

1 HOUSE BILL NO. 643

2 INTRODUCED BY J. READ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STATE BANK OF MONTANA AS A NEW AGENCY
5 WITHIN STATE GOVERNMENT; PROVIDING DUTIES FOR THE STATE BANK; CREATING A STATE DEBT;
6 EXEMPTING THE BANK PRESIDENT FROM THE STATE PAY CLASSIFICATION SYSTEM; REVISING
7 DISTRIBUTION OF INTEREST INCOME ON COAL SEVERANCE TAX COLLECTIONS AND THE COAL
8 SEVERANCE TAX TRUST FUND; REVISING DISTRIBUTION OF VOLUME CAP BONDS; REVISING DUTIES
9 OF THE DEPARTMENT OF COMMERCE, THE BOARD OF HOUSING, THE MONTANA FACILITY FINANCE
10 AUTHORITY, THE GROWTH THROUGH AGRICULTURE PROGRAM, AND VARIOUS ECONOMIC
11 DEVELOPMENT PROGRAMS; PROVIDING FOR \$15 MILLION IN REVENUE BONDS FOR STARTUP
12 FINANCING; PROVIDING FOR A TRANSITION FROM GRANTS TO LOANS FOR THE TREASURE STATE
13 ENDOWMENT FUND, THE TREASURE STATE WATER FUND, AND THE ECONOMIC DEVELOPMENT FUND;
14 PROVIDING A TRANSITION FOR THE BONDING AUTHORITY OF THE BOARD OF HOUSING AND THE
15 MONTANA FACILITY FINANCE AUTHORITY; PROVIDING RULEMAKING AUTHORITY; PROVIDING A
16 STATUTORY APPROPRIATION; AMENDING SECTIONS 2-15-104, 2-15-1814, 2-15-1815, 2-18-103, 15-35-108,
17 15-38-302, 17-2-105, 17-5-703, 17-5-704, 17-5-710, 17-5-711, 17-5-1302, 17-5-1312, 17-5-1325, 17-5-1502,
18 17-5-1503, 17-5-1507, 17-5-1508, 17-5-1509, 17-5-1511, 17-5-1521, 17-5-1524, 17-5-1526, 17-5-1527,
19 17-5-1624, 17-6-105, 17-6-201, 17-6-204, 17-6-211, 17-6-302, 17-6-305, 17-6-308, 17-6-309, 17-6-311,
20 17-6-313, 17-6-314, 17-6-316, 17-6-317, 17-6-318, 17-6-319, 17-6-321, 17-6-322, 17-6-324, 17-6-345, 17-6-347,
21 17-6-403, 17-6-406, 17-6-407, 17-7-502, 32-1-202, 85-1-102, 85-1-601, 85-1-602, 85-1-603, 85-1-605, 85-1-606,
22 85-1-608, 85-1-609, 85-1-610, 85-1-612, 85-1-613, 85-1-615, 85-1-616, 85-1-617, 85-1-618, 85-1-621, 85-1-622,
23 85-1-624, 85-2-105, 90-1-101, 90-1-116, 90-1-119, 90-1-201, 90-1-203, 90-1-204, 90-1-205, 90-1-501, 90-1-502,
24 90-3-1002, 90-3-1003, 90-6-103, 90-6-104, 90-6-106, 90-6-107, 90-6-108, 90-6-109, 90-6-110, 90-6-111,
25 90-6-112, 90-6-113, 90-6-115, 90-6-116, 90-6-119, 90-6-121, 90-6-123, 90-6-125, 90-6-126, 90-6-127, 90-6-132,
26 90-6-133, 90-6-134, 90-6-135, 90-6-136, 90-6-504, 90-6-701, 90-6-715, 90-7-102, 90-7-112, 90-7-113, 90-7-116,
27 90-7-202, 90-7-211, 90-7-212, 90-7-225, 90-7-228, 90-7-229, 90-7-230, 90-7-301, 90-7-302, 90-7-303, 90-7-304,
28 90-7-305, 90-7-307, 90-7-311, 90-7-312, 90-7-317, 90-7-318, 90-9-103, 90-9-202, 90-9-203, 90-9-301, 90-9-306,
29 90-9-307, 90-9-308, 90-9-309, AND 90-9-311, MCA; REPEALING SECTIONS 17-6-409, 90-1-104, 90-6-120,
30 AND 90-7-319, MCA; AND PROVIDING EFFECTIVE DATES."

1
2 WHEREAS, the state of North Dakota has weathered the recession far better than any other state in
3 terms of low unemployment and a solid fiscal condition for the state; and

4 WHEREAS, the Bank of North Dakota has functioned as that state's economic development financier,
5 which has allowed partnering with most financial institutions in North Dakota while retaining more independence
6 from federal and national financial institutions, backing deposits not through the Federal Deposit Insurance
7 Corporation but by the full faith and credit of the state of North Dakota and immunizing against much of the turmoil
8 in the national and worldwide financial markets; and

9 WHEREAS, the Bank of North Dakota exercises some functions similar to those of Montana's Board of
10 Investments, including handling all money of the state and state institutions and the money of political
11 subdivisions that choose to deposit funds with the Bank of North Dakota; and

12 WHEREAS, in Article VIII, section 13, the Montana Constitution requires that the Legislature provide for
13 a unified investment program for public funds and public retirement system and state compensation insurance
14 fund assets and, accordingly, created the board of investments, which is required to exercise conservative, safe
15 investments for various funds, including the public school fund and the permanent funds of the Montana university
16 system, and to act in a fiduciary capacity for public retirement system assets and state compensation insurance
17 fund assets; and

18 WHEREAS, multiple state agencies including the Board of Housing and the Montana Facility Finance
19 Authority issue bonds, which may be better coordinated financially by one entity acting as the Last Chance State
20 Bank under program-specific directives from the Board of Housing and the Montana Facility Finance Authority.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 NEW SECTION. **Section 1. State bank created -- purpose -- legislative audit.** (1) There is a state
25 bank of Montana, created as a department within state government and headed by the bank president. The name
26 of the bank is the "Last Chance State Bank". The bank is to operate as an investment company, as defined in
27 32-1-108.

28 (2) The board of examiners shall act as the board of directors of the bank. The bank is under the overall
29 management and control of the board of examiners, which shall approve the articles of incorporation as
30 developed by the advisory board as defined in [section 2], adopt policies as recommended by the advisory board

1 for bank governance to be implemented by the bank president, and oversee the bank president's management
2 of the bank.

3 (3) The bank president has the status of a department director and is subject to 2-15-112. The
4 president's appointment is subject to senate confirmation.

5 (4) The state bank shall promote agriculture, education, community development, economic development,
6 commerce, and industry in this state by acting in partnership with other financial institutions, economic
7 development groups, guaranty agencies, and state agencies to serve as a funding resource for persons doing
8 business within this state.

9 (5) The bank, as a state agency, is:

10 (a) not subject to 17-2-303, 17-2-304, or Title 17, chapter 7, parts 1 through 4;

11 (b) subject to open meeting laws and laws regarding retention of records, information technology, and
12 audit by the legislative auditor. A financial audit of the bank's books and records must be done annually, and the
13 actual costs of the audit must be paid from the bank's funds.

14 (6) The bank shall create a bank seal. All business of the bank must be under the name of "Last Chance
15 State Bank" and signed with the seal.

16

17 **NEW SECTION. Section 2. Definitions.** As used in [sections 2 through 7], the following definitions
18 apply:

19 (1) "Advisory board" means the state banking board provided for in 2-15-1025.

20 (2) "Bank" means the last chance state bank, created in [section 1].

21 (3) "Bank president" means the person appointed by the governor to manage the bank.

22

23 **NEW SECTION. Section 3. Application of banking, public obligation registration laws -- limited**
24 **guarantee of deposits -- deposits not taxable.** (1) (a) Except as provided in subsection (2)(b), the bank is
25 subject to the laws, rules, and regulations generally applicable to an investment company, as defined in 32-1-108,
26 including 32-1-211 through 32-1-213, 32-1-215, 32-1-234, 32-1-236, 32-1-362, 32-1-372, 32-1-373, 32-1-423
27 through 32-1-427, 32-1-430, 32-1-433 through 32-1-435, 43-1-437, 32-1-440, 32-1-441, 32-1-444, 32-1-445,
28 32-1-447, 32-1-448, 32-1-461 through 32-1-464, 32-1-471 through 32-1-474, 32-1-482 through 32-1-485,
29 32-1-491 through 32-1-494, and Title 32, chapter 1, part 7.

30 (b) The department of administration has no approval authority over the bank's articles of incorporation,

1 as provided in 32-1-301, and the rules of the bank supersede those of the department of administration only as
2 the department of administration rules apply to the bank itself and conflict with the bank's requirements as a state
3 agency or with [sections 2 through 7].

4 (2) The bank is responsible for complying with Title 17, chapter 5, part 11, regarding public obligation
5 registration.

6 (3) The bank is a regulated lender for the purposes of 31-1-111 and subject to Title 31, chapter 1, part
7 1.

8 (4) All deposits in the bank are backed by the full faith and credit of the state of Montana. Deposits are
9 not insured by the federal government but must be backed by resources dedicated by the legislature. An
10 obligation undertaken by the bank must include a notice that the obligation is a debt of the state backed by
11 specified resources but not an obligation to the extent that the taxing power of the state is pledged to the payment
12 of the principal or interest on the obligation.

13 (5) All deposits in the bank are exempt from state, county, and municipal taxes.
14

15 **NEW SECTION. Section 4. Deposits -- transfer of authority -- exemptions.** (1) The board of
16 investments shall deposit with the bank the interest on earnings from the coal tax bond fund as provided in Title
17 17, chapter 5, part 7, for the purposes described in [sections 6 and 7].

18 (2) The board of investments shall deposit with the bank the proceeds of revenue bonds issued pursuant
19 to [section 144] to finance the startup of the bank.

20 (3) The bank may receive deposits from any source, including the United States government and any
21 foreign or domestic individual, corporation, association, municipality, bank, or government.

22 (4) As of [the effective date of this section], the bank shall assume the duties associated with bonds,
23 notes of anticipation, or loans issued under Titles 85 and 90 and as provided in Title 17, chapter 5, parts 13 and
24 15, and must be considered a successor to the department of natural resources and conservation with regard
25 to loan programs in Title 85, and to the department of commerce with regard to programs in Title 90, including
26 the loan programs of the board of housing and Montana facility finance authority. Repayment of bonds issued
27 by the board of investments for programs assigned to the bank as of [the effective date of this section] are the
28 responsibility of the bank and must be coordinated with the board of investments.

29 (5) The bank is exempt from the reporting provisions and limits under Title 17, chapter 2, as related to
30 deposits in the bank unless otherwise specified in [sections 2 through 7].

1
2 **NEW SECTION. Section 5. Advisory board duties.** (1) In addition to the duties assigned under
3 32-1-202, the advisory board on behalf of the state bank shall:

4 (a) develop articles of incorporation for the bank and submit the articles of incorporation to the board of
5 examiners for review and approval;

6 (b) meet regularly with the management of the bank to review the bank's operations;

7 (c) recommend to the bank president ways to improve management performance, customer service, and
8 the internal methods, procedures, and operating policies of the bank;

9 (d) establish additional objectives for the operation of the bank subject to review and comment by the
10 appropriate interim committee of the legislature; and

11 (e) review and approve the director's appointment of officers of the bank.

12 (2) The advisory board may not conduct hearings, as provided in 32-1-202(5) related to the state bank
13 but may request that the board of examiners conduct a hearing if a protest about a bank activity rises to the level
14 of a hearing.

15
16 **NEW SECTION. Section 6. Bank powers -- obligations.** (1) The bank has the authority to:

17 (a) issue bonds or incur other debt as described in [sections 2 through 7], including the issuance of notes
18 or refunding bonds;

19 (b) except as provided in 17-6-308, invest any funds that are not required for immediate use, subject to
20 any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6;

21 (c) contract in its own name for the investment of funds, borrowing of funds, or any other financial activity
22 appropriate to carry out the purposes of [sections 2 through 7] and the bank's obligations under Titles 85 and 90;

23 (d) participate with any financial institution in the purchase or guarantee of any loan or obligation;

24 (e) issue bond anticipation notes or any other anticipatory financial obligations to secure funding for the
25 purposes of [sections 2 through 7] and the bank's obligations under Titles 85 and 90;

26 (f) make loans, subject to the provisions of subsection (4);

27 (g) enter into agreements or make advance commitments to ensure repayments required by loan
28 agreements made by a lender subject to terms and conditions established by bank policy; or

29 (h) establish programs or work with existing programs related to selling, purchasing, making, or insuring
30 loans to finance the costs of programs under Titles 85 and 90.

- 1 (2) The bank has the same authority and powers of the board of investments as provided in 17-5-1504.
- 2 (3) The bank may serve as a reserve depository for funds deposited by banks in this state that choose
3 to use the state bank of Montana as a reserve depository and perform the functions and provide the services of
4 a clearinghouse, including providing all facilities for domestic and foreign exchange. The bank may rediscount
5 paper on terms that the board of examiners determines.
- 6 (4) Subject to the provisions of subsection (6) and as provided in [sections 2 through 7] and elsewhere
7 in law, the bank may:
- 8 (a) make loans to or purchase, guarantee, or hold loans for:
- 9 (i) state-chartered or federally chartered lending agencies or institutions or any other financial institutions;
- 10 (ii) holders of certificates of deposit issued by the bank or holders of savings accounts with the bank up
11 to 90% of the value of the certificates of deposit or the savings accounts, which are to be used as security;
- 12 (iii) farmers who are residents of this state if the loans are secured by recorded mortgages that give the
13 bank a first lien on real estate in Montana in amounts not to exceed 80% of the value of the security;
- 14 (iv) individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of
15 bank stock of a bank located in this state;
- 16 (v) nonprofit organizations that are exempt from federal taxation under 26 U.S.C. 501(c)(3) if the loans
17 are used for construction, reconstruction, repair, renovation, maintenance, and associated costs;
- 18 (vi) nonprofit corporations that provide funds to rural businesses under programs created in 7 U.S.C.
19 1932, et seq., or regulated under 7 CFR 1948, 1951, or 1955 regarding businesses and community development
20 in rural areas;
- 21 (vii) instrumentalities of the state or local governments; or
- 22 (viii) an investment company created for completing a trust preferred securities transaction for the benefit
23 of a financial institution located in this state;
- 24 (b) make agricultural real estate loans as a participant in the agricultural mortgage secondary market
25 program established under 12 U.S.C. 2279aa through 2279aa-14; and
- 26 (c) purchase participation interests in loans made or held by banks, bank holding companies,
27 state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other
28 entity that provides financial services and that meets underlying standards that are generally accepted by state
29 or federal financial regulatory agencies.
- 30 (5) The bank may not make loans until the accrued interest from the coal tax bond fund as provided in

1 Title 17, chapter 5, part 7, and any other capital reserves of the bank reach \$20 million, as certified by the state
2 treasurer to the board of examiners.

3 (6) Except for loans to programs required under Title 17, 85, or 90, the bank shall impose the same terms
4 for a loan or an extension of credit as permitted for any state-chartered bank or credit union under this title.

5 (7) The bank shall routinely meet with its advisory board and with boards of other government agencies
6 responsible for projects funded by the bank.

7 (8) Any note, bond, or coupon issued by the bank under the signature of a bank representative
8 authorized to issue notes, bonds, or coupons or any predecessor of the bank in programs under Title 85 or 90
9 that were transferred as provided in [section 4] remains valid and sufficient for all purposes even if the person
10 who signed the note, bond, or coupon no longer is an authorized bank representative or was a predecessor on
11 or before [the effective date of this section].

12 (9) The bank shall retain confidentiality of records that, if disclosed, would constitute a clearly
13 unwarranted invasion of personal privacy. However, the budget director has access to the bank's information as
14 provided in 17-1-132, and the department of administration has access to the bank's records as provided in
15 17-2-109. The confidentiality of the bank's records must be maintained.

16 (10) The bank shall coordinate with:

17 (a) the state treasurer in relation to the state treasurer's fiscal duties provided for in 17-1-111; and

18 (b) state agencies or programs on behalf of which the bank issues bonds.

19 (11) The bank may not make any loan or otherwise give or extend credit to a member of the board of
20 examiners during that member's term on the board of examiners. Before taking office, a member of the board of
21 examiners shall file a statement with the bank indicating any personal interest that the member has in any loan
22 or loan application on file with the bank.

23 (12) By December 31 of each year, the bank shall publish a financial report for distribution to the
24 governor, the legislature, and the public. Distribution must be made electronically unless there is a request in
25 writing for a paper copy. The report must include a statement of the bank's current financial position, its activities
26 in the previous year, a listing of the bonds and notes sold by the bank, a summary of the performance of other
27 applications of bank funds made in the previous year, a projection of activities in the coming year, and a
28 comparison of the activities projected with the activities completed as described in the prior year's annual report.

29
30 NEW SECTION. **Section 7. Bank loans to beginning farmers.** (1) Subject to the provisions of [section

1 6(5)], the bank shall maintain and administer a revolving loan fund for the purpose of making or participating in
2 loans to farmers or ranchers for startup operations in this state to help them buy agricultural real estate, farming
3 or ranching equipment, and livestock.

4 (2) All money transferred into the fund, along with interest accrued by the fund and payments to the fund
5 of principal and interest on loans made from the fund, are statutorily appropriated as provided in 17-7-502 for the
6 purpose of providing loans and to supplement the interest rate on loans to beginning farmers or ranchers.

7 (3) The bank may receive from the interest accrued in the fund a service fee for administering the fund.

8 (4) The criteria for issuing loans or participating in loans must include:

9 (a) a provision that a loan may not be for more than 80% of the appraised value of the agricultural
10 collateral at a rate to be set by the board of examiners;

11 (b) a first security interest for the bank on the loan;

12 (c) a term of not more than 25 years for a real estate loan or 7 years for a loan for equipment or livestock;

13 (d) additional criteria to be determined by the board of examiners by rule.
14

15 **Section 8.** Section 2-15-104, MCA, is amended to read:

16 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
17 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state
18 government and their respective functions are allocated by this chapter among and within the following
19 departments or entities:

20 (a) department of administration;

21 (b) department of military affairs;

22 (c) department of revenue;

23 (d) state board of education;

24 (e) department of labor and industry;

25 (f) department of commerce;

26 (g) department of justice;

27 (h) department of public health and human services;

28 (i) department of corrections;

29 (j) department of transportation;

30 (k) department of public service regulation;

- 1 (l) department of agriculture;
 2 (m) department of livestock;
 3 (n) department of natural resources and conservation;
 4 (o) department of fish, wildlife, and parks;
 5 (p) department of environmental quality;
 6 (q) last chance state bank.

7 (2) ~~(a) For~~ Except as provided in subsection (2)(b), for its internal structure, each department shall adhere
 8 to the following standard terms:

- 9 ~~(a)(i) The~~ the principal unit of a department is being a division. Each division is headed by an
 10 administrator.
 11 ~~(b)(ii) The~~ the principal unit of a division is being a bureau. Each bureau is headed by a chief.
 12 ~~(c)(iii) The~~ the principal unit of a bureau is being a section. Each section is headed by a supervisor.
 13 (b) The principal officer of the last chance state bank is a bank president."

14
 15 **Section 9.** Section 2-15-1814, MCA, is amended to read:

16 **"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial.** (1) There is a board of
 17 housing.

18 (2) The board consists of seven members appointed by the governor as provided in 2-15-124. The
 19 members must be informed and experienced in housing, economics, or finance.

20 (3) The board shall elect a presiding officer and other necessary officers.

21 (4) The board is designated as a quasi-judicial board for purposes of 2-15-124.

22 (5) The board is allocated to the ~~department of commerce~~ last chance state bank for administrative
 23 purposes only as provided in 2-15-121.

24 (6) In compliance with the state pay plan, the ~~department~~ last chance state bank shall provide all staff
 25 and services to the board that are determined by the board in conjunction with the ~~department~~ last chance state
 26 bank to be necessary for the purposes of carrying out the board's programs. ~~The department shall assess the~~
 27 ~~board for reasonable costs.~~

28 (7) A member of the board may not be considered to have a conflict of interest under the provisions of
 29 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution that may
 30 participate in the board's programs."

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Section 10. Section 2-15-1815, MCA, is amended to read:

"2-15-1815. Montana facility finance authority. (1) There is created a public ~~body~~ ~~corporate~~ corporation designated as the Montana facility finance authority. This authority is constituted as a public instrumentality, and its exercise of the powers conferred by Title 90, chapter 7, must be considered and are held to be the performance of an essential public function.

(2) The authority consists of seven members appointed by the governor as prescribed in 2-15-124. The board must be broadly representative of the state, seeking to balance professional expertise and public accountability.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board is allocated to the ~~department of commerce~~ last chance state bank for administrative purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in 90-7-203."

Section 11. 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

- 1 positions of the board of investments;
- 2 (11) four professional staff positions under the board of oil and gas conservation;
- 3 (12) assistant director for security of the Montana state lottery;
- 4 (13) executive director and employees of the state compensation insurance fund;
- 5 (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- 6 (15) executive director of the Montana wheat and barley committee;
- 7 (16) commissioner of banking and financial institutions;
- 8 (17) training coordinator for county attorneys;
- 9 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- 10 (19) chief information officer in the department of administration;
- 11 (20) chief business development officer and six professional staff positions in the office of economic
- 12 development provided for in 2-15-218;
- 13 (21) chief public defender appointed by the public defender commission pursuant to the Montana Public
- 14 Defender Act, Title 47, chapter 1, and the employees in the positions listed in 47-1-201(3)(a), who are appointed
- 15 by the chief public defender;
- 16 (22) president of the last chance state bank."

17

18 **Section 12.** Section 15-35-108, MCA, is amended to read:

19 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter

20 must, in accordance with the provisions of 17-2-124, be allocated as follows:

21 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,

22 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under

23 17-6-203(6) and invested by the board of investments as provided by law.

24 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program

25 account established in 17-7-205.

26 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated

27 by the legislature for provision of basic library services for the residents of all counties through library federations

28 and for payment of the costs of participating in regional and national networking, conservation districts, and the

29 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.

30 Money may not be transferred from this account to another account other than the general fund. Beginning July

1 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

6 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
7 resource loan debt service fund within the last chance state bank.

8 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
9 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
10 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
11 cultural and aesthetic projects.

12 (7) The amount of [5.8% through September 30, 2013, and beginning October 1, 2013, the amount of]
13 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

14 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
15 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

16 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the
17 provisions of this chapter must be credited to the general fund of the state.

18 (b) The interest income from \$140 million of the coal severance tax permanent fund ~~that is~~ must be
19 deposited in the ~~general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows~~
20 last chance state bank. The money is statutorily appropriated, as provided in 17-7-502, on an annual basis as
21 follows:

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

23 (ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

24 (iii) \$1.275 million to the research and commercialization state special revenue account created in
25 90-3-1002;

26 ~~(iv) to the department of commerce:~~

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

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

29 ~~(C)(vi)~~ (vi) \$425,000 for certified regional development corporations;

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

1 and

2 ~~(E)(viii)~~ \$300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)

3 **15-35-108. (Effective July 1, 2013) Disposal of severance taxes.** Severance taxes collected under
4 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

5 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
6 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
7 17-6-203(6) and invested by the board of investments as provided by law.

