 90-1-112, 90-1-113, 90-1-114, 90-3-1003, 90-3-1005, AND 90-3-1006, MCA; REPEALING SECTION 2-15-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-15-219, MCA, is amended to read:

"2-15-219. Chief ~~business~~ economic development officer -- duties. ~~(1)~~ The chief ~~business~~ economic development officer shall:

~~(a)~~(1) advise the ~~governor~~ director of the department and the board of economic development on policy issues related to economic development;

~~(b)~~(2) lead the state's business recruitment, retention, and expansion efforts;

~~(c)~~(3) coordinate the development and distribution of a statewide coordinated strategic economic development plan;

~~(d)~~(4) coordinate the individual functions and programs ~~within~~ administered by the office as provided in 2-15-218 board of economic development; and

~~(e)~~(5) serve as the state's primary liaison between federal, state, and local agencies, Montana tribal governments, private nonprofit economic development organizations, and the private sector."

Section 2. Section 2-15-1819, MCA, is amended to read:

"2-15-1819. Board of ~~research and commercialization technology~~ economic development. (1) There is a Montana board of ~~research and commercialization technology~~ economic development.

(2) The board consists of ~~six~~ seven members of the private sector. One member must be appointed by

the president of the senate, one member must be appointed by the minority leader of the senate, one member must be appointed by the speaker of the house, one member must be appointed by the minority leader of the house, and ~~two~~ three members must be appointed by the governor. One of the members appointed by the governor must be an enrolled member of a Montana tribal government.

(3) A member who ceases to live in the state is disqualified from membership, and the position becomes vacant. If a vacancy occurs, the position must be filled in the manner of the original appointment.

(4) The board shall hire ~~an executive director~~ the chief economic development officer and shall prescribe the ~~executive director's~~ chief economic development officer's salary and duties.

(5) (a) The board is a quasi-judicial entity subject to the provisions of 2-15-124, except that none of the members are required to be licensed to practice law in the state.

(b) The board shall elect a presiding officer from among its members at an annual election. The presiding officer may be reelected.

(c) Except for the original appointments, members shall serve 2-year terms.

(6) The board is attached to the department of commerce for administrative purposes only."

Section 3. Section 2-18-103, MCA, is amended to read:

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

- (1) elected officials;
- (2) county assessors and their chief deputies;
- (3) employees of the office of consumer counsel;
- (4) judges and employees of the judicial branch;
- (5) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- (6) officers or members of the militia;
- (7) agency heads appointed by the governor;
- (8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- (9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

- (10) investment officer, assistant investment officer, executive director, and five professional staff positions of the board of investments;
- (11) four professional staff positions under the board of oil and gas conservation;
- (12) assistant director for security of the Montana state lottery;
- (13) executive director and employees of the state compensation insurance fund;
- (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- (15) executive director of the Montana wheat and barley committee;
- (16) commissioner of banking and financial institutions;
- (17) training coordinator for county attorneys;
- (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- (19) chief information officer in the department of administration;
- (20) chief ~~business~~ economic development officer and six professional staff positions in the ~~office of economic development provided for in 2-15-218~~ department of commerce."

Section 4. Section 5-5-223, MCA, is amended to read:

"5-5-223. Economic affairs interim committee. The economic affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

- (1) department of agriculture;
- (2) department of commerce;
- (3) department of labor and industry;
- (4) department of livestock;
- (5) department of public service regulation; and
- (6) office of the state auditor and insurance commissioner; ~~and~~
- ~~(7) office of economic development."~~

Section 5. 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;
- (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~~ board 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 of property within the district.

(c) For the fiscal year beginning July 1, 2001, there is transferred from the interest income referred to in subsection (7)(b) \$4.85 million to the research and commercialization state special revenue account created in 90-3-1002. For the fiscal year beginning July 1, 2002, there is transferred from the interest income referred to in subsection (7)(b) \$3.165 million to the research and commercialization state special revenue account created in 90-3-1002. Beginning July 1, 2003, there is transferred annually from the interest income referred to in subsection (7)(b) \$3.65 million to the research and commercialization state special revenue account created 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 2002.)