8 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
9 account established in 17-7-205.

10 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
11 by the legislature for provision of basic library services for the residents of all counties through library federations
12 and for payment of the costs of participating in regional and national networking, conservation districts, and the
13 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
14 Money may not be transferred from this account to another account other than the general fund. Beginning July
15 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

20 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
21 resource loan debt service fund within the last chance state bank established in [section 1].

22 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
23 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
24 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
25 cultural and aesthetic projects.

26 (7) The amount of [5.8% through September 30, 2013, and beginning October 1, 2013, the amount of]
27 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

28 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
29 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

30 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the

1 provisions of this chapter must be credited to the general fund of the state.

2 (b) The interest income from \$140 million of the coal severance tax permanent fund ~~that is~~ must be
 3 deposited in the ~~general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows~~
 4 last chance state bank. The money is statutorily appropriated, as provided in 17-7-502, on an annual basis as
 5 follows:

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

7 (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

8 (iii) \$3.65 million to the research and commercialization state special revenue account created in
 9 90-3-1002;

10 ~~(iv) to the department of commerce:~~

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

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

13 ~~(C)(vi)~~ \$425,000 for certified regional development corporations;

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

15 and

16 ~~(E)(viii)~~ \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L.
 17 2009.)

18 **15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under
 19 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

20 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
 21 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
 22 17-6-203(6) and invested by the board of investments as provided by law.

23 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
 24 account established in 17-7-205.

25 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
 26 by the legislature for provision of basic library services for the residents of all counties through library federations
 27 and for payment of the costs of participating in regional and national networking, conservation districts, and the
 28 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
 29 Money may not be transferred from this account to another account other than the general fund. Beginning July
 30 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

5 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
 6 resource loan debt service fund within the last chance state bank established in [section 1].

7 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
 8 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
 9 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
 10 cultural and aesthetic projects.

11 (7) The amount of 2.9% must be credited to the coal natural resource account established in
 12 90-6-1001(2).

13 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
 14 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

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

17

18 **Section 13.** Section 15-38-302, MCA, is amended to read:

19 **"15-38-302. Natural resources projects state special revenue account created -- revenue allocated**
 20 **-- limitations on appropriations from account.** (1) There is a natural resources projects state special revenue
 21 account within the state special revenue fund established in 17-2-102.

22 (2) There must be paid into the natural resources projects state special revenue account money
 23 allocated from:

24 (a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;

25 (b) the resource indemnity and ground water assessment tax under the provisions of 15-38-106; and

26 (c) the oil and natural gas production tax as provided in 15-36-331; ~~and~~

27 ~~—— (d) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource loan~~
 28 ~~debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619.~~

29 (3) Appropriations may be made from the natural resources projects state special revenue account for
 30 grants ~~and loans~~ for designated projects and the activities authorized in 85-1-602 and 90-2-1102."

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Section 14. Section 17-2-105, MCA, is amended to read:

"17-2-105. Maintenance of fund and account records and interfund loans. (1) The state treasurer shall record receipts and disbursements for treasury funds and shall maintain fund records in a manner that reflects the total cash and invested balance of each fund. The state treasurer shall also maintain records of individual funds within the debt service, agency, capital projects, and trust fund types in a manner that reflects the total cash and invested balance of each fund. When necessary to meet federal or other requirements that money be segregated in the treasury, the state treasurer may establish accounts, funds, or subfunds within any fund type listed in 17-2-102.

(2) (a) ~~For~~ Except as provided in subsection (3), for the purpose of supplying deficiencies in the general fund, the state treasurer may temporarily borrow from other treasury funds, excluding pension trust funds, providing that the loan is recorded in the state accounting records. Except as provided in subsection (2)(b), the loan does not bear interest. A fund may not be so impaired that all proper demands on the fund cannot be met.

(b) If a loan to the general fund is made from a fund that retains its own interest, the department shall repay the loan with interest at a rate established by the state treasurer based on the estimated interest rate the funds would have earned if the funds had not been borrowed.

(3) As the reporting requirements of subsection (1) affect the last chance state bank established in [section 1], the state treasurer's responsibilities are limited to reports on transfers of money to the last chance state bank. The provisions of subsection (2) of this section do not apply to the last chance state bank, although the state treasurer may use the last chance state bank as a source for a loan."

Section 15. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

- (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;
- (b) a treasure state endowment fund;
- (c) a treasure state endowment regional water system fund;
- (d) a coal severance tax permanent fund;
- (e) a coal severance tax income fund; and

1 (f) a big sky economic development fund.

2 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet:

3 (i) all principal and interest payments on bonds payable from the coal severance tax bond fund during
4 the next 12 months and retain that amount in the coal severance tax bond fund; and

5 (ii) the amount necessary to meet the obligations of the state that are payable from the treasure state
6 endowment fund, the treasure state endowment regional water fund, or the big sky economic development fund
7 to the respective account as provided in subsection (3)(c), (3)(d), or (4).

8 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
9 (2)(a) must be transferred from that fund to the last chance state bank, except as provided in subsections (3) and
10 (4) through (5).

11 (3) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment
12 fund ~~50%~~ 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in
13 subsection (2) to be retained in the fund.

14 (b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment
15 regional water system fund ~~25%~~ 10% of the amount in the coal severance tax bond fund in excess of the amount
16 that is specified in subsection (2) to be retained in the fund.

17 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure
18 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
19 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.
20 Earnings not transferred to the treasure state endowment special revenue account must be ~~retained in the~~
21 ~~treasure state endowment fund~~ transferred to the last chance state bank.

22 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water system
23 fund to the treasure state endowment regional water system special revenue account the amount of earnings,
24 excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the
25 account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state
26 endowment regional water system special revenue account must be ~~retained in the treasure state endowment~~
27 ~~regional water system fund~~ transferred to the last chance state bank.

28 (4) (a) From July 1, 2005, through June 30, ~~2025~~ 2016, the state treasurer shall quarterly transfer to the
29 big sky economic development fund ~~25%~~ 10% of the amount in the coal severance tax bond fund determined by
30 the state treasurer to be in excess of the amount that is specified in subsection (2) to be retained in the fund.

1 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
 2 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding
 3 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
 4 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must
 5 be ~~retained in the big sky economic development fund~~ transferred to the last chance state bank.

6 ~~(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in~~
 7 ~~subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be~~
 8 ~~deposited in the coal severance tax permanent fund.~~

9 (5) The amount transferred to the last chance state bank under this section may be used for any purpose
 10 of the last chance state bank listed in [sections 6 and 7]. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)

11 **17-5-703. (Effective July 1, 2016) Coal severance tax trust funds.** (1) The trust established under
 12 Article IX, section 5, of the Montana constitution is composed of the following funds:

13 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
 14 severance tax must be deposited;

15 (b) a treasure state endowment fund;

16 (c) a coal severance tax permanent fund;

17 (d) a coal severance tax income fund; and

18 (e) a big sky economic development fund.

19 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet:

20 (i) all principal and interest payments on bonds payable from the coal severance tax bond fund during
 21 the next 12 months and retain that amount in the coal severance tax bond fund; and

22 (ii) the amount necessary to meet the obligations of the state that are payable from the treasure state
 23 endowment fund or the big sky economic development fund to the respective account as provided in subsection
 24 (3)(b) or (4).

25 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
 26 (2)(a) must be transferred from that fund to the state bank of Montana, except as provided in subsections (3) and
 27 (4) through (5).

28 (3) (a) ~~Until June 30, Beginning July 1, 2016,~~ the state treasurer shall quarterly transfer to the ~~treasure~~
 29 ~~state endowment fund 50%~~ last chance state bank all of the amount in the coal severance tax bond fund in
 30 excess of the amount that is specified in subsection (2) to be retained in the fund.

1 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure
 2 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
 3 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.
 4 ~~Earnings not transferred to the treasure state endowment special revenue account must be retained in the~~
 5 ~~treasure state endowment fund.~~

6 (4) (a) ~~From Beginning July 1, 2005, through June 30, 2025, 2016,~~ the state treasurer shall quarterly
 7 transfer to the ~~big sky economic development fund~~ 25% last chance state bank all of the amount in the coal
 8 severance tax bond fund determined by the state treasurer to be in excess of the amount that is specified in
 9 subsection (2) to be retained in the fund.

10 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
 11 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding
 12 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
 13 accordance with 90-1-204. ~~Earnings not transferred to the economic development special revenue account must~~
 14 ~~be retained in the big sky economic development fund.~~

15 ~~(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in~~
 16 ~~subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be~~
 17 ~~deposited in the coal severance tax permanent fund.~~

18 (5) The amount transferred to the last chance state bank under this section may be used for any purpose
 19 of the last chance state bank listed in [sections 6 and 7]."
 20

21 **Section 16.** Section 17-5-704, MCA, is amended to read:

22 **"17-5-704. Investment of funds.** (1) Money Except as provided in subsection (2), money in the coal
 23 severance tax bond fund, the coal severance tax permanent fund, and the coal severance tax income fund must
 24 be invested in accordance with the investment standards for coal severance tax funds.

25 (2) (a) Income and earnings, excluding unrealized gains and losses, from all funds, except the coal
 26 severance tax bond fund, must be deposited in the state general fund.

27 (b) Beginning July 1, 2013, income and earnings, excluding unrealized gains and losses, from the coal
 28 severance tax bond fund not otherwise distributed as provided in 17-5-703 must be deposited in the last chance
 29 state bank for any purpose listed in [sections 6 and 7]."
 30

1 **Section 17.** Section 17-5-710, MCA, is amended to read:

2 **"17-5-710. Form -- principal and interest -- fiscal agent -- deposit of proceeds.** (1) Each series of
3 coal severance tax bonds must be issued by the board of examiners at public or private sale, in ~~such~~
4 denominations and form, whether payable to bearer or registered as to principal or both principal and interest,
5 with ~~such~~ provisions for the conversion or exchange, bearing interest at ~~such a~~ rate or rates, maturing at ~~such~~
6 times not exceeding 40 years from date of issue, subject to redemption at ~~such~~ earlier times and prices and upon
7 ~~such~~ notice, and payable at the office of ~~such fiscal agency of the state as the board of examiners shall determine~~
8 the last chance state bank, subject to the limitations contained in this part.

9 (2) In all other respects the board of examiners is authorized to prescribe the form and terms of the
10 bonds and shall do whatever is lawful and necessary for their issuance and payment.

11 (3) Coal severance tax bonds and any interest coupons ~~appurtenant thereto shall~~ pertaining to the coal
12 severance tax bonds must be signed by the members of the board of examiners, and the bonds ~~shall~~ must be
13 issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile
14 signatures and seal in the manner and subject to the limitations prescribed by law. ~~The state treasurer~~ last chance
15 state bank shall keep a record of all ~~such~~ bonds issued and sold under this section, and the state treasurer shall
16 provide to the last chance state bank a record of all bonds issued and sold under this section prior to the last
17 chance state bank assuming duties under this section.

18 (4) The board of examiners ~~is authorized to employ~~ shall use the last chance state bank as a fiscal agent
19 to assist in the performance of its duties ~~hereunder~~ under this section.

20 (5) All proceeds of a state of Montana coal severance tax bonds issue ~~shall~~ must be deposited in the
21 last chance state bank, a capital projects fund, or a state special revenue account established for that bond issue,
22 except that any premiums and accrued interest received ~~shall~~ must first be deposited in a debt service fund
23 established for that bond issue."
24

25 **Section 18.** Section 17-5-711, MCA, is amended to read:

26 **"17-5-711. Trust indenture.** In the discretion of the board of examiners, a series of bonds or notes
27 issued under this part may be secured by a trust indenture by and between the board of examiners and a trustee,
28 which may be the last chance state bank or any trust company or bank having the powers of a trust company
29 within or outside of the state. Each trust indenture or an executed counterpart ~~thereof shall~~ of the trust indenture
30 must be filed in the office of the secretary of state of Montana. The filing of a trust indenture or an executed

1 counterpart thereof of the trust indenture in the office of the county clerk of the county in which the property
 2 covered by the trust indenture is located is constructive notice of its contents to all persons from the time of the
 3 filing, and the recording of the trust indenture or its contents is not necessary."

4

5 **Section 19.** Section 17-5-1302, MCA, is amended to read:

6 **"17-5-1302. Definitions.** As used in this part, unless the context clearly requires otherwise, the following
 7 definitions apply:

8 (1) "Allocation" means an allocation of a part of the state's volume cap to an issuer pursuant to this part.

9 (2) "Board" means the board of examiners.

10 (3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

11 (4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which
 12 a part of the volume cap is required to be allocated pursuant to the tax act.

13 (5) "Department" means the department of administration.

14 (6) "Governmental bonds" means bonds other than private activity bonds.

15 (7) "Issuer" means a state issuer or local issuer.

16 (8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue
 17 private activity bonds or governmental bonds.

18 (9) "Local portion" means that portion of the state's volume cap reserved for local issuers.

19 (10) "Montana board of housing" (MBH) means the board created in 2-15-1814.

20 (11) "Montana board of investments" (MBI) means the board provided for in 2-15-1808.

21 (12) "Montana facility finance authority" (MFFA) means the authority provided for in 2-15-1815.

22 (13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit
 23 corporation established to provide student loan capital to the student loan program established by the board of
 24 regents of higher education under Title 20, chapter 26, part 11.

25 (14) "Private activity bonds" (PABs) has the meaning prescribed under section 141 of the Internal
 26 Revenue Code, 26 U.S.C. 141.

27 (15) "State bank" means the last chance state bank provided for in [section 1].

28 ~~(15)~~(16) "State issuer" means the state and any agency of the state authorized to issue private activity
 29 bonds. For this part only, the Montana higher education student assistance corporation, to the extent authorized
 30 under federal law to issue private activity bonds, is considered a state issuer.

1 ~~(16)~~(17) "State portion" means that portion of the state's volume cap reserved for state issuers.

2 ~~(17)~~(18) "State's volume cap" means that amount of the volume cap specified by the department pursuant
3 to 17-5-1311(2).

4 ~~(18)~~(19) "Tax act" means the latest limitation enacted by the United States congress on the amount of
5 cap bonds that may be issued by a state or local issuer.

6 ~~(19)~~(20) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that
7 may be issued in the state in a calendar year as determined under the provisions of the tax act."

8

9 **Section 20.** Section 17-5-1312, MCA, is amended to read:

10 **"17-5-1312. Allocation to state issuers.** (1) Except as provided in subsection ~~(5)~~ (4), the state portion
11 must be allocated to state issuers pursuant to 17-5-1316.

12 (2) As a condition of receiving an allocation, each state issuer:

13 (a) upon issuance of the bonds, shall pay 35 cents per thousand of bonds to be deposited in the state
14 general fund for the purpose of funding a portion of the comprehensive annual financial report audit; and

15 (b) shall provide the legislative auditor with full access to its financial records.

16 (3) As long as the Montana higher education student assistance corporation requests and receives
17 authority to issue bonds under this part, the corporation shall:

18 (a) comply with the provisions of Title 2, chapter 3, in all meetings of the corporation's board of directors
19 or other governing body unless compliance would conflict with federal or state security disclosure laws; and

20 (b) provide the legislative auditor with full access to any management or loan servicing contracts.

21 (4) (a) The following set-aside percentages of the state's volume cap must be made in each calendar year
22 for the following state issuers:

23 State Issuer	Percentage
24 Board	4%
25 <u>State bank</u>	<u>45%</u>
26 MBH	41%
27 MBI	25%
28 MHESAC	26%
29 MFFA	4%
30 Total	100%

1 **(b) The state bank set-aside percentages must be used for projects proposed by the Montana board of**
 2 **housing and the Montana facility finance authority.**

3 (5) Each set-aside expires on the first Monday in September.

4 (6) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer
 5 only from its respective set-aside pursuant to 17-5-1316 and **a subsection (4) of this section.** A state issuer is not
 6 entitled to an allocation except from its set-aside unless otherwise provided by the governor.

7 (7) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation
 8 by the department to issuers pursuant to 17-5-1316 without preference or priority."

9

10 **Section 21.** Section 17-5-1325, MCA, is amended to read:

11 **"17-5-1325. Reassignment of bonding authority for agricultural purposes -- contingency.** ~~If, at~~
 12 ~~some time in the future,~~ federal taxation laws allow the use of tax-exempt bonds to provide loans for the
 13 acquisition of farm or ranch land, a downpayment on the acquisition of farm or ranch land, or the acquisition or
 14 construction of depreciable property used in the operation of a farm or ranch, the allocation of bonding authority
 15 originally assigned to the Montana agricultural loan authority must be reassigned to the ~~Montana board of~~
 16 ~~investments~~ **state bank** to provide those loans."

17

18 **Section 22.** Section 17-5-1502, MCA, is amended to read:

19 **"17-5-1502. Legislative declaration.** (1) It is the policy of the state of Montana, in the interest of
 20 promoting the health, safety, and general welfare of all the people of the state, to increase job opportunities and
 21 to retain existing jobs by making available, through the board of investments **and the state bank,** funds for
 22 industrial, commercial, manufacturing, natural resource, agricultural, livestock, recreational, tourist, and health
 23 care development.

24 (2) The legislature finds that:

25 (a) a vigorous, diversified, and growing economy is the basic source of job opportunities;

26 (b) protection against unemployment and its economic burdens and the spread of economic stagnation
 27 can best be provided by promoting, attracting, stimulating, and revitalizing a diversified economy with
 28 contributions from industry, manufacturing, commerce, natural resource development, agriculture, livestock,
 29 recreation, tourism, and health care facilities; and

30 (c) the state of Montana has a responsibility to help create a favorable climate for new and improved job

1 opportunities and a stable, growing, and healthy economy for its citizens by encouraging the development of
2 business."

3

4 **Section 23.** Section 17-5-1503, MCA, is amended to read:

5 **"17-5-1503. Definitions.** As used in this part, unless the context requires otherwise, the following
6 definitions apply:

7 (1) "Board" means the board of investments created in 2-15-1808.

8 (2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial
9 indebtedness issued by the board pursuant to this part.

10 (3) "Department" means the department of commerce provided for in 2-15-1801.

11 (4) "Finance" means to supply capital and, in the case of agricultural enterprises, to refinance a project
12 and project costs.

13 (5) "Financial institution" means any bank, savings and loan association, credit union, development credit
14 corporation, insurance company, investment company, trust company, savings institution, or other financial
15 institution approved by the board.

16 (6) "Local government" means the city in which the project is located, if the project is located within an
17 incorporated municipality, or the county if the project is located within the county but outside the boundaries of
18 an incorporated municipality.

19 (7) "Major project" means a project whose cost or appraised value exceeds \$800,000.

20 (8) "Project" means a project as defined in 90-5-101.

21 (9) "Project costs" means the costs of acquiring or improving any project, including the following:

22 (a) the actual cost of acquiring or improving real estate for any project;

23 (b) the actual cost of construction of all or any part of a project, including architects' and engineers' fees;

24 (c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such
25 acquisition or improvement;

26 (d) bond reserves and premiums for insurance or guaranty of loan payments or lease rentals pledged
27 to pay the bonds;

28 (e) the interest on ~~such~~ the bonds for a reasonable time prior to construction, during construction, and
29 not exceeding 6 months after completion of construction; and

30 (f) working capital for agricultural enterprise projects for a period not to exceed 1 year.

1 (10) "State bank" means the last chance state bank created in [section 1]."

2

3 **Section 24.** Section 17-5-1507, MCA, is amended to read:

4 **"17-5-1507. Bond anticipation notes -- issuance -- payment of principal and interest.** (1) The board
5 may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from
6 the sale of the bonds. The notes shall be designated as "bond anticipation notes". The proceeds of the sale of
7 the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could be used,
8 including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding
9 notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note
10 may be issued after the sale of bonds in anticipation of which the original notes were issued.

11 (2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than 3
12 years after the date of issue may be issued from time to time as the proceeds ~~thereof~~ are needed. The notes must
13 be authorized by the board and must have such terms and details as may be provided by resolution of the board.
14 However, each resolution of the board authorizing notes must:

15 (a) describe the need for the proceeds of the notes to be issued; and

16 (b) specify the principal amount of the notes or maximum principal amount of the notes ~~which that~~ may
17 be outstanding at any one time, the rate or rates of interest or maximum rate of interest or interest rate formula
18 (to be determined in the manner specified in the resolution authorizing the notes to be incurred through the
19 issuance of ~~such those~~ notes), and the maturity date or maximum maturity date of the notes.

20 (3) Subject to the limitations contained in this section and the standards and limitations prescribed in the
21 authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be
22 issued and sold, in whole or in part, from time to time. The board may delegate to the administrator of the board
23 the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates
24 of interest, and ~~such any~~ other terms and details of the notes ~~as~~ considered appropriate by the board or the
25 administrator in the event of ~~such a~~ delegation. The board in its discretion but subject to the limitations contained
26 in this section may also provide in the resolution authorizing the issuance of notes for:

27 (a) the employment of one or more persons or firms to assist the board in the sale of the notes;

28 (b) the appointment of ~~one the state bank or more banks~~ another bank or a trust companies company,
29 either inside or outside the state of Montana, as depository for safekeeping and as agent for the delivery and
30 payment of the notes;

1 (c) the refunding of the notes from time to time, without further action by the board, unless and until the
2 board revokes ~~such the~~ authority to refund; and

3 (d) ~~such~~ other terms and conditions ~~as that~~ the board considers appropriate.

4 (4) In connection with the issuance and sale of notes as provided in this section, the board may arrange
5 for lines of credit with the state bank or any other bank, firm, or person for the purpose of providing an additional
6 source of repayment for notes issued pursuant to this section. Amounts drawn on ~~such these~~ lines of credit may
7 be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing ~~such the~~
8 terms and conditions ~~as~~ authorized by the board ~~may authorize~~ in the resolution approving the same."
9

10 **Section 25.** Section 17-5-1508, MCA, is amended to read:

11 **"17-5-1508. Provisions of bond resolutions.** A resolution authorizing notes or bonds or any issue
12 ~~thereof of notes or bonds~~ may contain provisions, which must be a part of the contract or contracts with the
13 holders ~~thereof of the notes or bonds~~, as to:

14 (1) pledging all or any part of the revenue or property of the board to secure the payment of the notes
15 or bonds or of any issue ~~thereof of the notes or bonds~~, subject to existing agreements with noteholders or
16 bondholders;

17 (2) pledging all or any part of the assets of the board, including lease agreements, loan agreements,
18 mortgages, and obligations securing them, to secure the payment of the notes or bonds or of any issue ~~thereof~~
19 of the notes or bonds, subject to existing agreements with noteholders or bondholders;

20 (3) the use and disposition of the gross income from lease agreements, loan agreements, and mortgages
21 owned by the board, and the payment of the principal of mortgages owned by the board;

22 (4) the setting aside of reserves for debt service funds in the hands of trustees, paying agents, and other
23 depositories and the regulation and disposition ~~thereof of the reserves~~;

24 (5) limitations on the purpose for which the proceeds of the sale of notes or bonds may be applied and
25 the pledge of the proceeds to secure the payment of the bonds or of any issue ~~thereof of the notes or bonds~~;

26 (6) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or
27 bonds may be issued and secured, and the refunding of outstanding notes or bonds;

28 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
29 amended or abrogated, the amount of notes or bonds to which the holders ~~of which shall~~ are required to consent
30 ~~thereto~~, and the manner in which ~~such consent may be~~ is given;

1 (8) a commitment to employ adequate and competent personnel at reasonable compensation; to set
 2 salaries, fees, and charges as may be determined by the board in conjunction with the ~~department~~ state bank;
 3 and to maintain suitable facilities and services for the purpose of carrying out its programs;

4 (9) vesting in a trustee ~~such the~~ the property, rights, powers, and duties in trust as the authority determines
 5 ~~to be is~~ necessary;

6 (10) defining the acts or omissions that ~~shall~~ constitute a default in the obligations and duties of the board
 7 to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds
 8 in the event of ~~such a~~ a default, including as a matter of right the appointment of a receiver; and

9 (11) any other matters ~~of like or different character~~ that in any way affect the security or protection of the
 10 holders of the notes or bonds."
 11

12 **Section 26.** Section 17-5-1509, MCA, is amended to read:

13 "**17-5-1509. Personal liability.** The board and employees of the state bank and the department are not
 14 personally liable or accountable by reason of the issuance of or on any bond or note issued by the board."
 15

16 **Section 27.** Section 17-5-1511, MCA, is amended to read:

17 "**17-5-1511. Trust indenture.** (1) In the discretion of the board, the bonds may be secured by a trust
 18 indenture between the board and a corporate trustee, which may be the state bank or a trust company or a bank
 19 having the power of a trust company, either inside or outside the state. A trust indenture may contain provisions
 20 for protecting and enforcing bondholders' rights and remedies that are reasonable, proper, and not in violation
 21 of law, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the
 22 custody, safeguarding, and application of all money. The authority may provide by a trust indenture for the
 23 payment of the proceeds of the bonds and revenues to the trustee under the trust indenture of another depository
 24 and for the method of disbursement, with the safeguards and restrictions it considers necessary.

25 (2) All expenditures incurred in carrying out a trust indenture may be treated as part of the operating
 26 expenses of the board."
 27

28 **Section 28.** Section 17-5-1521, MCA, is amended to read:

29 "**17-5-1521. Adoption of rules.** (1) The ~~board~~ state bank shall adopt rules to establish:

30 (a) procedures for soliciting and evaluating applications and for notifying the local government of the

- 1 application for purposes of complying with 17-5-1526 and 17-5-1527; and
- 2 (b) a system for evaluating applications, considering the following criteria:
- 3 (i) the applicant's net worth;
- 4 (ii) the applicant's training and experience in the industry involved in the proposed project;
- 5 (iii) the applicant's prospects for succeeding in the proposed project;
- 6 (iv) the degree to which the new or increased business resulting from the loan will meet the objectives
- 7 of 17-5-1502; and
- 8 (v) any other factors the ~~board~~ state bank may prescribe; and
- 9 (c) the organization, approval, standards, and regulation of project applicants.
- 10 (2) The board shall adopt rules for the:
- 11 ~~(a) organization, approval, standards, and regulation of project applicants;~~
- 12 ~~(b)~~(a) approval, standards, and regulation of financial institutions under this part;
- 13 ~~(c)~~(b) assessment, collection, and payment of all fees and charges in connection with making,
- 14 purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and
- 15 guaranty programs; and
- 16 ~~(d)~~(c) such other matters ~~as~~ that the board considers necessary or desirable."

17

18 **Section 29.** Section 17-5-1524, MCA, is amended to read:

19 **"17-5-1524. Taxation of projects.** (1) Notwithstanding the fact that title to a project may be in the state

20 bank or the board, ~~such the~~ projects are subject to taxation to the same extent, in the same manner, and under

21 the same procedures as privately owned property in similar circumstances if ~~such the~~ projects are leased to or

22 held by private interests on both the assessment date and the date the levy is made in that year. ~~Such These~~

23 projects are not subject to taxation in any year if they are not leased to or held by private interests on both the

24 assessment date and the date the levy is made in that year.

25 (2) When personal property owned by the board is taxed under this section and ~~such~~ personal property

26 taxes are delinquent, levy by warrant for distraint for collection of ~~such any~~ delinquent taxes may be made only

27 on personal property against which ~~such the~~ taxes were levied."

28

29 **Section 30.** Section 17-5-1526, MCA, is amended to read:

30 **"17-5-1526. Procedure prior to financing projects.** (1) The state bank, subject to certification of

1 capitalization under [section 6(5)], and the board may finance projects, other than major projects, under this part
2 only when it the state bank or the board, as applicable, finds that:

3 (a) the financing is in the public interest and is consistent with the legislative purposes and findings set
4 forth in 17-5-1502;

5 (b) the financing to be provided by the state bank or the board for a project does not exceed either
6 \$800,000 or 90% of the cost or appraised value of the project, whichever is less;

7 (c) a financial institution will participate in financing the project, either directly or through a letter of credit,
8 to the extent of at least 10% of the financing to be provided by the state bank or the board;

9 (d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental
10 insurer or guarantor other than the state bank for projects financed by the state bank;

11 (e) an applicant has submitted a statement indicating any contracts to construct the projects will require
12 all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in
13 the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents;_

14 For the purposes of this subsection (1)(e), "substantially equal qualifications" means the qualifications of two or
15 more persons among whom the employer cannot make a reasonable determination that the qualifications held
16 by one person are significantly better suited for the position than the qualifications held by the other persons;_

17 (f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a
18 project or projects being financed to provide for payment of debt service on bonds of the board issued to finance
19 the project or projects, to create and maintain reserves for payment of the debt service, and to meet all costs and
20 expenses of issuing and servicing the bonds; and

21 (g) an applicant has submitted a statement that indicates that any contract let for a project costing more
22 than \$25,000 and financed from the proceeds of bonds issued under this part on or after July 1, 1993, will contain
23 a provision that requires the contractor to pay the standard prevailing wage rate in effect and applicable to the
24 district in which the work is being performed unless the contractor performing the work has entered into a
25 collective bargaining agreement covering the work to be performed.

26 (2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the
27 following manner:

28 (a) the city or county in which the project will be located must be notified;_ and the city and county shall,
29 within 14 days after receipt of the notice, notify the ~~board~~ state bank if ~~it~~ the city or county elects to conduct the
30 hearing; or

1 (b) if a request for a local hearing is not received, the state bank or the board, as applicable, may hold
2 the hearing at a time and place it that the state bank or the board prescribes.

3 (3) If the hearing required by subsection (2) is conducted by a local government, the governing body of
4 the local government shall notify the state bank or the board, as applicable, of ~~its governing body's~~ determination
5 of whether the project is in the public interest within 14 days of the completion of the public hearing.

6 (4) When a hearing is required either locally or at the state level, notice must be given, at least once a
7 week for 2 weeks prior to the date set for the hearing, by publication in a newspaper of general circulation in the
8 city or county where the hearing will be held. The notice must include the time and place of the hearing; the
9 general nature of the project; the name of the lessee, borrower, or user of the project; and the estimated cost
10 of the project.

11 (5) The requirements of subsections (1)(b) through (1)(d) do not apply to bonds that are not secured by
12 the capital reserve account authorized by 17-5-1515.

13 (6) The hearing requirements of subsections (2) through (4) do not apply to projects financed with bonds
14 the interest on which is subject to federal income taxes."
15

16 **Section 31.** Section 17-5-1527, MCA, is amended to read:

17 "**17-5-1527. Procedure prior to financing major projects.** (1) The state bank, subject to certification
18 of capitalization under [section 6(5)], or the board may finance major projects under this part only when it the state
19 bank or the board, as applicable, finds that:

20 (a) the financing is in the public interest and is consistent with legislative purposes and findings;

21 (b) the financing to be provided by the state bank or the board for a project does not exceed either \$50
22 million or 90% of the cost or appraised value of the project, whichever is less;

23 (c) a financial institution will participate in financing the project if the cost or appraised value is less than
24 \$1 million, either directly or through a letter of credit, to the extent of at least 10% of the financing to be provided
25 by the state bank or the board, ~~provided, however, that~~ However, participation by a financial institution in projects
26 of ~~over~~ more than \$1 million is at the discretion of the state bank or the board;

27 (d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental
28 insurer or guarantor other than the state bank for projects financed by the state bank;

29 (e) any contracts to construct the projects require all contractors to give preference to the employment
30 of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their

1 qualifications are substantially equal to those of nonresidents; For the purposes of this subsection (1)(e),
2 "substantially equal qualifications" means the qualifications of two or more persons among whom the employer
3 cannot make a reasonable determination that the qualifications held by one person are significantly better suited
4 for the position than the qualifications held by the other persons;_

5 (f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a
6 any project or projects being financed to provide for payment of debt service on bonds of the board issued to
7 finance the project or projects, to create and maintain reserves for payment of the debt service, and to meet all
8 costs and expenses of issuing and servicing the bonds; and

9 (g) an applicant has submitted a statement that indicates that any contract let for a project costing more
10 than \$25,000 and financed from the proceeds of bonds issued under this part on or after July 1, 1993, will contain
11 a provision that requires the contractor to pay the standard prevailing wage rate in effect and applicable to the
12 district in which the work is being performed unless the contractor performing the work has entered into a
13 collective bargaining agreement covering the work to be performed.

14 (2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the
15 following manner:

16 (a) the city or county in which the project will be located must be notified, and within 14 days shall advise
17 the state bank of Montana or the board, as applicable, if ~~it~~ the city or county elects to conduct the hearing; or

18 (b) if a request for a local hearing is not received, the state bank or the board, as applicable, may hold
19 the hearing at a time and place ~~it~~ that the state bank or the board, as applicable, prescribes.

20 (3) If the hearing required by subsection (2) is conducted by a local government, the governing body of
21 the local government shall notify the state bank or the board, as applicable, of its determination of whether the
22 project is in the public interest within 14 days of the completion of the public hearing.

23 (4) When a hearing is required either locally or at the state level, notice must be given, at least once a
24 week for 2 weeks prior to the date set for the hearing, by publication in a newspaper of general circulation in the
25 city or county where the hearing will be held. The notice must include the time and place of the hearing; the
26 general nature of the project; the name of the lessee, borrower, or user of the project; and the estimated cost of
27 the project.

28 (5) The requirements of subsections (1)(b) through (1)(d) do not apply to bonds that are not secured by
29 the capital reserve account authorized by 17-5-1515.

30 (6) The hearing requirements of subsections (2) through (4) do not apply to major projects financed with

1 bonds the interest on which is subject to federal income taxes.

2 (7) The state bank and the board ~~is~~ are encouraged to consider applications for project financing related
3 to infrastructure and facilities necessary for the development of the state-owned coal assets."
4

5 **Section 32.** Section 17-5-1624, MCA, is amended to read:

6 "**17-5-1624. Trust indenture.** (1) In the discretion of the board, the bonds or notes of the board may be
7 secured by a trust indenture between the board and a corporate trustee, which may be the last chance state
8 bank, a trust company, or another bank having the power of a trust company inside or outside the state. A trust
9 indenture may contain provisions for protecting and enforcing bondholders' rights and remedies that are
10 reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in
11 relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board may
12 provide by a trust indenture for the payment of the proceeds of the bonds or notes and the revenues to the trustee
13 under the trust indenture of another depository and for the method of disbursement, with safeguards and
14 restrictions it considers necessary.

15 (2) All expenditures incurred in carrying out a trust indenture may be treated as part of the general
16 overhead cost of the board."
17

18 **Section 33.** Section 17-6-105, MCA, is amended to read:

19 "**17-6-105. State treasurer as treasurer** Depositories of state agencies ~~--deposits of money.~~ (1)
20 The state treasurer is designated the treasurer of every state agency and institution.

21 (2) All state agencies shall deposit all money, credits, evidences of indebtedness, and securities ~~either~~
22 as follows:

23 (a) in banks, building and loan associations, savings and loan associations, or credit unions located in
24 the city or town in which the agencies are situated; if there is a qualified bank, building and loan association,
25 savings and loan association, or credit union in the city or town as designated by the state treasurer with the
26 approval of the board of investments;

27 (b) in the last chance state bank established in [section 1]; or

28 ~~(b)(c)~~ with the state treasurer.

29 (3) Each bank, except the last chance state bank, and each building and loan association, savings and
30 loan association, or credit union shall pledge securities sufficient to cover 50% of the deposits at all times.

1 (4) The deposits must be made in the name of the state treasurer, must be subject to withdrawal at the
2 treasurer's option, and must draw interest as other state money, in accordance with the provisions of this part.

3 (5) This chapter does not impair or otherwise affect any covenant entered into pursuant to law by any
4 agency respecting the segregation, deposit, and investment of any revenue or funds pledged for the payment
5 and security of bonds or other obligations authorized to be issued by the agency, and all the funds must be
6 deposited and invested in accordance with the covenants ~~notwithstanding any provision~~ of this chapter.

7 (6) Except as otherwise provided by law and subject to subsection (8), all money, credits, evidences of
8 indebtedness, and securities received by a state agency must be deposited with the state treasurer or the last
9 chance state bank or in a depository approved by the state treasurer each day when the accumulated amount
10 of coin and currency requiring deposit exceeds \$200 or total collections exceed \$750. All money, credits,
11 evidences of indebtedness, and securities collected must be deposited at least weekly.

12 (7) Whenever the department determines that it is in the best financial interest of the state, the
13 department may require any money received or collected by any agency to be immediately deposited to the credit
14 of the state treasurer.

15 (8) (a) An agency may propose a modified deposit schedule, including proposed internal controls, to the
16 department that is different from the deposit schedule requirements of subsection (6). Upon receiving a proposal,
17 the department shall transmit a copy of the proposal to the board of investments. The department shall review
18 the proposal to ensure that deposits are made at least weekly unless the requesting agency shows hardship due
19 to peak processing times.

20 (b) (i) The department shall review the proposal to ensure adequate internal controls over amounts to
21 be deposited.

22 (ii) The board of investments shall review the proposal to ensure that state assets and earnings on the
23 assets are maximized.

24 (c) (i) If the department and the board of investments each approves of the proposal, the department
25 shall notify the agency that the proposal is approved and the department and the agency may proceed to
26 implement the proposal.

27 (ii) If the department or the board of investments disapproves the proposal, the department shall notify
28 the agency that the proposal is disapproved.

29 (9) On or before September 15 immediately preceding a regular legislative session, the department shall
30 submit to the legislative fiscal analyst and the legislative auditor a report detailing all active accounts for which

1 a modified deposit schedule has been approved under subsection (8).

2 (10) For the purposes of this section, "agency" has the meaning provided in 17-1-104 and includes a
3 contractor of an agency if the contractor collects at least \$50,000 annually on behalf of the state from all sources."

4

5 **Section 34.** Section 17-6-201, MCA, is amended to read:

6 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program
7 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
8 administered by the board of investments in accordance with the prudent expert principle, which requires an
9 investment manager to:

10 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then
11 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters
12 exercises in the conduct of an enterprise of a like character with like aims;

13 (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss
14 and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

15 (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified
16 investment program.

17 (2) (a) Retirement funds may be invested in common stocks of any corporation.

18 (b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital
19 stock" means only the common stock of a corporation.

20 (3) (a) This section does not prevent investment in any business activity in Montana with bond proceeds
21 or funds of the board of investments or the last chance state bank, including activities that continue existing jobs
22 or create new jobs in Montana.

23 (b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in
24 venture capital companies. Whenever possible, preference should be given to investments in those venture
25 capital companies that demonstrate an interest in making investments in Montana.

26 (c) In discharging its duties, the board shall consider the preservation of purchasing power of capital
27 during periods of high monetary inflation.

28 (d) The board may not make a direct loan to an individual borrower, but the last chance state bank may
29 make a direct loan to an individual borrower as provided under [sections 2 through 7]. The purchase of a loan
30 or a portion of a loan originated by a financial institution is not considered a direct loan.

1 (4) The board has the primary authority to invest state funds, except that the board may redirect funds
 2 as specified in 17-5-703 or as otherwise specified to the last chance state bank to invest as provided in [sections
 3 2 through 7]. ~~Another~~ Any other agency may not invest state funds unless otherwise provided by law. The board
 4 shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has
 5 the power to veto investments made under its general supervision.

6 (5) The board shall:

7 (a) assist agencies with public money to determine if, when, and how much surplus cash is available for
 8 investment;

9 (b) determine the amount of surplus treasury cash to be invested;

10 (c) determine the type of investment to be made;

11 (d) prepare the claim to pay for the investment; and

12 (e) keep an account of the total of each investment fund and of all the investments belonging to the fund
 13 and a record of the participation of each treasury fund account in each investment fund.

14 (6) The board may:

15 (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the
 16 transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a
 17 qualified appraiser.

18 (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and
 19 17-6-105;

20 (c) direct the sale of securities in the program at their full and true value when found necessary to raise
 21 money for payments due from the treasury funds for which the securities have been purchased.

22 (7) The cost of administering and accounting for each investment fund must be deducted from the
 23 income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of
 24 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay
 25 the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108."
 26

27 **Section 35.** Section 17-6-204, MCA, is amended to read:

28 **"17-6-204. Investment of local government funds.** (1) The governing body of any city, county, school
 29 district, or other local government unit or political subdivision that has funds that are available for investment and
 30 are not required by law or by any covenant or agreement with bondholders or others to be segregated and

1 invested in a different manner may direct its treasurer to remit the funds to the state treasurer for investment
 2 under the direction of the board of investments as part of the pooled investment fund or may deposit the funds
 3 with the last chance state bank. The provisions of subsections (2) through (4) apply to the respective depository.

4 (2) A separate account, designated by name and number for each participant in the fund, must be kept
 5 to record individual transactions and totals of all investments belonging to each participant. A monthly report must
 6 be furnished to each participant having a beneficial interest in the pooled investment fund, showing the changes
 7 in investments made during the preceding month. Details of any investment transaction must be furnished to any
 8 participant upon request.

9 (3) The principal and accrued income, and any part of that amount, of each account maintained for a
 10 participant in the pooled investment fund is subject to payment at any time from the fund upon request.
 11 Accumulated income must be remitted to each participant at least annually.

12 (4) An order or warrant may not be issued upon any account for a larger amount than the principal and
 13 accrued income of the account to which it applies. If any order or warrant is issued, the participant receiving it
 14 shall reimburse the excess amount to the fund from any funds not otherwise appropriated. The state treasurer
 15 is liable under the treasurer's official bond for any amount not reimbursed."

16

17 **Section 36.** Section 17-6-211, MCA, is amended to read:

18 **"17-6-211. Preference to in-state investment firms for investments -- commitment agreement with**
 19 **board of housing.** (1) The board of investments shall ~~endeavor to~~ direct its portion of the state's investment
 20 business to ~~those investment firms and/or financial institutions which maintain offices in the state and thereby~~
 21 ~~make contributions to the state economy. Further, due consideration shall be given to investments which will~~
 22 ~~benefit the smaller communities in the state~~ the last chance state bank. The state's investment business ~~will~~ may
 23 be directed to out-of-state firms only ~~when~~ if there is a distinct economic advantage to the state of Montana.

24 (2) The board may enter into a commitment agreement with the ~~board of housing~~ last chance state bank
 25 at the time ~~of an issue of~~ the last chance state bank issues bonds or notes ~~by~~ for the board of housing providing
 26 for the purchase at a specified future date, not to exceed 15 years from the date of the issue, of all or any portion
 27 of the amount of mortgage loans purchased with the proceeds of the issue. The board of investments may charge
 28 reasonable fees for any commitment and may agree to purchase the mortgage loans on terms that in the
 29 judgment of the board of investments provide a fair market rate of return to the purchasers."

30

1 **Section 37.** Section 17-6-302, MCA, is amended to read:

2 **"17-6-302. Definitions.** As used in this part, unless the context requires otherwise, the following
3 definitions apply:

4 (1) "Board" means the board of investments created in 2-15-1808.

5 (2) "Capital company" means a Montana capital company created pursuant to Title 90, chapter 8.

6 (3) "Clean and healthful environment" means an environment that is relatively free from pollution that
7 threatens human health, including as a minimum, compliance with federal and state environmental and health
8 standards.

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

10 (5) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership
11 interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal
12 occupation is as an employee, officer, or partner of the enterprise.

13 (6) (a) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings
14 and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.

15 (b) The term does not include the state bank.

16 (7) "Intermediary loan" means a loan provided to a local economic development organization with a
17 revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development
18 loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but
19 not limited to programs from the economic development administration of the U.S. department of commerce and
20 the community development financial institution program from the U.S. department of the treasury.

21 (8) "Loan participation" means loans or portions of loans bought from a financial institution and does not
22 include the purchase of debentures issued by a capital company.

23 (9) "Local economic development organization" means:

24 (a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
25 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

26 (ii) an entity certified by the department under 90-1-116; or

27 (iii) an entity established by a local government; and

28 (b) an entity actively engaged in economic development and business assistance work in the area.

29 (10) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other
30 ownership interests is owned and controlled by residents of Montana.

1 (11) "Long-term benefit to the Montana economy" means an activity that strengthens the Montana
2 economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana
3 tax revenue in the future to the people of Montana, either directly or indirectly.

4 (12) "Montana economy" means any business activities in the state of Montana, including those that
5 continue existing jobs or create new jobs in Montana.

6 (13) "Service fees" means the fees normally charged by a financial institution, the state bank, or the board
7 for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

8 (14) "State bank" means the last chance state bank created under [section 1]."
9

10 **Section 38.** Section 17-6-305, MCA, is amended to read:

11 **"17-6-305. Investment of coal tax trust fund in Montana economy -- report by board.** (1) Subject
12 to the provisions of 17-6-201(1) and the certification of capitalization under [section 6(5)], the board state bank
13 shall endeavor to invest 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana
14 economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments
15 made pursuant to this section do not include investments made pursuant to 17-6-309(2). For purposes of
16 calculating the 25% of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1).
17 The portion of the permanent coal tax trust fund contained in portfolios formerly administered by the Montana
18 board of science and technology development is included in the 25% of the trust fund allocated to the board state
19 bank for in-state investment under this section. This subsection does not prohibit the board from investing more
20 than 25% of the permanent coal tax trust fund in the Montana economy if it is prudent to do so and the
21 investments will benefit the Montana economy, but the state bank is responsible for investing the 25% and the
22 board may invest any amount greater than the 25% as well as the principal remaining in the permanent coal tax
23 trust fund.

24 (2) In determining the probable income to be derived from investment of this revenue, the long-term
25 benefit to the Montana economy must be considered.

26 (3) The legislature may provide additional procedures to implement this section.

27 (4) The board shall include a report on the investments made under this section as a part of the
28 information required by 17-7-111. The state bank shall provide all information on loans made under this section
29 that is necessary for the board to complete its report under this subsection."
30

1 **Section 39.** Section 17-6-308, MCA, is amended to read:

2 **"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through (4) and subject
3 to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules
4 adopted by the board.

5 (2) The board may make loans from the permanent coal tax trust fund to the capital reserve account
6 created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree
7 in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must
8 be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise
9 of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior
10 pledge of the revenue to the bonds and notes.