15-35-108. (Effective July 1, 2005) 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) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) 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) 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) 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 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 6. Section 90-1-102, MCA, is amended to read:

"90-1-102. Functions of department of commerce -- state planning. The department of commerce shall:

- (1) make economic and social studies needed to accomplish the purposes of this part;
- (2) coordinate and assist regional development groups in the comprehensive development of the resources of the region to the betterment of Montana;
- (3) assemble and correlate information for the purpose of making long-range plans for economic and resource development of the state and its subdivisions relating to all of the factors that influence the development of new and existing economic enterprises, including taxes and the regulation of industry;
- (4) provide advice and assistance to Montana business and labor in the field of economic development and bring to the attention of the governor those significant problems adversely affecting economic development that may be relieved by state action;
- (5) locate and maintain information on prime sites for industrial, agricultural, mineral, forestry, commercial, and residential development and on sites of historical importance and make recommendations for protecting and preserving those sites;

(6) apply for, accept, and administer grants from the federal government or other public or private sources to accomplish the objectives of this part and enter into contracts, including agreements with adjoining states, with respect to planning involving adjoining states;

(7) serve as the consultative, coordinating, and advisory agency for state departments, officials, and agencies in state planning and for encouraging and aiding local planning bodies, either directly or by securing planning assistance, consulting services, and technical aid, which may include land use, demographic, and economic studies and surveys and comprehensive plans; and

(8) assist the board of economic development as requested by the board."

Section 7. Section 90-1-105, MCA, is amended to read:

"90-1-105. Functions of department of commerce -- economic development. The department of commerce shall:

(1) provide coordinating services to aid state and local groups and Indian tribal governments in the promotion of new economic enterprises and conduct publicity and promotional activities in connection with new economic enterprises;

(2) collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial, and industrial enterprises within this state;

(3) ~~serve~~ assist the chief economic development officer in serving as the state's official liaison between persons interested in locating new economic enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

(4) aid communities and Indian tribal governments interested in obtaining new business or expanding existing business;

(5) study and promote means of expanding markets for Montana products;

(6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state;

(7) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the promotion and enhancement of economic opportunities on the state's Indian reservations; and

(8) assist the state-tribal economic development commission established in 90-1-131 in:

(a) identifying federal government and private sector funding sources for economic development on Indian reservations in Montana; and

(b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in

accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana. (Subsection (8) terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

Section 8. Section 90-1-112, MCA, is amended to read:

"90-1-112. Policy -- purpose. (1) It is the policy of this state to:

(a) strengthen the foundations of the state's business environment and diversify and expand existing economic endeavors to achieve long-term economic stability;

(b) cooperate with business enterprises, local governments, other public organizations, and the federal government and use all practical means and measures, including financial and technical assistance, to:

(i) establish an economic climate in which the state's natural resources and agricultural operations remain constant contributors to the state's economic welfare;

(ii) articulate a coherent economic development vision for the future; and

(iii) take a proactive role to ensure that Montana has the flexibility and resources to be an effective competitor in the changing global marketplace.

(2) The purpose of ~~2-15-218~~, ~~2-15-219~~, and 90-1-112 through 90-1-114 is to provide a vision and a direction through the development of strategies and initiatives to ensure that the state's role in expanding the economy takes place in an orderly and effective manner."

Section 9. Section 90-1-113, MCA, is amended to read:

"90-1-113. Cooperation of state agencies. State agencies that have economic development responsibilities shall cooperate with the office board of economic development and provide information, technical expertise, and other assistance when requested by the office board of economic development or the department of commerce."

Section 10. Section 90-1-114, MCA, is amended to read:

"90-1-114. Rulemaking authority. (1) The office board of economic development shall adopt rules to implement the provisions of ~~2-15-218~~, ~~2-15-219~~, 90-1-112, 90-1-113, and this section. The rules must include but are not limited to:

(a) criteria for providing assistance to communities; and

(b) coordinating economic development efforts among other state agencies, Montana tribal governments, private enterprise, federal agencies, and local governments.

(2) The ~~office~~ board may adopt rules necessary to administer the duties and responsibilities of the ~~office~~ board."

Section 11. Section 90-3-1003, MCA, is amended to read:

"90-3-1003. Research and commercialization account -- use. (1) The research and commercialization account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of ~~research and commercialization technology~~ economic development, provided for in 2-15-1819, for the purposes provided in this section.

(2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth opportunities for Montana and constitute a public purpose.