11 (3) The board shall manage the seed capital and research and development loan portfolios created by
12 the former Montana board of science and technology development. The board shall establish an appropriate
13 repayment schedule for all outstanding research and development loans made to the university system. The
14 board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by
15 the Montana board of science and technology development as part of the seed capital and research and
16 development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal
17 tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other
18 instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science
19 and technology development are repaid, the board shall deposit the proceeds or loans made from the coal
20 severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7%
21 interest.

22 (4) The board shall allow the ~~Montana facility finance authority~~ state bank to administer \$15 million of
23 the permanent coal tax trust fund for capital projects on behalf of the Montana facility finance authority. Until the
24 ~~authority~~ state bank makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its
25 administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects
26 made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited
27 in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the
28 ~~authority~~ state bank shall calculate the amount of the interest charge. Individual loan amounts may not exceed
29 10% of the amount administered under this subsection.

30 (5) The ~~board~~ state bank shall adopt rules to allow a nonprofit corporation to apply for economic

1 assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for
2 for-profit corporations.

3 (6) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance
4 tax trust fund must be deposited in the coal severance tax permanent fund."
5

6 **Section 40.** Section 17-6-309, MCA, is amended to read:

7 **"17-6-309. Investment preferences.** (1) Subject to the provisions of subsection (2), in deciding which
8 of several investments of equal or comparable security and return are to be made when sufficient funds are not
9 available to fund all possible investments, the state bank, subject to certification of capitalization under [section
10 6(5)], or the board, as applicable, shall give preference to the business investments that:

11 (a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for Montana
12 residents or in otherwise contributing to the long-term benefit of the Montana economy, including raising the per
13 capita income of Montana jobholders;

14 (b) are for locally owned enterprises that are either expanding or establishing new operations;

15 (c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs
16 that will be filled by nonresidents coming into the state to fill ~~such~~ the proposed jobs;

17 (d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

18 (e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of
19 Montana's agricultural products; or

20 (f) benefit ~~small-~~ small-sized and medium-sized businesses as defined in rules adopted by the state bank
21 or the board, as applicable.

22 (2) The state bank or the board, as applicable, may make a loan to enhance economic development and
23 create jobs in the basic sector of the economy, as defined by the state bank or the board by rule, if the loan will
24 result in the creation of a business estimated to employ at least 15 people in Montana on a permanent, full-time
25 basis or result in the expansion of a business estimated to employ at least an additional 15 people in Montana
26 on a permanent, full-time basis or raise salaries, wages, and business incomes of existing employees and
27 employers."
28

29 **Section 41.** Section 17-6-311, MCA, is amended to read:

30 **"17-6-311. Limitation on size of investments.** (1) Except as provided in subsection (2) and this

1 subsection, an investment may not be made that will result in any one business enterprise or person receiving
 2 a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of
 3 which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business enterprise
 4 or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the debt incurred
 5 for the project or enterprise for the coal tax investment that was made to the business enterprise or person must
 6 be held by a commercial lender. This subsection does not:

7 (a) apply to a loan made pursuant to 17-6-317;

8 (b) limit the ~~board's~~ authority of the state bank or the board, as applicable, to make loans to the capital
 9 reserve account as provided in 17-6-308(2);

10 (c) apply to the purchase of debentures issued by a capital company. However, the total amount of
 11 debentures purchased by the state bank or the board, as applicable, may not exceed 1% of the Montana
 12 permanent coal tax trust fund at the time of purchase.

13 (2) The state bank and the board shall coordinate to restrict the total amount of debentures and loans
 14 of both to the limits in this section.

15 ~~(2)(3)~~ The total amount of loans made pursuant to 17-6-309(2) may not exceed \$80 million, the total
 16 amount of loans made pursuant to 17-6-317 may not exceed \$70 million, and a single loan may not be less than
 17 \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that is
 18 estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the state bank and the
 19 board shall consider:

20 (a) the estimated number of jobs to be created by the project within a 4-year period from the time that
 21 the loan is made and the impact of the jobs on the state and the community where the project will be located;

22 (b) the long-term effect of corporate and personal income taxes estimated to be paid by the business
 23 and its employees;

24 (c) the current and projected ability of the community to provide necessary infrastructure for economic
 25 and community development purposes;

26 (d) the amount of increased salaries, wages, and business incomes of existing jobholders and
 27 businesses; and

28 (e) other matters that the state bank or the board, as applicable, considers necessary."
 29

30 **Section 42.** Section 17-6-313, MCA, is amended to read:

1 **"17-6-313. Prior commitment of funds.** The state bank or the board may authorize the commitment
2 of funds to financial institutions and capital companies pursuant to rules adopted by the the state bank or the
3 board, as applicable, but the determination as to credit with respect to individual investments must be made by
4 the financial institution and the state bank or the board, as applicable, or the capital company and the state bank
5 and the board, as applicable."

6

7 **Section 43.** Section 17-6-314, MCA, is amended to read:

8 **"17-6-314. Rate of return.** Except as provided in 17-6-317, in calculating the rate of return for any
9 Montana investment to be made from the permanent coal tax trust fund, the state bank or the board, as
10 applicable, shall consider the long-term benefit to the Montana economy and the additional service fee discount
11 provided for in 17-6-319."

12

13 **Section 44.** Section 17-6-316, MCA, is amended to read:

14 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to
15 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer
16 systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of
17 a business in Montana. The loan must be made to a local government that will create the necessary
18 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan
19 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of
20 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made
21 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate
22 reduction passes through to the business creating the jobs.

23 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the state bank, subject to
24 certification of capitalization under [section 6(5)], or the board, as applicable, is satisfied that the condition in
25 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to
26 subsection (3) of this section must be returned to the state.

27 (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and
28 subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the
29 portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not
30 exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."

1

2 **Section 45.** Section 17-6-317, MCA, is amended to read:

3 **"17-6-317. Participation by private financial institutions -- rulemaking.** (1) (a) The state bank, subject
4 to certification of capitalization under [section 6(5)], or the board may separately or jointly participate with private
5 financial institutions in making loans to a business enterprise if the loan will:

6 (i) result in the creation of a business estimated to employ at least 10 people in Montana on a permanent,
7 full-time basis;

8 (ii) result in the expansion of a business estimated to employ at least an additional 10 people in Montana
9 on a permanent, full-time basis; or

10 (iii) prevent the elimination of the jobs of at least 10 Montana residents who are permanent, full-time
11 employees of the business.

12 (b) Loans under this section may be made only to business enterprises that are producing or will produce
13 value-added products or commodities.

14 (c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under
15 17-6-318.

16 (2) A loan made pursuant to this section may not exceed 1% of the coal severance tax permanent fund
17 and must comply with each of the following requirements:

18 (a) (i) The business enterprise seeking a loan must have a cash equity position equal to at least 25%
19 of the total loan amount.

20 (ii) A participating private financial institution may not require the business to have an equity position
21 greater than 50% of the total loan amount.

22 (iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a
23 participating private financial institution, then the additional security or guarantees must be proportional to the
24 amount loaned by all participants, including the board of investments.

25 (b) The state bank, subject to certification of capitalization under [section 6(5)], or the board, as
26 applicable, shall provide 75% of the total loan amount either separately or jointly.

27 (c) The term of the loan may not exceed 15 years.

28 (d) The state bank or the board, whichever is responsible for the loan, shall charge interest at the
29 following annual rate:

30 (i) 2% for the first 5 years if 15 or more jobs are created or retained;

- 1 (ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;
- 2 (iii) 6% for the second 5 years; and
- 3 (iv) the ~~board's~~ posted interest rate of the state bank or the board for the third 5 years, but not to exceed
- 4 10% a year.
- 5 (e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the state bank or
- 6 the board, whichever is responsible for the loan, receives certification that the required number of jobs has been
- 7 created or as provided in subsection (2)(e)(ii). If the state bank or the board disburses loan proceeds prior to
- 8 creation of the required jobs, the loan must bear interest at the ~~board's~~ posted rate of the state bank or the board,
- 9 as applicable.
- 10 (ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination
- 11 of jobs, the state bank or the board, as applicable, shall require the submission of financial data that allows the
- 12 state bank or the board, as applicable, to determine if the loan and interest rate will in fact prevent the elimination
- 13 of jobs.
- 14 (f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of
- 15 required jobs, the state bank or the board, as applicable, may apply a graduated scale to increase the interest
- 16 rate, not to exceed the ~~board's~~ posted rate of the state bank or the board, as applicable.
- 17 (g) For purposes of calculating job creation or retention requirements, the state bank and the board shall
- 18 use the state's average weekly wage, as defined in 39-71-116, multiplied by the number of jobs required. This
- 19 calculated number is the minimum aggregate salary threshold that is required to be eligible for a reduced interest
- 20 rate. If individual jobs created pay less than the state's average weekly wage, the borrower shall create more jobs
- 21 to meet the minimum aggregate salary threshold. If fewer jobs are created or retained than required in subsection
- 22 (2)(d)(i) or (2)(d)(ii) but aggregate salaries meet the minimum aggregate salary threshold, the borrower is eligible
- 23 for the reduced interest rate. A job paying less than the minimum wage, provided for in 39-3-409, may not be
- 24 included in the required number of jobs.
- 25 (h) (i) A participating private financial institution may charge interest in an amount equal to the national
- 26 prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6% or greater
- 27 than 12%.
- 28 (ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to
- 29 an adjustable or fixed rate on terms acceptable to the borrower and lender.
- 30 (iii) A participating private financial institution, or lead private financial institution if more than one is

1 participating, may charge a 0.5% annual service fee.

2 (i) The business enterprise may not be charged a loan prepayment penalty.

3 (j) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation
4 provisions based upon the loan percentage of the state bank or the board, as applicable, and each participating
5 private lender.

6 (3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion
7 of the loan must be made based upon the percentage of completion to ensure that the construction portion of the
8 loan is advanced prior to completion of the project.

9 (4) A private financial institution shall participate in a loan made pursuant to this section to the extent of
10 85% of its lending limit or 25% of the loan, whichever is less. However, the ~~board's~~ participation in the loan by
11 the state bank or the board, as applicable, must be 75% of the loan amount.

12 (5) (a) Except as provided in subsection (5)(b), a business enterprise receiving a loan under the
13 provisions of this section may not pay bonuses or dividends to investors until the loan has been paid off, except
14 that incentives may be paid to employees for achieving performance standards or goals.

15 (b) A business enterprise for the production of ethanol to be used as provided in Title 15, chapter 70,
16 part 5, may pay dividends to investors and bonuses to employees if the business enterprise is current on its loan
17 payments and has available funds equal to at least 15% of the outstanding principal balance of the loan.

18 (6) The state bank and the board may adopt rules ~~that it considers~~ considered necessary to implement
19 this section."
20

21 **Section 46.** Section 17-6-318, MCA, is amended to read:

22 **"17-6-318. Job credit interest rate reduction for business loan participation.** (1) A borrower who
23 uses the proceeds of a business loan participation funded under the provisions of this part to create jobs
24 employing Montana residents is entitled to a job credit interest rate reduction for each job created to employ a
25 Montana resident. A borrower who uses the proceeds of a loan made pursuant to 17-6-309(2) to create jobs is
26 entitled to a job credit interest rate reduction for each job created. The job credit interest rate reduction is equal
27 to 0.05% for each job created to employ a Montana resident, up to a maximum interest rate reduction of 2.5%.

28 (2) If the salary or wage of the job created:

29 (a) exceeds the state's average weekly wage, as defined in 39-71-116, the amount of the job credit
30 interest rate reduction may be increased proportionately for each increment of 25% above the state's average

1 weekly wage to a maximum of two times the state's average weekly wage; or

2 (b) is less than the state's average weekly wage, as defined in 39-71-116, the job credit interest rate
3 reduction is reduced proportionately for each 25% increment below the state's average weekly wage.

4 (3) A job credit interest rate reduction may not be allowed for a job created by the borrower using the
5 proceeds of the loan for which the salary or wage is less than the minimum wage provided for in 39-3-409.

6 (4) A job credit may not be given unless one whole job is created.

7 (5) To qualify for the job credit interest rate reduction, the borrower shall provide satisfactory evidence
8 of the creation of jobs and shall make a written application to the state bank, subject to certification of
9 capitalization under [section 6(5)], or the board, as applicable, through its private financial institution or, in the
10 case of a loan made pursuant to 17-6-309(2), shall make a written application directly to the state bank, subject
11 to certification of capitalization under [section 6(5)], or to the board, whichever is applicable."

12

13 **Section 47.** Section 17-6-319, MCA, is amended to read:

14 **"17-6-319. Incentive to financial institution for small business loan participation.** A financial
15 institution, other than the state bank, that originates a small business loan no larger than 0.05% of the balance
16 of the Montana permanent coal tax trust fund at the end of the last-completed fiscal year is entitled to an
17 additional service fee in the form of a discount equal to 0.5% of the ~~board's~~ participation in the loan by the state
18 bank or the board, as applicable. The state bank or the board shall consider the additional service fee discount
19 to the financial institution as part of the rate of return provided in 17-6-314."

20

21 **Section 48.** Section 17-6-321, MCA, is amended to read:

22 **"17-6-321. Audits.** ~~The board's~~ Any books and records related to in-state investments of the state bank
23 and the board must be audited once each fiscal year by or at the direction of the legislative auditor. The actual
24 cost of this audit must be paid from the ~~board's~~ funds of the state bank or the board, as applicable."

25

26 **Section 49.** Section 17-6-322, MCA, is amended to read:

27 **"17-6-322. Report.** ~~The~~ Both the state bank and the board shall include in ~~its~~ their respective annual
28 ~~report reports~~ a section on the results of the previous year's operations of the investment in the Montana economy
29 from the permanent coal tax trust fund, as required in 17-6-305, including:

30 (1) financial statements audited by independent auditors;

- 1 (2) a summary report of loan activity; and
2 (3) a comparison of the performance of the investments in the Montana economy in relation to the
3 purposes contained in 17-6-303."

4

5 **Section 50.** Section 17-6-324, MCA, is amended to read:

6 **"17-6-324. Rulemaking authority.** (1) The state bank and the board may adopt jointly rules to
7 implement the provisions of this part and 17-6-211(2). Rules adopted by the state bank and the board may
8 include:

9 (a) definitions of small- and medium-sized businesses;

10 (b) a method of committing funds to financial institutions, including guidelines for lead private financial
11 institutions if a consortium of private financial institutions is participating in a loan made pursuant to 17-6-317;

12 (c) guidelines for graduation clauses for refinancing and early payment of loans made pursuant to
13 17-6-317;

14 (d) types of service fees; and

15 (e) types of investments to be made.

16 (2) The state bank and the board may also adopt procedural rules to govern ~~its~~ each entity's
17 proceedings."

18

19 **Section 51.** Section 17-6-345, MCA, is amended to read:

20 **"17-6-345. Intermediary relending program.** (1) The state bank and the board may set aside an
21 amount, not to exceed \$5 million, from the in-state investment percentage provided for in 17-6-305 for the
22 purpose of creating an intermediary relending program. The state bank may participate in the intermediary
23 relending program prior to certification of capitalization under [section 6(7)] if the state bank's advisory board
24 considers the participation to be a sound financial move.

25 (2) Intermediary loans may be made to state bank-approved or board-approved local economic
26 development organizations with revolving loan programs.

27 (3) Each intermediary loan made pursuant to subsection (2) may not exceed \$500,000.

28 (4) An intermediary loan made under this section may be offered only to an applicant that will pledge and
29 use the loan funds as matching funds for the U.S. department of agriculture rural development loan program
30 provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to

1 programs from the economic development administration of the U.S. department of commerce and the community
2 development financial institution program from the U.S. department of the treasury."
3

4 **Section 52.** Section 17-6-347, MCA, is amended to read:

5 **"17-6-347. Purchase of seasoned or mature loans by board.** The state bank and the board may
6 purchase a portion of a seasoned or mature loan from a local economic development organization's revolving
7 loan program."
8

9 **Section 53.** Section 17-6-403, MCA, is amended to read:

10 **"17-6-403. Definitions.** As used in this part, the following definitions apply:

11 (1) "Certified microbusiness development corporation" means a microbusiness development corporation
12 certified pursuant to 17-6-408.

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

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

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

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

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

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

23 (a) produces goods or provides services and has fewer than 10 full-time equivalent employees and
24 annual gross revenue of less than \$1 million; or

25 (b) produces energy using an alternative renewable energy source as defined in 15-6-225.

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

28 (9) "State bank" means the last chance state bank established in [section 1]."
29

30 **Section 54.** Section 17-6-406, MCA, is amended to read:

1 **"17-6-406. Microbusiness finance program -- powers and duties of department and state bank**
2 **-- rulemaking.** (1) There is a microbusiness finance program administered by the department.
3 (2) The department shall adopt rules to implement the provisions of this part, including but not limited to:
4 (4)(a) establishing criteria and procedures for certifying microbusiness development corporations;
5 (2) ~~establishing criteria and procedures to select from competing development loan applications and to~~
6 ~~award development loans to certified microbusiness development corporations;~~
7 (3)(b) establishing criteria and procedures to be followed by certified microbusiness development
8 corporations that administer revolving loan funds supported by the program;
9 (4) ~~determining the amount and method of computation and payment of interest rates charged to~~
10 ~~recipients of development loans and specifying amortization schedules and other terms and conditions for~~
11 ~~development loans as may be necessary;~~
12 ~~—— (5) establishing criteria for determining nonperformance and declaring default in the administration of~~
13 ~~development loans and requiring the refund of defaulted development loan funds to the microbusiness~~
14 ~~development loan account;~~
15 ~~—— (6) establishing criteria for satisfactory performance in development loan administration to determine~~
16 ~~eligibility for renewal of development loans or for additional development loans;~~
17 (7)(c) establishing guidelines for maximum and minimum interest rates that may be charged by certified
18 microbusiness development corporations on microbusiness loans; and
19 (8)(d) dividing the state into not more than 12 multicounty service regions within each of which not more
20 than one microbusiness development corporation may be funded at any time. However, a corporation that is
21 funded as a statewide microbusiness development corporation under 17-6-408 may offer specialized services
22 to constituents within regions or within an Indian reservation having a funded regional microbusiness development
23 corporation.
24 (3) The state bank shall adopt rules to implement the provisions of this part, including:
25 (a) establishing criteria and procedures to select from competing development loan applications and to
26 award development loans to certified microbusiness development corporations;
27 (b) determining the amount and method of computation and payment of interest rates charged to
28 recipients of development loans and specifying amortization schedules and other terms and conditions for
29 development loans as may be necessary;
30 (c) establishing criteria for determining nonperformance and declaring default in the administration of

1 development loans and requiring the refund of defaulted development loan funds to the microbusiness
 2 development loan account; and

3 (d) establishing criteria for satisfactory performance in development loan administration to determine
 4 eligibility for renewal of development loans or for additional development loans."

5

6 **Section 55.** Section 17-6-407, MCA, is amended to read:

7 **"17-6-407. Microbusiness development loan account and finance program administrative account**

8 **loans -- criteria -- limitations.** (1) ~~(a) There is in the state special revenue fund a~~ The state bank may, subject

9 to certification of capitalization under [section 6(5)], make microbusiness development loan account into which

10 ~~funds allocated for that purpose and money received in~~ loans to a certified microbusiness development

11 corporation and receive repayment of the principal of development loans. Repayment must be deposited in an

12 account to be used for microbusiness development loans.

13 ~~—— (b) The department may make development loans from the account to a certified microbusiness~~

14 ~~development corporation.~~

15 ~~(c) Interest earned on the account must be deposited in the microbusiness finance program~~

16 ~~administrative account established in subsection (2).~~

17 ~~—— (2) There is in the state special revenue fund a microbusiness finance program administrative account~~

18 ~~into which must be deposited:~~

19 ~~—— (a) and~~ all interest received on development loans received directly from microbusiness development

20 ~~corporations;~~ along with

21 ~~(b) service charges or fees received from certified microbusiness development corporations;~~ and

22 designated

23 ~~—— (c) grants; or donations, and private or public income~~ must be deposited in an account to be used for

24 microbusiness development loans; ~~and~~

25 ~~—— (d) all interest earned on money in the account and interest earned on money in the account provided~~

26 ~~for in subsection (1)(a).~~

27 ~~(3) Money in the administrative account may be transferred to the development loan account or be used~~

28 ~~to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other~~

29 ~~operating expenses of the program.~~

30 ~~(4)(2) Subject to subsection (1), a~~ A certified microbusiness development corporation that receives a

1 development loan may apply for an additional loan if the applicant meets the performance criteria established by
2 the ~~department~~ state bank.

3 ~~(5)~~(3) To establish the criteria for making development loans, the ~~department~~ state bank shall consider:

- 4 (a) the plan for providing services to microbusinesses;
5 (b) the scope of services to be provided by the certified microbusiness development corporation;
6 (c) the geographic representation of all regions of the state, including urban, rural, and tribal
7 communities;
8 (d) the plan for providing service to minorities, women, and low-income persons;
9 (e) the ability of the corporation to provide business training and technical assistance to microbusiness
10 clients;
11 (f) the ability of the corporation, with a plan, to:
12 (i) monitor and provide financial oversight of recipients of microbusiness loans;
13 (ii) administer a revolving loan fund; and
14 (iii) investigate and qualify financing proposals and to service credit accounts;
15 (g) sources and sufficiency of operating funds for the certified microbusiness development corporation;
16 and
17 (h) the intent of the corporation, with a plan and written indications of local institutional support, to provide
18 services to a designated multicounty region of the state.

19 ~~(6)~~(4) Development loan funds may be used by a certified microbusiness development corporation to:

- 20 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is
21 intended and used for the purpose of providing or enhancing the certified microbusiness development
22 corporation's ability to provide and administer loans, technical assistance, or management training to
23 microbusinesses;
24 (b) establish a revolving loan fund from which the certified microbusiness development corporation may
25 make loans to qualified microbusinesses, provided that a single loan does not exceed \$100,000 and the
26 outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness
27 or to two or more microbusinesses in which any one person holds more than a 20% equity share does not exceed
28 \$100,000;
29 (c) establish a guarantee fund from which the certified microbusiness development corporation may
30 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may

1 not exceed \$100,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more
 2 than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20%
 3 equity share may not exceed \$100,000.

4 ~~(7)~~(5) Development loan funds may not be:

5 (a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended
 6 for use in production by the recipient of the loan; or

7 (b) used to:

8 (i) refinance a nonperforming loan held by a financial institution; or

9 (ii) pay the operating costs of a certified microbusiness development corporation. However, interest
 10 income earned from the proceeds of a development loan may be used to pay operating expenses.

11 ~~(8)~~(6) Certified microbusiness development corporations are required to contribute cash from other
 12 sources to leverage and secure development loans from the program. Contributions provided by the corporation
 13 must be on a ratio of at least \$1 from other sources for each \$6 from the program. These contributions may come
 14 from a public or private source other than the program and may be in the form of equity capital, loans, or grants.

15 ~~(9)~~(7) Development In making development loans, must be made pursuant to the state bank shall use
 16 a development loan agreement and may be describe whether the loan is to be an amortization or term loans
 17 loan. All development loans must bear interest at less than the market rate, be renewable, be callable, and
 18 contain other terms and conditions that are considered appropriate by the department state bank and that are
 19 consistent with the purposes of and with rules promulgated to implement this part.

20 ~~(10)~~(8) Each certified microbusiness development corporation that receives a development loan under
 21 this part shall provide the department state bank with an annual audit from an independent certified public
 22 accountant. The audit must cover all of the microbusiness development corporation's activities and must include
 23 verification of compliance with requirements specific to the microbusiness program.

24 ~~(11)~~(9) A certified microbusiness development corporation that is in default for nonperformance under
 25 rules established by the department state bank may be required to refund the outstanding balance of
 26 development loans awarded prior to the default declaration. A development loan is secured by a first lien on all
 27 funds and all receivables administered under the authority of the microbusiness development act by the
 28 corporation receiving the loan."

29

30 **Section 56.** Section 17-7-502, MCA, is amended to read:

1 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
2 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
3 need for a biennial legislative appropriation or budget amendment.

4 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
5 of the following provisions:

6 (a) The law containing the statutory authority must be listed in subsection (3).

7 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
8 appropriation is made as provided in this section.

9 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
10 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
11 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
12 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
13 [section 7]; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
14 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105;
15 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
16 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
17 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518;
18 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and
19 90-9-306.

20 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
21 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
22 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
23 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
24 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
25 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
26 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
27 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
28 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
29 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
30 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the

1 supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113
 2 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30,
 3 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

4

5 **Section 57.** Section 32-1-202, MCA, is amended to read:

6 **"32-1-202. Powers and duties of board.** The board shall:

7 (1) make final determinations upon applications for certificates of authorization for new banks;

8 (2) act in an advisory capacity with respect to the last chance state bank established in [section 1] and

9 fulfill the duties required under [section 5];

10 ~~(2)(3)~~ act in an advisory capacity with respect to the duties and powers given by statute or otherwise to
 11 the department as the duties and powers relate to banking;

12 ~~(3)(4)~~ upon request of an applicant or the department, review a decision of the department on an
 13 application for the formation or closure of branch banks, sales of branch banks, or the consolidation, merger, or
 14 relocation of banks and branch banks; and

15 ~~(4)(5)~~ conduct hearings as provided in 32-1-204."

16

17 **Section 58.** Section 85-1-102, MCA, is amended to read:

18 **"85-1-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
 19 apply:

20 (1) "Administrative costs" means costs incurred by the department:

21 (a) for the purpose of protecting the department's properties and assets;

22 (b) to oversee the operation and maintenance of the projects;

23 (c) to administer contracts and receivables;

24 (d) to maintain project financial records;

25 (e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

26 (f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

27 (2) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs
 28 and the costs incurred by the water users' association or the department in the distribution of water from the
 29 project, excluding the department's administrative costs.

30 (3) "Cost of works" means:

- 1 (a) the cost of construction, including any rehabilitation or alteration of the project;
- 2 (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered
3 necessary for the construction;
- 4 (c) the cost of all water rights acquired or exercised by the department in connection with the works;
- 5 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
6 construction and for a period not exceeding 3 years after the completion of construction;
- 7 (e) the cost of engineering and legal services, plans, specifications, surveys, estimates of cost, and other
8 expenses necessary or incident to determining the feasibility or practicability of any project;
- 9 (f) administrative expense; and
- 10 (g) other expenses that are necessary or incident to the financing authorized in this part and the
11 construction of the works and the placing of the works in operation.
- 12 (4) "Department" means the department of natural resources and conservation provided for in Title 2,
13 chapter 15, part 33.
- 14 (5) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts,
15 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
16 easements, or franchises to be acquired.
- 17 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
18 nongovernmental entity that is not eligible for loans ~~and~~ or grants under 85-1-605.
- 19 (b) The term does not include a governmental entity, such as an agency, local government, or political
20 subdivision of the state, the United States, or any agency of the United States, or any other governmental entity.
- 21 (7) "Project" means any one of the works defined in this section or any combination of works that are
22 physically connected or jointly managed and operated as a single unit.
- 23 (8) "Public benefits" means those benefits that accrue from a water development project or activity to
24 persons other than the private grant or loan recipient and that enhance the common well-being of the people of
25 Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction, agricultural
26 flood damage reduction, water quality enhancement, sediment reduction, access to recreation opportunities, and
27 wildlife conservation.
- 28 (9) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within the
29 debt service fund type of the state treasury, to be used as provided in 85-1-619.
- 30 (10) "Renewable resource loan proceeds account" means a separate account created by 85-1-617 within

1 the state special revenue fund of the state treasury to:

2 (a) finance loans under the provisions of the renewable resource grant and loan ~~program~~ programs to
3 agencies, local governments, and political subdivisions of the state, to private persons, and to any other eligible
4 recipients; and

5 (b) purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued under
6 part 6 of this chapter.

7 (11) "State bank" means the last chance state bank established in [section 1].

8 ~~(11)~~(12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
9 other organized group or community that is located in Montana, that exercises self-government powers, and that
10 is recognized as eligible for those services that are provided by the United States to Indians because of their
11 status as Indians.

12 ~~(12)~~(13) "Water development activity" means an action or program to protect and enhance water-based
13 recreation or to protect or enhance water resources for the benefit of agriculture, flood control, or other uses,
14 including but not limited to the promotion of efficient use of water in agriculture, the improvement of water quality
15 in agriculture and other nonpoint source uses, the protection and enhancement of water-based recreation, the
16 control of erosion of streambanks and control of sedimentation in rivers and streams, and the provision of greater
17 local and state control of Montana's water resources. Water development activities may provide any combination
18 of marketable and nonmarketable benefits.

19 ~~(13)~~(14) "Water development project" means a project as defined in subsection (7), except that water
20 development projects:

21 (a) are not limited to projects owned or operated by the department; and

22 (b) for purposes of the renewable resource grant and loan program, must include water development
23 activities.

24 ~~(14)~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property and
25 considered necessary or convenient for the operation of the works and all water rights acquired or exercised by
26 the department in connection with those works.

27 (b) The term includes:

28 (i) all means of conserving and distributing water, including but not limited to reservoirs, dams, diversion
29 canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units, mains,
30 pipelines, and waterworks systems; and

1 (ii) all works for the conservation, development, storage, distribution, and utilization of water, including
2 but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation,
3 development of power, watering of stock, and supplying water for public, domestic, industrial, or other uses and
4 for fire protection."
5

6 **Section 59.** Section 85-1-601, MCA, is amended to read:

7 **"85-1-601. Purpose and policies.** (1) The legislature finds and declares that in order that the people
8 of Montana may enjoy the benefits of the state's water and other renewable resources, the state shall establish
9 ~~this a~~ long-term renewable resource grant program and a loan program ~~providing to provide~~ financial and
10 administrative assistance to private for-profit, private; nonprofit, local government, state government, and tribal
11 government entities for renewable resource ~~grant and loan~~ projects.

12 (2) The purpose of the renewable resource grant and loan ~~program~~ programs is to further the state's
13 policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources
14 and to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic
15 and other benefits of the state's natural heritage.

16 (3) The legislature recognizes the value of Montana's renewable resources; therefore, it is appropriate
17 that a portion of the taxes and other revenue from nonrenewable resources be invested in the replacement of
18 nonrenewable resources with the development of renewable resource projects that will continue to provide tax
19 and other revenue and will preserve for the citizens the economic and other benefits of the state's natural
20 heritage.

21 (4) The conservation, development, management, and preservation of water and other renewable
22 resources are high priorities because a large portion of Montana's present and future economy is based either
23 directly or indirectly on the wise use of these resources.

24 (5) Developments supported by this part may not significantly diminish the quality of existing public
25 resources, such as land, air, fish, wildlife, and recreation opportunities.

26 (6) This renewable resource grant and loan ~~program supports~~ programs support, in part, the
27 implementation and development of the comprehensive, coordinated, multiple-use water resources plan known
28 as the "state water plan". In making funding recommendations for grants ~~and loans~~, the department shall give
29 preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects
30 are equal in public benefit and technical feasibility. In making funding recommendations for loans, the state bank

1 shall give preference to projects that will implement state water plan priorities if, in all other respects, the
 2 proposed projects are equal in public benefit and technical feasibility."

3

4 **Section 60.** Section 85-1-602, MCA, is amended to read:

5 **"85-1-602. Objectives.** (1) ~~The department shall administer a renewable resource grant and loan~~
 6 ~~program to~~ To enhance Montana's renewable resources through projects that measurably conserve, develop,
 7 manage, or preserve resources, ~~the department shall administer a renewable resource grant program and the~~
 8 state bank shall provide renewable resource grant loans, subject to certification of capitalization under [section
 9 6(5)]. Either grants or loans may be provided to fund the following:

- 10 (a) feasibility, design, research, and resource assessment studies;
- 11 (b) preparation of construction, rehabilitation, or production plans; and
- 12 (c) construction, rehabilitation, production, education, or other implementation efforts.
- 13 (2) Projects that may enhance renewable resources in Montana include but are not limited to:
- 14 (a) development of natural resource-based recreation;
- 15 (b) development of offstream and tributary storage;
- 16 (c) improvement of water use efficiency, including development of new, efficient water systems,
 17 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required
 18 under 85-2-113, and development of state, tribal, and federal water projects;
- 19 (d) water-related projects that improve water quality, including livestock containment facility projects;
- 20 (e) advancement of farming practices that reduce agricultural chemical use; and
- 21 (f) projects that facilitate the use of alternative renewable energy sources, as defined in 15-6-225.
- 22 (3) ~~The renewable resource grant and loan program is the~~ programs are key to the implementation
 23 portion of the state water plan and must be administered to encourage grant and loan applications for projects
 24 designed to accomplish the objectives of the plan."

25

26 **Section 61.** Section 85-1-603, MCA, is amended to read:

27 **"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated --**
 28 **renewable resource loan loss reserve fund created.** (1) (a) There is created a renewable resource loan debt
 29 service fund ~~within the debt service fund type established in 17-2-102~~ within the state bank.

30 (b) The state pledges and allocates and directs to be credited to the renewable resource loan debt

1 service fund, as received:

2 (i) 0.95% of all money from time to time received from the coal severance tax collected under Title 15,
3 chapter 35;

4 (ii) any principal and accrued interest under 85-1-613(5)(a) received in repayment of a loan made from
5 the proceeds of bonds issued under 85-1-617;

6 (iii) all interest income earned on proceeds of renewable resource grant program and renewable resource
7 loan program bonds;

8 (iv) revenue or money otherwise required to be paid into the natural resources projects state special
9 revenue account pursuant to 15-38-302, as determined by the board of examiners in connection with the issuance
10 of bonds pursuant to 85-1-617; and

11 (v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

12 (2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type established
13 in 17-2-102.

14 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
15 reserve fund all accrued interest under 85-1-613(5)(b) received in repayment of a loan made from the proceeds
16 of bonds issued under 85-1-617.

17 (c) If the ~~department~~ state bank determines that a loan loss has occurred on a loan made pursuant to
18 this part, the department shall transfer funds from the renewable resource loan loss reserve fund ~~must be~~
19 ~~transferred~~ to the renewable resource loan debt service fund within the state bank in an amount equal to the
20 amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."
21

22 **Section 62.** Section 85-1-605, MCA, is amended to read:

23 **"85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance.** (1) The
24 department may recommend to the legislature that grants ~~and loans~~ be made from revenue deposited in the
25 natural resources projects state special revenue account established in 15-38-302, ~~that loans be made from~~
26 ~~renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in~~
27 ~~85-1-617(5)~~; and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide
28 financial assistance to a department, agency, board, commission, or other division of state government, to a city,
29 county, or other political subdivision or local government body of the state, including an authority as defined in
30 75-6-304, or to a tribal government. The legislature may approve by appropriation or other appropriate means

1 those grants ~~and loans~~ that it finds consistent with the policies and purposes of the program.

2 (2) The department may provide recommendations to the state bank regarding natural resources projects
3 eligible for loans, subject to the state bank's certification of capitalization under [section 6(5)], using funds from
4 the renewable resource loan proceeds account established in 85-1-617(5).

5 ~~(2)(3)~~ Nothing in this part creates or expands the state's or a local government's authority to incur debt;
6 and the legislature may authorize loans only to state and local government entities otherwise structured to incur
7 debt.

8 ~~(3)(4)~~ Loans may not be authorized except to a state, local, or tribal government entity that agrees to
9 secure the authorized loan with its bond.

10 ~~(4)(5)~~ In addition to implementing those projects approved by the legislature, the department may request
11 up to 10% of the grant funds available and up to \$10 million for loans from the natural resources projects state
12 special revenue account established in 15-38-302 and the renewable resource loan proceeds account in any
13 biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may not be
14 made because of the gross negligence of the state, local, or tribal government applicant, must be approved by
15 the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding,
16 or both, that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability
17 to the project sponsor. In allocating the funds, the department shall inform the legislative finance committee of
18 the legislature.

19 ~~(5)(6)~~ The grants and loans provided for by this section may be made for projects that enhance
20 renewable resources in the state through conservation, development, management, or preservation; for
21 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
22 approved by the legislature.

23 ~~(6)(7)~~ Grant and loan agreements with tribal governments in Montana entered into under this part must
24 contain, in addition to other appropriate terms and conditions, the following conditions:

25 (a) a requirement that in the event a dispute or claim arises under the agreement, state law will govern
26 as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms
27 of the agreement will be brought in the district court of the first judicial district of the state of Montana;

28 (b) an express waiver of the tribal government's immunity from suit on any issue specifically arising from
29 the transaction of a loan or a grant; and

30 (c) an express waiver of any right to exhaust tribal remedies signed by the tribal government."

1

2 **Section 63.** Section 85-1-606, MCA, is amended to read:

3 **"85-1-606. Grants and loans to private persons.** (1) To encourage the construction and development
4 of water-related projects, the department may make grants ~~and loans~~ to private persons from funds appropriated
5 from the natural resources projects state special revenue account established in 15-38-302 ~~and may make.~~

6 (2) The state bank may make loans to private persons from both the natural resources projects state
7 special revenue account established in 15-38-302 and the renewable resource loan proceeds account.

8 ~~(2)(3)~~ (3) The department shall publicize the statutes and rules governing grants ~~and loans~~ to private
9 persons for water-related projects, set and publicize application deadlines, and accept applications for grants ~~and~~
10 ~~loans.~~

11 ~~(3)(4)~~ (4) The department shall review, evaluate, and select the water-related projects for which grants ~~or~~
12 ~~loans~~ may be awarded.

13 (5) The state bank shall publicize the availability and criteria for loans to private persons for water-related
14 projects, set and publicize application deadlines, and accept applications for loans. The state bank may accept
15 recommendations from the department for loan applications, but the decision to make a loan must be based on
16 the review and evaluation of the loan application by the state bank."

17

18 **Section 64.** Section 85-1-608, MCA, is amended to read:

19 **"85-1-608. Applications for grants and loans to private persons.** (1) A private person may apply for
20 a grant or loan to finance a water-related project to be constructed, developed, and operated in Montana.

21 (2) An application for a loan or grant must be in the form prescribed by rule by the state bank or the
22 department, as applicable, and contain or be accompanied by any information necessary to adequately describe
23 the proposed project and necessary for evaluation of the proposed project under the criteria set out in 85-1-609
24 and 85-1-610."

25

26 **Section 65.** Section 85-1-609, MCA, is amended to read:

27 **"85-1-609. Eligibility for a loan or grant to a private person.** (1) The department may not award a
28 grant ~~or loan~~ to a private person unless the department finds, based on the application and the department's
29 investigation and evaluation of the proposal, that:

30 ~~(+)(a)~~ (a) the proposed water-related project:

1 ~~(a)~~(i) will promote, enhance, or advance the purpose, policies, and objectives of the renewable resource
2 grant ~~and loan~~ program;

3 ~~(b)~~(ii) will be constructed, developed, and operated within the state of Montana;

4 ~~(c)~~(iii) will be economically feasible. ~~{A project is economically feasible if the project benefits exceed the~~
5 project costs. The department shall consider only quantifiable benefits and costs in calculating economic
6 feasibility.}

7 ~~(d)~~(iv) will be an efficient use of natural resources, including water, energy, land, and air. ~~{An efficient~~
8 use is one that minimizes waste.}

9 ~~(e)~~(v) will provide multipurpose facilities to the extent practicable;

10 ~~(f)~~(vi) will comply with statutory and regulatory standards protecting the quality of resources such as air,
11 water, land, fish, wildlife, and recreational opportunities;

12 ~~(g)~~(vii) will provide associated public benefits in addition to any private benefits the project may provide;
13 and

14 ~~(h)~~(viii) is needed to accomplish the purpose for which the project is proposed;

15 ~~(2)~~(b) the applicant has adequate financial resources to construct, operate, and maintain the project. The
16 department shall consider financial resources from any source for which the applicant has qualified, including a
17 renewable resource grant or loan.

18 ~~(3)~~(c) the applicant holds or can acquire all necessary lands, other than public lands, and interests in
19 the lands and water rights necessary for the construction, operation, and maintenance of the proposed project;
20 and

21 ~~(4) if the application is for a loan, the applicant is creditworthy and able and willing to enter into a contract~~
22 ~~with the department for loan repayment and construction or development of the proposed project; and~~

23 ~~(5)~~(d) if the application is for a grant, the applicant is able and willing to enter into a contract with the
24 department for construction or development of the proposed project.

25 (2) The state bank may, subject to the certification of capitalization under [section 6(5)], award a loan
26 to a private person unless the state bank finds, based on the application and an investigation and evaluation of
27 the loan proposal, that the objectives under subsections (1)(a) through (1)(c) of this section are met and that the
28 applicant is able and willing to enter into a contract with the state bank for construction or development of the
29 proposed project."

30

1 **Section 66.** Section 85-1-610, MCA, is amended to read:

2 **"85-1-610. Evaluation of grants and loans to private persons.** (1) The department shall consider the
3 following criteria and preferences in evaluating applications and selecting the recipients of grants ~~and loans~~ for
4 water-related projects that are eligible for funding under 85-1-609:

5 ~~(1)(a) The the extent and desirability of the public benefits that will be provided must be considered;~~

6 ~~(2)(b) A whether a water-related project that will be used as part of a family farm, for which must be given~~
7 preference must be given. A family farm is one devoted primarily to agriculture under the ownership and operation
8 of a resident Montana family.

9 ~~(3)(c) A whether a water-related project that will utilize or develop water reserved under 85-2-316. An~~
10 application that meets this criteria must be given preference.

11 ~~(4)(d) The department, to the extent practicable, shall attempt to achieve whether a water-related project~~
12 contributes to a geographic balance in the promotion of renewable resource grant and loan projects through the
13 awarding of loans and grants awarded to private persons;

14 ~~(5)(e) The the extent to which the project will effectively utilize water resources and promote the~~
15 conservation and efficient use of the water resource must be evaluated and considered;

16 ~~(6)(f) Projects that could not whether the project could be accomplished without the assistance of a loan~~
17 or grant. A project that could not be accomplished without the assistance of a grant must be given preference.

18 ~~(7)(g) The department shall give due consideration to any other factor that, in the department's judgment,~~
19 is important to the evaluation of the project in light of the purposes, policies, and objectives of the renewable
20 resource grant and loan program.

21 (2) The state bank shall, subject to the certification of capitalization under [section 6(5)], consider as part
22 of its review of loan applications under the renewable resource loan program the criteria in subsection (1) of this
23 section and award preferences as specified."

24

25 **Section 67.** Section 85-1-612, MCA, is amended to read:

26 **"85-1-612. Rulemaking authority.** (1) The department shall adopt rules:

27 ~~(1)(a)~~ prescribing a reasonable application fee and the form and content of applications for grants and
28 loans;

29 ~~(2)(b)~~ governing the application of the criteria for awarding loans and grants to private persons;

30 ~~(3)~~ providing for the servicing of loans including arrangements for obtaining security interests and the

1 ~~establishment of reasonable fees or charges to be made;~~

2 ~~(4)(c) describing the terms and conditions for making grants and loans, the security instruments, and~~
 3 ~~for the grant agreements necessary;~~

4 ~~(5)(d) describing the ranking criteria used to evaluate and prioritize grants to governmental entities; and~~

5 ~~(6)(e) specifying any other procedures necessary to accomplish the objectives of the renewable resource~~
 6 ~~grant and loan program.~~

7 (2) The state bank shall adopt rules similar to those in subsection (1) that are considered necessary for
 8 the renewable resource loan program and, in addition, shall determine procedures for servicing of loans and
 9 obtaining security interests. The state bank shall post fees or charges associated with obtaining a renewable
 10 resource loan."

11

12 **Section 68.** Section 85-1-613, MCA, is amended to read:

13 **"85-1-613. Limits on loans.** (1) A loan to a private person that is not a water users' association or ditch
 14 company organized and incorporated pursuant to Title 85, chapter 6, part 1, or Title 35, chapter 1, part 2, for a
 15 renewable resource grant and loan program project may not be made from the natural resources projects state
 16 special revenue account established in 15-38-302 or the renewable resource loan proceeds account if the loan
 17 exceeds the lesser of \$400,000 or 80% of the fair market value of the security given for the project. In determining
 18 the fair market value for the security given for a loan, the ~~department~~ state bank shall consider appraisals made
 19 by qualified appraisers and other factors that it considers important.

20 (2) A loan to a private person that is a water users' association or ditch company organized and
 21 incorporated pursuant to Title 35, chapter 1, part 2, or Title 85, chapter 6, part 1, may not be made from the
 22 natural resources projects state special revenue account established in 15-38-302 or the renewable resource loan
 23 proceeds account if the loan would exceed the lesser of \$3 million or an amount representing the annual debt
 24 service on the loan that would exceed 80% of the annual net revenue of the system that would be pledged for
 25 payment of the loan. In determining the amount of annual net revenue that may be pledged for payment of the
 26 loan, annual expenses for operation and maintenance must be subtracted from the gross revenue of the system.

27 (3) A loan to the state, a local government, or a tribal government for a renewable resource grant and
 28 loan program project may not be made by the ~~department~~ state bank from the natural resources projects state
 29 special revenue account established in 15-38-302 or renewable resource loan proceeds account if the loan
 30 exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

- 1 (4) The period for repayment of loans may not exceed 30 years.
- 2 (5) The interest rate at which loans may be made under this part must be sufficient to:
- 3 (a) cover the bond debt service for a loan; and
- 4 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs.
- 5 (6) A loan made under this part may not be used for the cost of operation and maintenance of a project."
- 6

7 **Section 69.** Section 85-1-615, MCA, is amended to read:

8 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The

9 state has a lien upon a project constructed with money from the natural resources projects state special revenue

10 account established in 15-38-302 or the renewable resource loan proceeds account for the amount of the loan

11 and interest due the state. This lien may attach to any project facilities, equipment, easements, real property,

12 shares of stock in a water users' association, revenue of a water users' association, accounts receivable of a

13 water users' association, water purchase agreements, and property of any kind or nature owned by the debtor,

14 including all water rights. The ~~department~~ state bank shall file with the county clerk and recorder of each county

15 in which a part of the project is located either a financing statement or a real estate mortgage covering the loan,

16 its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien

17 as other liens are required by law to be recorded and indexed. The lien is valid until paid in full or otherwise

18 discharged. The lien must be foreclosed in accordance with applicable state law governing foreclosure of

19 mortgages and liens.