(3) The account may be used only for:

(a) loans that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(b) grants that are to be used for production agriculture research and commercialization projects to be conducted at research and commercialization centers located in Montana; or

(c) matching funds for grants from nonstate sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana.

(4) At least 20% of the account funds approved for research and commercialization projects must be directed toward projects that enhance production agriculture.

(5) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

(6) The board shall establish policies, procedures, and criteria that achieve the objectives in its research and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

(a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

(b) whether the project shows promise for enhancing technology-based sectors of Montana's economy or promise for commercial development of discoveries;

(c) whether the project employs or otherwise takes advantage of existing research and commercialization strengths within the state's public university and private research establishment;

(d) whether the project involves a realistic and achievable research project design;

(e) whether the project develops or employs an innovative technology;

(f) verification that the project activity is located within the state;

(g) whether the project's research team possesses sufficient expertise in the appropriate technology area to complete the research objective of the project;

(h) verification that the project was awarded based on its scientific merits, following review by a recognized federal agency, philanthropic foundation, or other private funding source; and

(i) whether the project includes research opportunities for students.

(7) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the account must be retained in the account. Repayments of loans and any agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the transfer of technology from a research and commercialization center to another nonstate organization or ownership of corporate stock in a private sector organization must be deposited in the account.

(8) The board shall refer grant applications to external peer review groups. The board shall compile a list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall review the application and make a recommendation to the board as to whether the application for a grant should be approved. The board shall review the recommendation of the peer review group and either approve or deny a grant application.

(9) The board shall identify whether a grant or loan is to be used for basic research, applied research, or some combination of both. For the purposes of this section, "applied research" means research that is conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted to uncover the basic function or mechanism of a scientific question."

Section 12. Section 90-3-1005, MCA, is amended to read:

"90-3-1005. Meetings -- compensation. (1) The Montana board of ~~research and commercialization technology~~ economic development may determine the time and place of its meetings but shall meet at least once each quarter.

(2) Each member of the board, ~~except legislative members~~, is entitled to receive compensation of \$50 a day plus travel expenses, pursuant to 2-18-501 through 2-18-503, for each day spent conducting official board business."

Section 13. Section 90-3-1006, MCA, is amended to read:

"90-3-1006. ~~Executive director~~ Chief economic development officer -- qualifications. (1) The Montana board of ~~research and commercialization technology~~ economic development shall hire ~~an executive~~

~~director~~ the chief economic development officer who is responsible for:

- (a) managing staff;
- (b) documenting and monitoring grants approved by the board according to performance benchmarks established by the board;
- (c) reporting to the legislature and governor about investments made in research and commercialization activities and developments and opportunities in diversified research arenas;
- (d) monitoring and promoting activities that increase the presence of Montana products in new and expanding markets;
- (e) promoting and facilitating program strategies that add value to Montana products;
- (f) business retention and recruitment;
- (g) workforce development;
- (h) technology development;
- (i) infrastructure improvement;
- (j) permitting and regulatory processes; and
- ~~(f)~~(k) any additional responsibilities determined necessary and appropriate by the board.

(2) The ~~executive director~~ chief economic development officer may hire additional staff as necessary within budgetary limitations as prescribed by the board.

(3) The board may employ or contract with policy specialists to implement the provisions of subsection (1) and the functions referred to in 2-15-219.

(4) The board may accept grants, loans, and other gifts from sources other than the state for the purpose of administering the provisions of 2-15-219, 90-1-112 through 90-1-114, and this section."

NEW SECTION. Section 14. Repealer. Section 2-15-218, MCA, is repealed.

NEW SECTION. Section 15. Code commissioner instructions. (1) The code commissioner shall renumber section 2-15-219 as an integral part of Title 2, chapter 15, part 18. The code commissioner shall change all references, including those that are enacted during the 58th legislative session to reflect the renumbering.

(2) In any legislation enacted during the 58th legislative session that refers to the:

(a) "office of economic development", the code commissioner shall substitute the "board of economic development";

(b) "chief business development officer", the code commissioner shall substitute the "chief economic development officer"; and

(c) "board of research and commercialization technology", the code commissioner shall substitute the "board of economic development".

NEW SECTION. Section 16. Effective date. [This act] is effective July 1, 2003.

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