20 (2) From the funds available under 15-38-301 or 85-1-617, the ~~state~~ state bank may:

- 21 (a) purchase a lien that is prior to the state's lien if:
- 22 (i) the ~~director of the department~~ state bank determines that the loan is in default and the prospects for
- 23 collecting the loan may be materially increased by purchasing the prior lien; and
- 24 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;
- 25 (b) operate property that is subject to the state's lien if the ~~director of the department~~ state bank
- 26 determines that the loan is in default and that the prospects for collecting the loan may be materially increased
- 27 by operating the property that is subject to the state's lien; or
- 28 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in subsection
- 29 (2)(b).

30 (3) Any property acquired under the provisions of this section must be resold as expeditiously as possible

1 to recover funds used under this section and funds loaned to the borrower."

2

3 **Section 70.** Section 85-1-616, MCA, is amended to read:

4 **"85-1-616. Administration of loans and grants.** (1) The department shall:

5 ~~_____ (1) administer the loan and grant program established by this part;~~

6 (2) The state bank shall, subject to the certification of capitalization under [section 6(5)], administer the
7 loan program established by this part and service loans made ~~or contract and pay for the servicing of loans,~~
8 including arrangements for obtaining security interests; ~~and~~

9 ~~_____ (3) The state bank also shall~~ collect reasonable fees or charges for the servicing of loans, including
10 arrangements for obtaining security interests. The fees and charges must be deposited in the natural resources
11 projects state special revenue account established in 15-38-302."

12

13 **Section 71.** Section 85-1-617, MCA, is amended to read:

14 **"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account.** (1)

15 When authorized by the legislature and within the limits of the authorization and within the further limitations
16 established in this section, the board of examiners may issue and sell renewable resource bonds of the state in
17 the amount and manner it considers necessary and proper to finance the renewable resource grant and loan
18 ~~program~~ programs. The full faith and credit and taxing powers of the state are pledged for the prompt and full
19 payment of all bonds issued and interest and redemption premiums payable on the bonds according to their
20 terms.

21 (2) Each series of renewable resource bonds may be issued by the board of examiners, upon request
22 of the ~~department~~ state bank, at public or private sale, in denominations and forms, whether payable to bearer
23 with attached interest coupons or registered as to principal or as to both principal and interest, with provisions
24 for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds,
25 bearing interest at a rate or rates, maturing at a rate or rates, maturing at a time or times not exceeding 30 years
26 from date of issue, subject to optional or mandatory redemption at earlier times and prices and upon notice, with
27 provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and
28 payable at the state bank or at the office of a banking institution or institutions ~~within or~~ outside the state that the
29 board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

30 (3) In the issuance of each series of renewable resource bonds, the interest rates and the maturities and

1 mandatory redemption provisions contained in the bonds must be established in a manner that the funds then
2 specifically pledged and appropriated by law to the renewable resource loan debt service fund will, in the
3 judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal,
4 redemption premiums, and interest due and payable in that year with respect to that and all prior series of bonds,
5 except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or
6 securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized
7 to be issued.

8 (4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the
9 bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. The bonds,
10 notes, and interest coupons appurtenant to the bonds or notes must be signed by the members of the board of
11 examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds,
12 notes, and coupons may be executed with facsimile signatures and seal in the manner and subject to the
13 limitations prescribed by law. The state treasurer shall keep a record of all bonds and notes issued and sold.

14 (5) There is created a renewable resource loan proceeds account within the state special revenue fund
15 established in 17-2-102.

16 (6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be
17 deposited in the renewable resource loan proceeds account established in subsection (5), except that any
18 principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under
19 this section must be deposited in the renewable resource loan debt service fund and the renewable resource loan
20 loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the renewable
21 resource loan debt service fund and applied to the payment and redemption of outstanding bonds issued under
22 this section as directed by the board of examiners, whether at maturity or on any earlier date on which they may
23 be prepaid according to their terms.

24 (7) All actions taken by the board of examiners under this section or 85-1-619 must be authorized by a
25 vote of a majority of the members of the board of examiners."

26

27 **Section 72.** Section 85-1-618, MCA, is amended to read:

28 **"85-1-618. Restrictions on use of bond proceeds.** Renewable resource bond proceeds may be used
29 only for the purpose of making loans as provided in the renewable resource ~~grant and~~ loan program or for
30 purchasing liens and operating property as provided in 85-1-615."

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Section 73. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant ~~and loan~~ program. The state bank shall prepare a biennial report describing the status of the renewable resource loan program. Each report must describe ongoing projects and projects that have been completed during the biennium. ~~The report reports~~ must identify and rank in order of priority the projects for which the department or the state bank has received applications. ~~The department~~ report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the ~~report reports~~ must be submitted to the environmental quality council established in 5-16-101."

Section 74. Section 85-1-622, MCA, is amended to read:

"85-1-622. Penalty. A member, officer, attorney, or other employee of the board ~~or~~ the department, or the state bank may not, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this part other than the salary, fee, or other compensation that the person may receive as a member, officer, attorney, or employee. A person convicted of violating any provision of this section shall be punished by a fine not to exceed \$2,000 or be imprisoned for not to exceed 2 years, or both."

Section 75. Section 85-1-624, MCA, is amended to read:

"85-1-624. Authorization of bonds. The board of examiners is authorized to issue and sell general obligation renewable resource bonds for the renewable resource grant program and the renewable resource loan program created under ~~Title 85, chapter 1, this part 6;~~ in accordance with the terms and conditions and in the manner provided in 85-1-617 from time to time and in amounts that, taking into consideration the principal amount of any renewable resource bonds then outstanding, will not cause the total aggregate principal amount of renewable resource bonds outstanding at any time to exceed \$30 million."

Section 76. Section 85-2-105, MCA, is amended to read:

"85-2-105. Environmental quality council -- water policy duties. (1) The environmental quality council shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

- 1 (2) On a continuing basis, the environmental quality council may:
- 2 (a) advise the legislature on the adequacy of the state's water policy and on important state, regional,
- 3 national, and international developments that affect Montana's water resources;
- 4 (b) oversee the policies and activities of the department, other state executive agencies, and other state
- 5 institutions as those policies and activities affect the water resources of the state;
- 6 (c) assist with interagency coordination related to Montana's water resources; and
- 7 (d) communicate with the public on matters of water policy as well as the water resources of the state.
- 8 (3) On a regular basis, the environmental quality council shall:
- 9 (a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;
- 10 (b) analyze and comment on the report of the status of the state's renewable resource grant and loan
- 11 ~~program~~ programs required by 85-1-621, when filed by the department or the last chance state bank established
- 12 in [section 1];
- 13 (c) analyze and comment on water-related research undertaken by any state agency, institution, college,
- 14 or university;
- 15 (d) analyze, verify, and comment on the adequacy of and information contained in the water information
- 16 system maintained by the natural resource information system under 90-15-305; and
- 17 (e) report to the legislature as provided in 5-11-210.
- 18 (4) The legislative services division shall provide staff assistance to the environmental quality council
- 19 to carry out its water policy duties."
- 20

21 **Section 77.** Section 90-1-101, MCA, is amended to read:

22 **"90-1-101. Declaration of necessity and public policy.** (1) It is hereby declared to be a necessity and

23 the public policy of the state to promote, stimulate, and encourage the planning and development of the economy

24 of the state in order to provide for the social and economic prosperity of its citizens. Such promotion and

25 development of industry, commerce, agriculture, labor, and natural resources of the state require that cognizance

26 be taken of the continuing migration of people to the urban areas in search of job opportunities and the fact that

27 Montana is making a needed transition to a diversified economy. Community planning, greater diversification of

28 industry and attraction of additional industry, accelerated development of natural resources, expansion of existing

29 industry, creation of new uses for agricultural products, greater emphasis on scientific research, development of

30 new markets for the products of the state, and the attainment of a proper balance in the overall economic base

1 are all necessary in order to create additional employment opportunities, increase personal income, and promote
2 the general welfare of the people of this state.

3 (2) The legislature recognizes that consistency and continuity in the adoption and application of
4 environmental rules are essential to the protection and enhancement of Montana's economic well-being, that
5 consistency and continuity are particularly important to those persons who have made a financial commitment
6 after completing an application for an environmental permit based on the existence of certain environmental rules,
7 and that those persons are entitled to a reasonable expectation that requirements in ~~such~~ a permit will not be
8 changed to their detriment. Therefore, when a person makes a financial commitment after having completed an
9 application for an environmental permit, it is the policy of the state not to change the requirements for ~~such~~ the
10 permit to the detriment of the applicant or permittee without having first taken into account and given
11 consideration to previous expenditures made by the applicant or permittee.

12 (3) The department of commerce ~~shall be regarded as~~ is performing a governmental function in carrying
13 out the provisions of 90-1-102, 90-1-103, and 90-1-105 through 90-1-109."
14

15 **Section 78.** Section 90-1-116, MCA, is amended to read:

16 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**
17 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the following
18 definitions apply:

19 (a) "Certified regional development corporation" means a private, nonprofit corporation that has been
20 designated by the department through a competitive process to manage and administer funds and programs for
21 the department on a regional basis.

22 (b) "Council" means the economic development advisory council established in 2-15-1820.

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

24 (d) "State bank" means the last chance state bank established in [section 1].

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

27 (2) The department shall create a program to provide state funds to match local economic development
28 funds or loans provided by the state bank and to fund up to 12 certified regional development corporations. The
29 provision of state matching funds is contingent upon specific appropriations to the department for that purpose.

30 (3) An assistance grant to a certified regional development corporation will be made based on rules

1 adopted by the department for the state matching funds program. The rules for distribution of funds must include
2 consideration of:

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

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

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

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

7 (4) To be eligible to receive a grant, a certified regional development corporation:

8 (a) must be designated as the certified regional development corporation by the department;

9 (b) shall maintain department requirements for certification;

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

11 (d) shall administer the treasure community designation and reporting process for the communities and
12 counties in the region;

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

15 (f) shall deliver services and resources to the citizens, businesses, and treasure communities throughout
16 the region.

17 (5) Grants under this section must be used to conduct economic development programs consistent with
18 strategic plans that are adopted by the certified regional development corporations and the treasure communities
19 in the region and that are filed with the department."
20

21 **Section 79.** Section 90-1-119, MCA, is amended to read:

22 **"90-1-119. Grant award guidelines.** (1) The department of commerce may award grants of no more
23 than \$100,000 to a business meeting the criteria in 90-1-118.

24 (2) A business may receive a state matching grant for each separate project that is submitted under a
25 federal small business innovative research grant ~~or~~ a small business technology transfer grant, or a loan from
26 the last chance state bank established in [section 1].

27 (3) (a) Upon application from a business that has met the criteria in 90-1-118, the department may award
28 up to 50% of the grant.

29 (b) To receive the remaining 50% of the state matching grant, the business shall submit to the
30 participating federal agency, with copies to the department of commerce, a final phase I project report, a letter

1 of support from the sponsoring agency indicating that the sponsoring agency is interested in the phase II
 2 proposal, and an application for phase II funding. The remaining 50% of the state matching grant is not contingent
 3 upon approval of the phase II project by the participating federal agency.

4 (c) Upon receipt of the documents listed in subsection (3)(b) and verification by the business of a
 5 submitted phase II application to the participating federal agency, the department of commerce shall remit to the
 6 business the remaining 50% of the grant to be provided under 90-1-117 through 90-1-119.

7 (4) A business applying for a state matching grant under 90-1-117 through 90-1-119 shall submit on a
 8 form prescribed by the department of commerce an application that contains:

9 (a) the name of the business, the form of business organization that is registered with the secretary of
 10 state, and the names and addresses of the principals or management of the business;

11 (b) proof of receipt of a phase I award under a federal small business innovative research grant or a
 12 federal small business technology transfer grant; and

13 (c) any other information required by the department of commerce by rule."
 14

15 **Section 80.** Section 90-1-201, MCA, is amended to read:

16 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky economic
 17 development program that consists of:

18 (i) the big sky economic development fund established in 17-5-703; and

19 (ii) the economic development special revenue account provided for in 90-1-205.

20 (b) Interest and income from the big sky economic development fund ~~may~~ must be used ~~to administer~~
 21 ~~the big sky economic development program~~ and to provide financial assistance for qualified economic
 22 development purposes under this part.

23 (2) As used in this part, the following definitions apply:

24 (a) "Certified regional development corporation" has the meaning provided in 90-1-116.

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

26 (c) "Economic development organization" means:

27 (i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
 28 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

29 (B) an entity certified by the department under 90-1-116; or

30 (C) an entity established by a local government; or

1 (ii) an entity actively engaged in economic development and business assistance work in a region of the
2 state.

3 (d) "High-poverty county" means a county in this state in which 14% or more of people of all ages are
4 in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

5 (e) "Local government" means a county, consolidated government, city, town, or district or local public
6 entity with the authority to spend or receive public funds.

7 (f) "State bank" means the last chance state bank established in [section 1].

8 (f)(g) "Tribal government" means any one of the seven federally recognized tribal governments of
9 Montana and the Little Shell band of Chippewa Indians."
10

11 **Section 81.** Section 90-1-203, MCA, is amended to read:

12 **"90-1-203. Types of financial assistance available.** (1) The department shall provide for and make
13 grants ~~and loans available~~ to local governments and tribal governments for economic development projects and
14 to certified regional development corporations from the money in the economic development special revenue
15 account provided for in 90-1-205.

16 (2) A grant ~~or loan~~ may not be used for a project that would result in the transfer or relocation of jobs from
17 one part of the state to another part of the state."
18

19 **Section 82.** Section 90-1-204, MCA, is amended to read:

20 **"90-1-204. (Temporary) Priorities for funding -- rulemaking.** (1) The department must receive
21 proposals for grants ~~and loans~~ from local governments and tribal governments. A local government shall work
22 with an economic development organization on a proposal. The department shall work with the local government
23 and the economic development organization or with an applicant tribal government in preparing cost estimates
24 for a proposed project. In reviewing proposals, the department may consult with other state agencies with
25 expertise pertinent to the proposal.

26 (2) (a) The department shall adopt rules necessary to implement the big sky economic development
27 program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment
28 program and other similar state programs. To the extent feasible, the department shall make the rules compatible
29 with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use
30 of funds so that, except as provided in subsection (2)(b), the needs of rural areas are balanced with the needs

1 of the state's urban centers.

2 (b) For high-poverty counties, the department shall employ an approach pertaining to the use of funds
3 that is intended to lower poverty levels in the county to a percentage at which the county no longer is defined as
4 a high-poverty county.

5 (c) The rules must provide for the types of uses of funds available under the big sky economic
6 development program. The types of uses of funds by:

7 (i) local governments and tribal governments include but are not limited to:

8 ~~(A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;~~

9 ~~(B)(A) a grant or low-interest loan for relocation expenses for a basic sector company; and~~

10 ~~(C)(B) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector~~
11 company;

12 (ii) a certified regional development corporation or a tribal government include:

13 (A) support for business improvement districts and central business district redevelopment;

14 (B) industrial development;

15 (C) feasibility studies;

16 (D) creation and maintenance of baseline community profiles; and

17 (E) matching funds for federal funds, including but not limited to brownfields funds and natural resource
18 damage funds.

19 (d) (i) The rules must provide for distribution methods for financial assistance available to local
20 governments and tribal governments. Except for local government projects funded in Chapter 489, Laws of 2009,
21 the rules must provide for distribution based upon the number of jobs expected to be created because of the
22 funding.

23 (ii) Except for local government projects funded in Chapter 489, Laws of 2009, funding may not exceed
24 \$5,000 for each expected job, except that funding for a project in a high-poverty county may not exceed \$7,500
25 for each expected job.

26 (iii) Except for local government projects funded in Chapter 489, Laws of 2009, the rules must require
27 equal matching funds for a grant ~~or loan~~, except that the rules for a grant ~~or a loan~~ in a high-poverty county may
28 allow a 50% to 100% match requirement for the high-poverty county.

29 (e) Except for local government projects funded in Chapter 489, Laws of 2009, the rules may provide
30 for greater incentives for a high-poverty county.

1 (f) Except for local government projects funded in Chapter 489, Laws of 2009, the rules must provide
 2 for the full or partial repayment of a grant if the new jobs or some of the new jobs for which a grant is given are
 3 not created.

4 (g) Except for local government projects funded in Chapter 489, Laws of 2009, a grant ~~or loan~~ may be
 5 made only for a new job that has an average weekly wage that meets or exceeds the current average weekly
 6 wage of the county in which the employees are to be principally employed. (Terminates June 30, 2011--sec. 82,
 7 Ch. 489, L. 2009.)

8 **90-1-204. (Effective July 1, 2011) Priorities for funding -- rulemaking.** (1) The department must
 9 receive proposals for grants ~~and loans~~ from local governments and tribal governments. A local government shall
 10 work with an economic development organization on a proposal. The department shall work with the local
 11 government and the economic development organization or with an applicant tribal government in preparing cost
 12 estimates for a proposed project. In reviewing proposals, the department may consult with other state agencies
 13 with expertise pertinent to the proposal.

14 (2) (a) The department shall adopt rules necessary to implement the big sky economic development
 15 program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment
 16 program and other similar state programs. To the extent feasible, the department shall make the rules compatible
 17 with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use
 18 of funds so that, except as provided in subsection (2)(b), the needs of rural areas are balanced with the needs
 19 of the state's urban centers.

20 (b) For high-poverty counties, the department shall employ an approach pertaining to the use of funds
 21 that is intended to lower poverty levels in the county to a percentage at which the county no longer is defined as
 22 a high-poverty county.

23 (c) The rules must provide for the types of uses of funds available under the big sky economic
 24 development program. The types of uses of funds by:

25 (i) local governments and tribal governments include but are not limited to:

26 ~~(A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;~~

27 ~~(B)(A) a grant or low-interest loan for relocation expenses for a basic sector company; and~~

28 ~~(C)(B) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector~~
 29 company;

30 (ii) a certified regional development corporation or a tribal government include:

- 1 (A) support for business improvement districts and central business district redevelopment;
 2 (B) industrial development;
 3 (C) feasibility studies;
 4 (D) creation and maintenance of baseline community profiles; and
 5 (E) matching funds for federal funds, including but not limited to brownfields funds and natural resource
 6 damage funds.

7 (d) (i) The rules must provide for distribution methods for financial assistance available to local
 8 governments and tribal governments. The rules must provide for distribution based upon the number of jobs
 9 expected to be created because of the funding.

10 (ii) Funding may not exceed \$5,000 for each expected job, except that funding for a project in a
 11 high-poverty county may not exceed \$7,500 for each expected job.

12 (iii) The rules must require equal matching funds for a grant ~~or loan~~, except that the rules for a grant ~~or~~
 13 ~~a loan~~ in a high-poverty county may allow a 50% to 100% match requirement for the high-poverty county.

14 (e) The rules may provide for greater incentives for a high-poverty county.

15 (f) The rules must provide for the full or partial repayment of a grant if the new jobs or some of the new
 16 jobs for which a grant is given are not created.

17 (g) A grant ~~or loan~~ may be made only for a new job that has an average weekly wage that meets or
 18 exceeds the current average weekly wage of the county in which the employees are to be principally employed."

19

20 **Section 83.** Section 90-1-205, MCA, is amended to read:

21 **"90-1-205. Economic development special revenue account.** (1) There is an economic development
 22 state special revenue account. The account receives earnings from the big sky economic development fund as
 23 provided in 17-5-703. The money in the big sky economic development fund and in the economic development
 24 state special revenue account may be used only as provided in this part.

25 (2) The money in the big sky economic development fund may be used by the state bank, subject to the
 26 certification of capitalization under [section 6(5)], for loans to local governments, tribal governments, and certified
 27 regional development corporations or economic development organizations located in a county that is not part
 28 of a certified regional development corporation.

29 ~~(2)~~(3) The money in the economic development state special revenue account is statutorily appropriated,
 30 as provided in 17-7-502, to the department. Of the money that is deposited in the account that is not used for

1 administrative expenses:

2 (a) 75% must be allocated for distribution to local governments and tribal governments to be used for
3 job creation efforts; and

4 (b) 25% must be allocated for distribution to certified regional development corporations, economic
5 development organizations that are located in a county that is not part of a certified regional development
6 corporation, and tribal governments."

7

8 **Section 84.** Section 90-1-501, MCA, is amended to read:

9 **"90-1-501. Revolving loan program for distressed wood products industry -- finding.** (1) Due to
10 the current, well-documented decline in the wood products industry in Montana, the legislature finds that there
11 is a need to assist the Montana wood products industry as a whole through a revolving loan program.

12 (2) There is a special revenue account called the distressed wood products industry revolving loan
13 account ~~to the credit of the department of commerce~~ within the last chance state bank established in [section 1].

14 (3) (a) The distressed wood products industry revolving loan account consists of money deposited into
15 the account from an appropriation in Chapter 489, Laws of 2009, and money from any other source. Any interest
16 earned by the account must be deposited into the account and used to sustain the program.

17 (b) ~~Loan~~ The last chance state bank shall use loan repayments and any interest generated from loan
18 repayments ~~may be used~~ as revolving loans for the wood products industry or for primary sector businesses
19 statewide ~~and~~. These revolving loans are not subject to the provisions of this section.

20 (4) In any biennium, up to 36% of the funds in the distressed wood products industry revolving loan
21 account, not to exceed \$2.7 million, may be used as matching funds to secure additional federal money. Except
22 as provided in subsection (3)(b), federal funds must be deposited in a federal special revenue account and used
23 for loans in accordance with this part. State matching funds must be deposited in a special revenue account
24 called the distressed wood products matching fund.

25 (5) (a) Funds from the distressed wood products industry revolving loan account may be loaned to:

26 (i) individuals, including private contractors related to the wood products industry; or

27 (ii) businesses defined as small businesses pursuant to the regulations promulgated by the United States
28 small business administration pursuant to 13 CFR 121, et seq.

29 (b) Loans made pursuant to this subsection (5) must be made to individuals or small businesses that
30 are part of the critical, primary wood-processing infrastructure and have suffered economic hardships.

1 (6) Loans must be used to sustain and grow the wood products industry in Montana. Loans may be used
2 for:

3 (a) the purchase or lease of land or equipment;

4 (b) updating infrastructure, including retrofitting of infrastructure to facilitate new uses;

5 (c) working capital;

6 (d) debt service;

7 (e) matching funds for grants or other loans that comply with the intent of this section; or

8 (f) any other use the department determines would sustain and grow the wood products industry.

9 (7) (a) A loan may not exceed \$2 million, and the loan must be repaid within 15 years.

10 (b) A loan recipient may apply for another loan pursuant to this section 2 years or more after the date
11 the previous loan was approved."

12

13 **Section 85.** Section 90-1-502, MCA, is amended to read:

14 **"90-1-502. Administration of revolving loan account -- rulemaking authority.** (1) The ~~department~~
15 ~~of commerce~~ last chance state bank established under [section 1] may adopt rules to implement this part
16 establishing:

17 (a) eligibility criteria, including demonstrated need, criteria for defining capital investments, feasibility to
18 create and retain jobs, financial capacity to repay the loans, estimated return on investment, and other matters
19 that the ~~department~~ last chance state bank considers necessary to ensure repayment of loans and to encourage
20 maximum use of the account;

21 (b) terms and conditions for the loans, including repayment schedules and interest; and

22 (c) a loan application fee.

23 (2) Loans must be made at a low interest rate. The ~~department~~ last chance state bank may set the
24 interest rate at an amount that will cover its administrative costs, but the rate may not be less than 1% a year. The
25 ~~department~~ last chance state bank may determine terms and conditions of loans, including recovery of funds in
26 the event of default."

27

28 **Section 86.** Section 90-3-1002, MCA, is amended to read:

29 **"90-3-1002. Research and commercialization account.** (1) There is a research and commercialization
30 special revenue account within the ~~state treasury~~ last chance state bank established in [section 1]. The purpose

1 of the account is to establish a permanent source of funding for research and commercialization projects to be
 2 conducted at research and commercialization centers in the state and to pay the costs of administering those
 3 projects.

4 (2) ~~The research and commercialization account must be invested by the board of investments.~~ Except
 5 as provided in 90-3-1003(5)(b), earnings on the account must be deposited in the account for distribution
 6 pursuant to ~~90-3-1003(3) through (5)~~ 90-3-1003(2) through (4) and (8)."

7
 8 **Section 87.** Section 90-3-1003, MCA, is amended to read:

9 **"90-3-1003. Research and commercialization account -- use.** (1) The research and commercialization
 10 account provided for in 90-3-1002 is ~~statutorily appropriated, as provided in 17-7-502, to the board of research~~
 11 ~~and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.~~

12 ~~—— (2) The establishment of the account in 90-3-1002 is available through the last chance state bank~~
 13 established in [section 1] for projects intended to enhance the economic growth opportunities for Montana and
 14 that constitute a public purpose.

15 ~~(3)~~(2) The account may be used only for:

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

18 (b) zero-interest loans through the department of commerce for:

19 (i) grants that are to be used for production agriculture research and commercialization projects, clean
 20 coal research and development projects, or renewable resource research and development projects to be
 21 conducted at research and commercialization centers located in Montana;

22 ~~(e)~~(ii) matching funds for grants from nonstate sources that are to be used for research and
 23 commercialization projects to be conducted at research and commercialization centers located in Montana; or

24 ~~(d)~~(iii) administrative costs that are incurred by the board in carrying out the provisions of this part.

25 ~~(4)~~(3) At least 20% of the account funds approved for research and commercialization projects must be
 26 directed toward projects that enhance production agriculture.

27 ~~(5)~~(4) (a) At least 30% of the account funds approved for research and commercialization projects must
 28 be directed toward projects that enhance clean coal research and development or renewable resource research
 29 and development.

30 (b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and

1 development or renewable resource research and development, subsection ~~(5)(a)~~ (4)(a) does not apply.

2 ~~(6)(5)~~ An applicant for a grant from the department shall provide matching funds from nonstate sources
3 equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion,
4 for approval of a grant.

5 ~~(7)(6)~~ The ~~board~~ last chance state bank shall establish policies, procedures, and criteria that achieve
6 the objectives in ~~its~~ the board's research and commercialization strategic plan for the awarding of ~~grants and~~
7 loans. The criteria must include:

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

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

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

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

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

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

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

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

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

21 (7) The department of commerce shall establish policies, procedures, and criteria that achieve the
22 objectives in the board's research and commercialization strategic plan for the awarding of grants. The criteria
23 must include the provisions in subsection (6).

24 (8) The ~~board~~ department of commerce shall ~~direct the state treasurer to distribute~~ apply to the last
25 chance state bank for a zero-interest loan to provide funds for ~~approved~~ approved projects by the board of research and
26 commercialization technology. Unallocated interest and earnings from the account must be retained in the
27 account. Repayments of loans and any agreements authorizing the last chance state bank or the board, as
28 applicable, to take a financial right to licensing or royalty fees paid in connection with the transfer of technology
29 from a research and commercialization center to another nonstate organization or ownership of corporate stock
30 in a private sector organization must be deposited in the account to the credit of the last chance state bank.

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

6 (10) The last chance state bank in its review of loan requests and the board in its review of grant requests
 7 shall identify whether a loan or grant or loan, respectively, is to be used for basic research, applied research, or
 8 some combination of both. For the purposes of this section, "applied research" means research that is conducted
 9 to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted
 10 to uncover the basic function or mechanism of a scientific question.

11 (11) For the purposes of this section:

12 (a) "clean coal research and development" means research and development of projects that would
 13 advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source
 14 well beyond the current level of technology used in commercial service;

15 (b) "renewable resource research and development" means research and development that would
 16 advance:

17 (i) the use of any of the sources of energy listed in 69-3-2003(10) to produce electricity; and

18 (ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources
 19 as an energy source well beyond the current level of technology used in commercial service."

20

21 **Section 88.** Section 90-6-103, MCA, is amended to read:

22 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
 23 definitions apply:

24 (1) "Board" means the board of housing created in 2-15-1814.

25 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
 26 indebtedness issued by the ~~board~~ state bank pursuant to this part, including those on which interest payments
 27 are taxable and those on which interest payments are tax exempt.

28 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

29 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

30 (5) "Federally insured mortgage" means a mortgage loan for land development or residential housing

1 insured or guaranteed by the United States or a governmental agency or instrumentality of the United States or
2 a commitment by the United States or a governmental agency or instrumentalities of the United States to insure
3 a mortgage.

4 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
5 repayment of principal and interest by the United States or an instrumentality of the United States.

6 (7) "Governmental agency" means any department, division, public corporation, public agency, political
7 subdivision, or other public instrumentality of the state, the federal government, any other state or public agency,
8 or any two or more of the entities listed in this subsection.

9 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
10 projects, nursing home projects, personal-care projects, and any work or undertaking financed in whole or in part
11 under this part for the primary purpose of acquiring, constructing, or rehabilitating accommodations for persons
12 or families of lower income in need of housing. An undertaking may include any buildings, land, equipment,
13 facilities, or other real or personal properties that are necessary, convenient, or desirable in connection with a
14 development, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other
15 nonhousing facilities that the board determines to be necessary, convenient, or desirable.

16 (9) "Housing development costs" means the sum total of all costs incurred in a housing development
17 approved by the board as reasonable and necessary, including but not limited to:

18 (a) cost of land acquisition and any buildings on the land, including payments for options, deposits, or
19 contracts to purchase properties on the proposed housing development site or payments for the purchase of
20 properties;

21 (b) cost of site preparation, demolition, and clearing;

22 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
23 connection with the planning, execution, and financing of the housing development and the finding of an eligible
24 mortgagee or mortgagees for the housing development;

25 (d) cost of necessary studies, surveys, plans, and permits;

26 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
27 during construction;

28 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
29 apparatus, and similar facilities related to the real property;

30 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the costs

- 1 have been paid in cash or in a form other than cash;
- 2 (h) necessary expenses in connection with initial occupancy of the housing development;
- 3 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable,
4 a limited-profit housing sponsor;
- 5 (j) an allowance established by the board for working capital and contingency reserves and reserves for
6 any anticipated operating deficits during construction and initial occupancy;
- 7 (k) cost of other items, including tenant relocation, that the board determines to be reasonable and
8 necessary for the housing development, less any net rents and other net revenue received from the operation
9 of the real and personal property on the development site during the construction.
- 10 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts, firms,
11 associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit corporations, or
12 other legal entities or any combination of the entities listed in this subsection that are:
- 13 (a) approved by the board;
- 14 (b) qualified to either own, construct, acquire, rehabilitate, operate, manage, or maintain a housing
15 development;
- 16 (c) subject to the rules of the board and other terms and conditions set forth in this part.
- 17 (11) "Lending institution" means any public or private entity or governmental agency approved by the
18 ~~board maintaining state bank.~~ The lending institution shall maintain an office in this state and must be authorized
19 by law to make or participate in making residential mortgages in the state.
- 20 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other entity,
21 or an individual restricted as to distribution of income and regulated as to rents, charges, rate of return, and
22 methods of operation as the board determines necessary to carry out this part.
- 23 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument that constitutes a valid lien
24 on real property in fee simple or on a leasehold under a lease having a remaining term at the time that the
25 mortgage is acquired that does not expire for at least that number of years beyond the maturity date of the
26 obligation secured by the mortgage established by the board as necessary to protect its interest as mortgagee.
- 27 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
28 improvements in the state.
- 29 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15, or a
30 nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and regulated as

1 to rents, charges, rate of return, and methods of operation as the board determines necessary, and whose articles
2 of incorporation provide in addition that:

3 (a) the organization has been organized exclusively to provide housing developments for persons and
4 families of lower income;

5 (b) all the income and earnings of the organization must be used exclusively for housing development
6 purposes and part of the net income or net earnings of the organization may not inure to the benefit or profit of
7 any private individual, firm, corporation, partnership, or association;

8 (c) the organization is in no manner controlled or under the direction or acting in the substantial interest
9 of any private individual, firm, partnership, or association seeking to derive profit or gain from the organization
10 or seeking to eliminate or minimize losses in any transactions with the organization, except that the limitations
11 apply to members of a cooperative only to the extent provided by rules of the board;

12 (d) the operations of the organization may be supervised by the board and the organization will enter
13 into agreements with the board to regulate planning, development, and management of any housing development
14 undertaken by the organization and the disposition of the property or other interests of the organization.

15 (16) "Persons and families of lower income" means persons and families with insufficient personal or
16 family income or other financial resources who require assistance under this part, as determined by the board,
17 taking into consideration:

18 (a) the amount of the total personal and family income, assets, and other financial resources available
19 for housing needs;

20 (b) the size of the family;

21 (c) the eligibility of persons and families under federal housing assistance of any type based on lower
22 income or a functional or physical disability;

23 (d) the ability of persons and families to compete successfully in the normal housing market and to pay
24 the amount at which private enterprise is providing decent, safe, and sanitary housing;

25 (e) the availability and cost of housing in particular areas; and

26 (f) needs of particular persons or families because of age or physical disabilities.

27 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to provide
28 decent, safe, and sanitary housing or to conform housing with state or local health, building, fire prevention, and
29 safety codes as determined by the board.

30 (18) "State bank" means the last chance state bank established in [section 11]."

1
2 **Section 89.** Section 90-6-104, MCA, is amended to read:
3 **"90-6-104. General powers of the board.** The board may:
4 (1) sue and be sued;
5 (2) have a seal;
6 (3) adopt all procedural and substantive rules necessary for the administration of this part, including rules
7 concerning its mortgage; ~~and~~ construction, ~~and temporary lending~~ programs;
8 (4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its
9 powers under this part;
10 (5) enter into agreements or other transactions with any federal, state, or local governmental agency,
11 any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out
12 this part;
13 (6) enter into agreements under its rules with sponsors, mortgagors, or lending institutions for the
14 purpose of regulating the analysis, planning, development, and management of housing developments financed
15 in whole or in part by the proceeds of ~~its~~ loans or securities and mortgage purchase programs from the state
16 bank;
17 (7) enter into agreements or other transactions with, and accept grants and the cooperation of, any
18 governmental agency in furtherance of this part, including but not limited to the development, leasing,
19 maintenance, operation, and financing of any housing development;
20 (8) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them
21 in carrying out this part;
22 (9) acquire real or personal property or any right, interest, or easement therein by gift, purchase, transfer,
23 foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose thereof;
24 hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control or custody; release
25 or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any equity or right
26 of redemption; do any of the foregoing by public or private sale, with or without public bidding; commence any
27 action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement; bid
28 for and purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure;
29 and operate, manage, lease, dispose of, and otherwise deal with ~~such~~ this property in any manner necessary or
30 desirable to protect its interests and the holders of ~~its~~ bonds or notes under this program issued by the state bank

1 and consistent with any agreement with ~~such~~ those holders;

2 (10) service and contract and pay for the servicing of loans;

3 (11) provide general technical services in the analysis, planning, design, processing, construction,
4 rehabilitation, and management of housing developments for persons and families of lower income where these
5 services are not otherwise available;

6 (12) provide general consultative services to housing developments for persons and families of lower
7 income and the residents ~~thereof~~ of those housing developments with respect to counseling and training in
8 management, home ownership, and maintenance ~~where~~ whenever these services are not otherwise available;

9 ~~(13) invest any funds not required for immediate use, subject to any agreements with its bondholders and~~
10 ~~noteholders, as provided in Title 17, chapter 6, except all investment income from funds of the board less the cost~~
11 ~~for investment as prescribed by law must be deposited in the housing authority enterprise fund;~~

12 ~~(14) sell its loans or securities to the federal national mortgage association or any other agency or~~
13 ~~instrumentality of the United States and invest in the capital stock issued by the association or other agency or~~
14 ~~instrumentality to the extent, if any, required as a condition of the sale;~~

15 ~~_____ (15) consent, whenever it considers it necessary or desirable in fulfilling its purposes, to the modification~~
16 ~~of the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of~~
17 ~~any contract, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or~~
18 ~~agreement of any kind, subject to any agreement with bondholders and noteholders;~~

19 ~~_____ (16) collect reasonable interest, fees, and charges in connection with making and servicing its loans,~~
20 ~~notes, bonds, commitments, and other evidences of indebtedness and in connection with providing technical,~~
21 ~~consultative, and project assistance services. Interest fees and charges are limited to the amounts required to~~
22 ~~pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses~~
23 ~~that may be incurred.~~

24 ~~_____ (17) procure insurance against any loss in connection with its mortgages and mortgage loans and other~~
25 ~~assets or property in amounts and from insurers as the board considers desirable or necessary;~~

26 ~~(18)~~(13) act as agent for governmental agencies concerning acquisition, construction, leasing, operation,
27 or management of a housing development;

28 ~~(19) issue notes and bonds and replace lost, destroyed, or mutilated notes and bonds; and~~

29 ~~(20)~~(14) develop special programs for housing developments for veterans of the armed forces of the
30 United States who are unable to acquire safe and sanitary housing through lending institutions by conventional

1 means."

2

3 **Section 90.** Section 90-6-106, MCA, is amended to read:

4 **"90-6-106. Adoption of rules.** (1) The board shall adopt rules ~~respecting the regulation of borrowers,~~
5 regarding the admission of occupants in housing developments, the construction of ancillary facilities, and
6 requirements or restrictions necessary to implement this part.

7 (2) The board shall adopt rules for the:

8 (a) organization, approval, standards, and regulation of housing sponsors and eligible recipients;

9 ~~(b) approval, standards, and regulation of lending institutions under this part;~~

10 ~~(c) assessment, collection, and payment of all fees and charges in connection with making, purchasing,~~
11 ~~and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and security~~
12 ~~purchase programs;~~

13 ~~(d)(b)~~ assessment and collection of fees and charges in connection with its technical, consultative, and
14 project assistance activities;

15 ~~(e)(c)~~ determination and regulation of ~~mortgagor and lending institution and their use of funds under this~~
16 ~~part~~, sponsor and mortgagor equity definitions and limitations; and housing development costs; and

17 ~~(f)(d)~~ percentage of housing units or housing developments assisted under this part that are reserved
18 for lower income persons and families and ~~which~~ what percentage allows for an economic mixture of residents.

19 (3) The state bank shall adopt rules regarding:

20 (a) loan approval standards under this part, determination and regulation of mortgagor and lending
21 institutions and their funds under this part, and reverse annuity mortgage loan terms and conditions as provided
22 in 90-6-504; and

23 (b) assessment, collection, and payment of all fees and charges in connection with making, purchasing,
24 and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and security
25 purchase programs;"

26

27 **Section 91.** Section 90-6-107, MCA, is amended to read:

28 **"90-6-107. Deposit and expenditure of funds.** (1) There is a housing authority enterprise fund in the
29 proprietary fund type as provided for in 17-2-102(2). There is a housing authority account in the state bank. All
30 funds from the proceeds of bonds issued under this part, ~~fees,~~ must be deposited in the housing authority account

1 in the state bank. Fees and other money received by the board, money appropriated by the legislature for the use
 2 of the board in carrying out this part, and money made available from any other source for the use of the board
 3 must be deposited in the housing authority enterprise fund. All funds deposited in the housing authority enterprise
 4 fund, except funds appropriated by the legislature for use of the board in payment of expenses incurred in
 5 carrying out this part, are continuously appropriated to and may be expended by the board for the purposes
 6 authorized in this part.

7 (2) There is a capital reserve account in the housing authority ~~enterprise fund~~ account provided for in
 8 subsection (1). The capital reserve account consists of the aggregate money retained by the ~~board~~ state bank
 9 under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119
 10 for each bond issue sold by the ~~board~~ state bank.

11 (3) Funds appropriated by the legislature for use of the board in payment of expenses incurred in
 12 carrying out this part must be deposited in the housing authority enterprise fund. Funds expended by the board
 13 under this subsection must be repaid by the board from the fees and charges collected under this part and from
 14 any other money available for repayment in accordance with this part."

15

16 **Section 92.** Section 90-6-108, MCA, is amended to read:

17 **"90-6-108. Financing programs of the board.** The ~~board~~ state bank may:

18 (1) make loans, subject to certification of capitalization under [section 6(5)], to lending institutions under
 19 terms and conditions ~~adopted by the board~~ requiring the proceeds to be used by the lending institution for the
 20 making of mortgage loans for housing developments in the state for persons and families of lower income;

21 (2) invest in, purchase or make commitments to purchase, and take assignments from lending
 22 institutions of notes, mortgages, and other securities evidencing loans for the construction, rehabilitation,
 23 purchase, leasing, or refinancing of housing developments for persons and families of lower income in this state,
 24 under terms and conditions adopted by the ~~board~~ state bank;

25 (3) make, undertake commitments to make, and participate in the making of mortgage loans, including
 26 federally insured mortgage loans, and make temporary loans and advances in anticipation of permanent
 27 mortgage loans to housing sponsors to finance the construction or rehabilitation of housing developments
 28 designed and planned for occupancy by persons and families of lower income in this state, under terms and
 29 conditions adopted by the board;

30 (4) make, undertake commitments to make, and participate in the making of loans to persons and

1 families of lower income for housing development under terms and conditions adopted by the board, including
 2 without limitation persons and families of lower income who are eligible or potentially eligible for federally insured
 3 loans, federal mortgages, or other federal housing assistance, when the board determines that mortgage loans
 4 are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and
 5 conditions;

6 (5) require that loans made to or securities issued by lending institutions ~~shall be~~ are additionally secured
 7 as to payment of principal and interest by a pledge of and a lien upon collateral security in amounts and
 8 consisting of obligations and securities as the ~~board~~ state bank determines to be necessary to ~~assure~~ ensure
 9 prompt payment of loans and interest. Collateral may be required ~~to be lodged with a bank or trust company~~
 10 ~~designated by the board as custodian, or the board~~ state bank may enter into an agreement with the lending
 11 institution requiring it to identify and maintain and service the collateral and the income ~~therefrom~~ from the
 12 obligations or securities solely in accordance with the agreement. A copy of each agreement and any revisions
 13 or supplements ~~thereto shall~~ must be filed with the secretary of state, and no further filing or other action under
 14 the Uniform Commercial Code or any other law ~~shall~~ may be required to perfect the security interest of the ~~board~~
 15 state bank in the collateral or in any additions or substitutions. The lien and trust is binding from the time it is
 16 made against all parties having claims of any kind in tort, contract, or otherwise against the lending institution."
 17

18 **Section 93.** Section 90-6-109, MCA, is amended to read:

19 **"90-6-109. Procedure prior to financing of housing developments.** (1) The ~~board~~ state bank may
 20 finance housing developments under this part only when the board finds and reports to the state bank that:

21 (a) there exists a shortage of decent, safe, and sanitary housing at rentals or prices ~~which~~ that persons
 22 and families of lower income can afford within the general housing market area to be served by the proposed
 23 housing development;

24 (b) private enterprise has not provided an adequate supply of decent, safe, and sanitary housing in the
 25 housing market area at rentals or prices ~~which~~ that persons or families of lower income can afford or provided
 26 sufficient mortgage financing for housing developments for occupancy by persons or families of lower income;

27 (c) the housing sponsor undertaking the proposed housing development in this state will supply ~~well~~
 28 ~~planned, well designed~~ well-planned, well-designed housing; and ~~such sponsors are~~ provides documentation to
 29 the state bank that the housing sponsor is financially responsible;

30 (d) the housing development to be assisted under this part will be of public use and will provide a public

1 benefit, taking into account the existence of local government comprehensive plans, housing and land use plans
2 and regulations, areawide plans, and other public desires;

3 (e) the housing development does not involve the construction of second homes (for purposes of this
4 paragraph, "second home" means a home ~~which~~ that would not qualify as the primary residence of the taxpayer
5 for federal income tax purposes relating to capital gains on the sale or exchange of residential property); and

6 (f) as to direct loans it is necessary to qualify for federal funds.

7 (2) The findings required under subsection (1) must be made after a public hearing whenever the
8 financing of housing relates to a development for rental units owned by a for-profit housing sponsor. The board
9 shall conduct the hearing unless it directs the governing body of the local government in which the proposed
10 housing development is to be located to conduct the hearing."

11

12 **Section 94.** Section 90-6-110, MCA, is amended to read:

13 **"90-6-110. Supervision of housing sponsors.** (1) The board may supervise housing sponsors of
14 housing developments financed under this part as follows:

15 (a) prescribe uniform systems of accounts and records for housing sponsors and require them to make
16 reports and give answers to specific questions on forms and at times specified by the board;

17 (b) enter upon and inspect the housing development and examine all books and records of the housing
18 sponsor with respect to capitalization, income, and other matters as specified by the board;

19 (c) supervise the operation and maintenance of any housing development and order repairs necessary
20 to protect the public and the board's interest or the health, welfare, or safety of the occupants;

21 (d) determine standards for and control resident selection by a housing sponsor;

22 (e) require any housing sponsor to pay to the board fees as it prescribes in connection with the
23 examination, inspection, supervision, auditing, or other regulation of the housing sponsor;

24 (f) order any housing sponsor to do or to refrain from doing things necessary to comply with the
25 provisions of law, the rules of the board, and the terms of any contract or agreement to which the housing sponsor
26 is a party;

27 ~~(g) regulate the retirement of any capital investment or the redemption of stock where any such~~
28 ~~retirement or redemption when added to any dividend or other distribution shall exceed in any one fiscal year 10%~~
29 ~~or a lesser amount of the original face amount of any investment or equity of any housing sponsor, as determined~~
30 ~~by the board; and~~

1 ~~(h)~~(g) adopt rules specifying the categories of cost ~~which shall be~~ allowable in the construction or
2 rehabilitation of a housing development.

3 (2) The board shall require any housing sponsor to certify the actual housing development costs prior
4 to periodic payments that may be required by the state bank or upon completion of the housing development,
5 subject to audit and determination by the board. The board may accept, in lieu of any certification of housing
6 development costs, other assurances of the housing development costs, in any form or manner ~~whatsoever~~, as
7 will enable the board to determine with reasonable accuracy the amount of housing development costs.

8 (3) The state bank shall coordinate with the board regarding retirement of any capital investment or
9 redemption of stock if the retirement of capital investment or redemption of stock when added to a dividend or
10 other distribution exceeds in any 1 fiscal year 10% or a lesser amount of the original face amount of any
11 investment or equity of any housing sponsor as determined by the state bank."

12

13 **Section 95.** Section 90-6-111, MCA, is amended to read:

14 "**90-6-111. Bonds and notes.** (1) The ~~board~~ state bank may by resolution, ~~from time to time~~, after
15 consultation with the board of investments, issue negotiable notes and bonds in a principal amount ~~that~~
16 determined by the board ~~determines~~ of housing to be necessary to provide sufficient funds for achieving ~~any of~~
17 ~~its~~ the purposes specified in this part, including the payment of interest on notes and bonds ~~of the board~~,
18 establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119,
19 and ~~all other~~ expenditures of the board incident to and necessary ~~or convenient~~ to carry out this part.

20 (2) The ~~board~~ state bank may by resolution, ~~from time to time~~, issue notes to renew notes and bonds
21 to pay notes, including interest, and, whenever it considers refunding expedient, refund any bonds by the
22 issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to
23 refund bonds outstanding and partly for any of its other purposes.

24 (3) ~~Except as~~ Unless otherwise expressly provided by resolution of the ~~board~~ state bank, every issue
25 of its notes and bonds must be obligations ~~of the board~~ payable out of any revenue, assets, or money of the ~~board~~
26 housing authority account, subject only to agreements with the holders of particular notes or bonds pledging
27 particular revenue, assets, or money.

28 (4) The notes and bonds must be authorized by resolutions of the ~~board~~ state bank, must bear a date,
29 and must mature at times that the resolutions provide. A note may not mature more than 10 years and a bond
30 may not mature more than 50 years from the date of its issue. The bonds may be issued as serial bonds payable

1 in annual or semiannual installments or as term bonds or as a combination of both. The notes and bonds must
 2 bear interest at a rate or rates, be in denominations, be in a form, either coupon or registered, carry registration
 3 privileges, be executed in a manner, be payable in a medium of payment, at places within or without the state,
 4 and be subject to terms of redemption as provided in resolutions. The ~~board~~ state bank shall designate whether
 5 interest payments on the bonds are taxable or tax exempt. The notes and bonds of the ~~board~~ state bank may be
 6 sold at public or private sale at prices, which may be above or below par, determined by the ~~board~~ state bank.

7 (5) The total amount of notes and bonds outstanding at any time, except notes or bonds as to which the
 8 ~~board's~~ obligation of the state bank has been satisfied and discharged by refunding or for which reserve for
 9 payment or other means of payment have been otherwise provided, may not exceed \$1.5 billion. The issue price
 10 of bonds sold at a discount, not the face amount of the bonds, counts against this statutory ceiling."
 11

12 **Section 96.** Section 90-6-112, MCA, is amended to read:

13 **"90-6-112. Provision of bond resolutions.** A resolution by the state bank authorizing any notes or
 14 bonds; or any issue ~~thereof~~ of notes or bonds; may contain provisions, ~~which shall~~ that must be a part of the
 15 contract or contracts with the bond or note holders ~~thereof~~; as to:

16 (1) pledging all or any part of the ~~revenues~~ revenue or property ~~of the board~~ related to the notes or bonds
 17 to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds, subject to existing
 18 agreements with noteholders or bondholders;

19 (2) pledging all or any part of the assets ~~of the board~~, including mortgages and obligations securing them,
 20 to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds, subject to existing
 21 agreements with noteholders or bondholders;

22 (3) the use and disposition of the gross income from mortgages owned by the ~~board~~ state bank and
 23 payment of principal of mortgages owned by the ~~board~~ state bank;

24 (4) the setting aside of reserves of sinking funds in the hands of trustees, paying agents, and other
 25 depositories and ~~the their~~ regulation and disposition ~~thereof~~;

26 (5) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and the
 27 pledge of the proceeds to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds;

28 (6) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or
 29 bonds may be issued and secured, and the refunding of outstanding notes or bonds;

30 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be

1 amended or abrogated, the amount of notes or bonds to which the holders of ~~which~~ notes or bonds must consent
 2 ~~thereto~~, and the manner in which ~~such~~ the consent may be given;

3 (8) a commitment to employ adequate and competent personnel at ~~such~~ reasonable compensation,
 4 salaries, fees, and charges as may be determined by the board in conjunction with the department of commerce
 5 and to maintain suitable facilities and services for the purpose of carrying out its programs;

6 (9) vesting in a trustee property, rights, powers, and duties in trust as the ~~board~~ state bank determines;

7 (10) defining the acts or omissions to act ~~which shall~~ that constitute a default in the obligations and duties
 8 of the ~~board~~ state bank to the holders of the notes or bonds and providing for the rights and remedies of the
 9 holders of the notes or bonds in the event of ~~such a~~ default, including as a matter of right the appointment of a
 10 receiver. Rights and remedies ~~shall~~ may not be inconsistent with the laws of the state and the other provisions
 11 of this part; and

12 (11) any other matters ~~of like or different character which~~ that in any way affect the security or protection
 13 of the holders of the notes or bonds."
 14

15 **Section 97.** Section 90-6-113, MCA, is amended to read:

16 **"90-6-113. Validity of pledge.** Any pledge made by the state bank and the board ~~shall be~~ is valid and
 17 binding from the time the pledge is made. The ~~revenues, moneys, revenue~~ or property pledged and ~~thereafter~~
 18 received by the state bank and the board ~~shall is~~ immediately ~~be~~ subject to the lien of the pledge without any
 19 physical delivery ~~thereof~~ or further act. The lien of any pledge ~~shall be~~ is valid and binding against all parties
 20 having claims of any kind in tort, contract, or otherwise against the state bank and the board, irrespective of
 21 whether ~~such~~ the parties have notice ~~thereof~~ of the claims. Neither the resolution nor any other instrument by
 22 which a pledge is created ~~need~~ are required to be recorded."
 23

24 **Section 98.** Section 90-6-115, MCA, is amended to read:

25 **"90-6-115. Purchase of notes and bonds -- cancellation.** The ~~board~~ state bank, subject to existing
 26 agreements with noteholders or bondholders, may, out of any funds available for that reason, purchase notes
 27 or bonds of the ~~board, which shall thereupon~~ state bank issued under this part. If purchased by the state bank,
 28 the notes or bonds must be canceled, at a price not exceeding:

29 (1) the current redemption price plus accrued interest to the next interest payment ~~thereon~~, if the notes
 30 or bonds are then redeemable; or

1 (2) the redemption price applicable on the first date after the purchase upon which the notes or bonds
2 become subject to redemption plus accrued interest to that date, if the notes or bonds are not then redeemable."

3

4 **Section 99.** Section 90-6-116, MCA, is amended to read:

5 **"90-6-116. Trust indenture.** (1) In the discretion of the board state bank, the bonds may be secured by
6 a trust indenture between the board state bank and a corporate trustee, which may be a trust company or other
7 bank having the power of a trust company within or without outside of the state. A trust indenture may contain
8 provisions for protecting and enforcing the rights and remedies of the bondholders which that are reasonable and
9 proper and not in violation of law, including covenants setting forth the duties of the board state bank in relation
10 to the exercise of its powers and the custody, safeguarding, and application of all money. The board state bank
11 may provide by a trust indenture for the payment of the proceeds of the bonds and the ~~revenues~~ revenue to the
12 trustee under the trust indenture of another depository and for the method of disbursement, with safeguards and
13 restrictions it considers necessary.

14 (2) All expenditures incurred in carrying out a trust indenture may be treated as part of the operating
15 expenditures of the board bond that is the subject of the trust indenture."

16

17 **Section 100.** Section 90-6-119, MCA, is amended to read:

18 **"90-6-119. Reserve funds and appropriations.** (1) The board state bank shall ~~pay~~ deposit into the
19 capital reserve account:

20 (a) any funds ~~appropriated and~~ made available by the state for the purpose of the account;

21 (b) any proceeds of sale of notes or bonds to the extent provided in the resolutions or indentures of the
22 board state bank authorizing their issuance; and

23 (c) any other funds which that may be available to the board state bank for the purpose of the account
24 from any other source.

25 (2) ~~All funds~~ Funds held in the capital reserve account ~~shall~~ may be used solely for the payment of the
26 principal of bonds secured in whole or in part by the account or of the debt service payments with respect to the
27 bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any
28 redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account
29 ~~shall~~ may not be withdrawn at any time in an amount which that reduces the amount of the account to less than
30 the sum of minimum capital reserve requirements established for the account, except, with respect to bonds

1 secured in whole or in part by the account, for the purpose of making payment, when due, of principal, interest,
 2 redemption premiums, and debt service payments for the payment of which other ~~moneys~~ pledged funds are not
 3 available. ~~Any income or interest earned by or incremental to the capital reserve account due to its investment~~
 4 ~~may be transferred to other accounts of the board to the extent it does not reduce the amount of the capital~~
 5 ~~reserve account below the sum of minimum capital reserve requirements for the account.~~

6 (3) The ~~board~~ state bank may not issue bonds secured in whole or in part by the capital reserve account
 7 unless the ~~board~~ state bank deposits in the account from the proceeds of the bonds issued or from any other
 8 sources an amount not less than the minimum capital reserve requirement for these bonds. For the purposes of
 9 this section, the term "minimum capital reserve requirement" means, as of any particular date of computation,
 10 an amount of money, as provided in the resolution or indenture of the ~~board~~ state bank authorizing the bonds or
 11 notes, equal to not more than the greatest of the respective amounts for the current or any future fiscal year of
 12 the ~~board~~ of annual debt service on the bonds ~~of the board~~ secured in whole or in part by the account. The
 13 annual debt service for any fiscal year is the amount of money equal to the aggregate of all interest and principal
 14 payable on the bonds during the fiscal year, calculated on the assumption that all the bonds are paid at maturity.
 15 If any amount of the bonds is required to be redeemed on an earlier date by the operation of a debt service fund,
 16 then that amount is considered payable on those bonds during the year they are to be redeemed for the purposes
 17 of this calculation.

18 (4) In computing the amount of the capital reserve account, securities in which all or a portion of the
 19 account ~~shall~~ must be invested ~~shall~~ are to be valued at par or, if purchased at less than par, at their cost to the
 20 ~~board~~ state bank."

21
 22 **Section 101.** Section 90-6-121, MCA, is amended to read:
 23 **"90-6-121. Refunding obligations -- issuance.** The ~~board~~ state bank may provide for the issuance of
 24 refunding obligations for refunding any obligations then outstanding ~~which~~ that have been issued under this part,
 25 including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption
 26 of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the
 27 rights, duties, and obligations of the ~~board~~ state bank are governed by the appropriate provisions of this part
 28 ~~which~~ that relate to the issuance of obligations."

29
 30 **Section 102.** Section 90-6-123, MCA, is amended to read:

1 **"90-6-123. Credit of state not pledged.** Obligations issued under the provisions of this part do not
 2 constitute a debt or liability or obligation or a pledge of the faith and credit of the state but are payable solely from
 3 the ~~revenues~~ revenue or assets of the ~~board~~ state bank. An obligation issued under this part ~~shall~~ must contain
 4 on ~~the its~~ face ~~thereof~~ a statement to the effect that the state of Montana is not liable on the obligation and the
 5 obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is pledged
 6 to the payment of the principal of or the interest on the obligation."

7

8 **Section 103.** Section 90-6-125, MCA, is amended to read:

9 **"90-6-125. Tax exemption of bonds.** Bonds, notes, or other obligations issued by the ~~board~~ state bank
 10 under this part or by local housing authorities under Title 7, chapter 15, parts 21, 44, and 45, their transfer, and
 11 their income, ~~(including any profits made on their sale),~~ are free from taxation by the state or any political
 12 subdivision or other instrumentality of the state, except for estate taxes. The ~~board~~ state bank is not required to
 13 pay recording or transfer fees or taxes on instruments recorded by it."

14

15 **Section 104.** Section 90-6-126, MCA, is amended to read:

16 **"90-6-126. Pledge of the state.** In accordance with the constitutions of the United States and the state
 17 of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the
 18 ~~board~~ state bank and the holders of notes and bonds issued by the ~~board~~ state bank, including but not limited
 19 to an agreement ~~to~~ that the state bank, through the board, shall administer a loan program financed by the
 20 issuance of bonds and ~~to~~ employ a staff sufficient and competent for this purpose."

21

22 **Section 105.** Section 90-6-127, MCA, is amended to read:

23 **"90-6-127. Allocation of state limit.** (1) All of the aggregate amount of qualified mortgage bonds that
 24 may be issued during any calendar year in accordance with section 146 of the Internal Revenue Code, 26 U.S.C.
 25 146, as amended, is allocated to the ~~board of housing~~ state bank.

26 (2) The board of housing may adopt standards for determining and may designate areas of chronic
 27 economic distress within the meaning of section 143(j)(3) of the Internal Revenue Code, 26 U.S.C. 143(j)(3), as
 28 amended."

29

30 **Section 106.** Section 90-6-132, MCA, is amended to read:

1 **"90-6-132. Definitions.** As used in 90-6-131 through 90-6-136, the following definitions apply:

2 (1) "Board" means the board of housing created in 2-15-1814.

3 (2) "Fund" means the housing Montana fund created in 90-6-133.

4 (3) "Housing development" means the same as in 90-6-103.

5 (4) "Low-income" means households whose incomes do not exceed 80% of the median income in the
6 area, as determined by the United States department of housing and urban development, with adjustments for
7 smaller or larger families.

8 (5) "Moderate-income" means households whose incomes are between 81% and 95% of the median
9 income for the area, as determined by the United States department of housing and urban development, with
10 adjustments for smaller and larger families.

11 (6) "State bank" means the last chance state bank established in [section 1]."

12

13 **Section 107.** Section 90-6-133, MCA, is amended to read:

14 **"90-6-133. Housing Montana fund -- administration.** (1) (a) There is a housing Montana fund in the
15 housing authority ~~enterprise fund~~ account provided for in 90-6-107. The money in the fund is ~~allocated to the~~
16 ~~board~~ must be used for ~~the purpose of~~ providing loans to eligible applicants.

17 (b) ~~Money~~ Of the money in the housing Montana fund, ~~must be disbursed as loans. Twenty percent of~~
18 ~~the money in the fund~~ 20% must be ~~disbursed~~ used for loans to rural areas based on population; and 50% must
19 be ~~disbursed~~ used for loans to assist people living on incomes of not more than 50% of the local median family
20 income.

21 (2) (a) Except as provided in subsection (2)(b), money deposited in the fund must be used for the
22 program authorized in 90-6-134 and may not be used to pay the expenses of any other program or service
23 ~~administered by the board.~~

24 (b) Money transferred to the account pursuant to section 2, Chapter 502, Laws of 2001, may be used
25 only for the purposes authorized by the temporary assistance for needy families block grant pursuant to Title IV
26 of the Social Security Act, 42 U.S.C. 601, et seq.

27 (3) The ~~board~~ state bank, subject to certification of capitalization under [section 6(5)]. may determine the
28 rate of interest to be charged for any loan made under the provisions of 90-6-131 through 90-6-136.

29 (4) The ~~board~~ state bank may accept contributions, gifts, and grants for deposit into the fund. The money
30 must be used in accordance with the provisions of 90-6-134.

1 ~~(5) The costs incurred by the board in administering the fund may be paid from the fund.~~

2 ~~(6)(5) Interest and principal on loans from the fund must be repaid to the fund.~~

3 ~~(7)(6) Interest income generated by investment of the principal of the fund is retained in the fund."~~

4

5 **Section 108.** Section 90-6-134, MCA, is amended to read:

6 **"90-6-134. Housing Montana fund -- loan capital restricted to interest on principal -- eligible**
 7 **applicants.** (1) The money in the housing Montana fund must be used to provide financial assistance in the form
 8 of direct loans by the ~~board~~ state bank, subject to certification of capitalization under [section 6(5)], to eligible
 9 applicants determined as eligible by the board.

10 (2) After the initial principal is loaned to eligible applicants, the amount of loans made in a fiscal year is
 11 contingent on the repayment of loan principal and on the amount of interest income generated by the principal
 12 of the fund.

13 (3) Money from the fund must be used to provide:

14 (a) matching funds for public or private money available from other sources for the development of
 15 low-income and moderate-income housing;

16 (b) bridge financing necessary to make a low-income housing development or a moderate-income
 17 housing development financially feasible;

18 (c) acquisition of existing housing for the purpose of preservation of or conversion to low-income or
 19 moderate-income housing;

20 (d) preconstruction technical assistance to eligible recipients in rural areas and small cities and towns;

21 or

22 (e) acquisition of land for housing developments, land banking and land trusts, and short-term site-based
 23 housing vouchers for needy individuals.

24 (4) (a) Technical assistance under subsection (3)(d) may include but is not limited to:

25 (i) financial planning and packaging for housing developments and projects;

26 (ii) project design, architectural planning, and siting;

27 (iii) compliance with planning and permitting requirements; or

28 (iv) maximizing local government contributions to project development in the form of land donations,
 29 infrastructure improvements, zoning variances, or creative local planning.

30 (b) The ~~board~~ state bank may contract with a nonprofit organization to provide this technical assistance.

1 (5) Money from the fund may not be used to replace existing or available sources of funding for eligible
2 activities.

3 (6) Organizations eligible for loans from the fund are state government or state agencies or programs,
4 local governments, tribal governments, local housing authorities, nonprofit ~~community-~~ community-based or
5 neighborhood-based organizations, regional or statewide nonprofit housing assistance organizations, or for-profit
6 housing developers."

7

8 **Section 109.** Section 90-6-135, MCA, is amended to read:

9 **"90-6-135. Coordination with other programs.** The state bank, in conjunction with the board, shall
10 ensure that all housing assistance activities supported through the loan program are coordinated with other
11 housing assistance programs administered by the board, the federal government, state agencies, tribal
12 governments, local public housing authorities, and local governments."

13

14 **Section 110.** Section 90-6-136, MCA, is amended to read:

15 **"90-6-136. Administrative rules.** The state bank, in coordination with the board, shall adopt rules to
16 implement 90-6-131 through 90-6-136. The rules must address:

- 17 (1) the development of eligibility criteria for applicants;
18 (2) the development of an application process for requesting financial assistance;
19 (3) the establishment of a procedure for disbursing financial assistance;
20 (4) the establishment of the terms and conditions of a loan, including the method and schedule of
21 repayment and the applicable rate of interest;
22 (5) the development of a process for awarding technical assistance contracts; and
23 (6) other matters necessary for the administration of 90-6-131 through 90-6-136."

24

25 **Section 111.** Section 90-6-504, MCA, is amended to read:

26 **"90-6-504. Reverse annuity mortgage loan program.** The ~~board~~ last chance state bank established
27 in [section 1] may make reverse annuity mortgage loans that are secured by a single-family dwelling located in
28 this state. The loans must be made under terms and conditions adopted by the ~~board~~ last chance state bank
29 pursuant to its authority under 90-6-104."

30

1 **Section 112.** Section 90-6-701, MCA, is amended to read:

2 **"90-6-701. (Temporary) Treasure state endowment program created -- definitions.** (1) (a) There
3 is a treasure state endowment program that consists of:

4 (i) the treasure state endowment fund established in 17-5-703;

5 (ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

6 (b) ~~The Subject to certification of the state bank's capitalization under [section 6(5)], the~~ treasure state
7 endowment program may borrow from the ~~board of investments~~ state bank to provide additional financial
8 assistance for local government infrastructure projects under this part, ~~provided that no part of the loan may be~~
9 ~~made from retirement funds.~~

10 (2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under
11 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this
12 part and to repay loans from the ~~board of investments~~ state bank.

13 (3) As used in this part, the following definitions apply:

14 (a) "Infrastructure projects" means:

15 (i) drinking water systems;

16 (ii) wastewater treatment;

17 (iii) sanitary sewer or storm sewer systems;

18 (iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

19 or

20 (v) bridges.

21 (b) "Local government" means an incorporated city or town, a county, a consolidated local government,
22 a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in
23 75-6-304.

24 (c) "State bank" means the last chance state bank established in [section 1].

25 ~~(e)~~(d) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund
26 established in 17-5-703(1)(b).

27 ~~(d)~~(e) "Treasure state endowment program" means the local government infrastructure investment
28 program established in subsection (1).

29 ~~(e)~~(f) "Tribal government" means a federally recognized Indian tribe within the state of Montana.

30 **90-6-701. (Effective July 1, 2011) Treasure state endowment program created -- definitions.** (1) (a)

1 There is a treasure state endowment program that consists of:

2 (i) the treasure state endowment fund established in 17-5-703;

3 (ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

4 (b) The treasure state endowment program may borrow from the ~~board of investments~~ the state bank
5 to provide additional financial assistance for local government infrastructure projects under this part, ~~provided that~~
6 ~~no part of the loan may be made from retirement funds.~~

7 (2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under
8 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this
9 part, to provide funding to the department of commerce for the administrative costs of the treasure state
10 endowment program, and to repay loans from the ~~board of investments~~ state bank.

11 (3) As used in this part, the following definitions apply:

12 (a) "Infrastructure projects" means:

13 (i) drinking water systems;

14 (ii) wastewater treatment;

15 (iii) sanitary sewer or storm sewer systems;

16 (iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

17 or

18 (v) bridges.

19 (b) "Local government" means an incorporated city or town, a county, a consolidated local government,
20 a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in
21 75-6-304.

22 (c) "State bank" means the last chance state bank established in [section 1].

23 ~~(d)~~(d) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund
24 established in 17-5-703(1)(b).

25 ~~(e)~~(e) "Treasure state endowment program" means the local government infrastructure investment
26 program established in subsection (1).

27 ~~(f)~~(f) "Tribal government" means a federally recognized Indian tribe within the state of Montana."
28

29 **Section 113.** Section 90-6-715, MCA, is amended to read:

30 **"90-6-715. (Temporary) Special revenue account -- use.** (1) (a) The treasure state endowment

1 regional water system special revenue account may be used to:

2 (i) provide matching funds to plan and construct regional drinking water systems in Montana;

3 (ii) pay the debt service for regional water system bond issues;

4 (iii) provide funding of administrative expenses for state and local entities associated with regional
5 drinking water systems; and

6 (iv) pay the costs of eligible projects on an interim basis pending the receipt of grant and loan funds by
7 those systems or entities.

8 (b) Except for the debt service administrative expenses and payment of the costs of eligible projects on
9 an interim basis provided for in subsection (1)(a), each state dollar must be matched equally by local funds.
10 Federal and state grants may not be used as a local match.

11 (2) Up to 25% of the local matching funds required under subsection (1) for the treasure state
12 endowment regional water system may be in the form of debt that was incurred by local government entities
13 included in the regional water system to construct individual drinking water systems before the individual systems
14 were connected to the regional system. However, the amount of an individual entity's debt that may be used for
15 matching funds is limited to the amount necessary to allow the entity to maintain its water service charges below
16 the hardship standard established by the department through administrative rules adopted under 90-6-710.

17 (3) The funds in the account are further restricted to be used to finance regional drinking water systems
18 that supply water to large geographical areas and serve multiple local governments, such as projects in north
19 central Montana, from the waters of the Tiber reservoir, that will provide water for domestic use, industrial use,
20 and stock water for communities and rural residences that lie south of the Canadian border, west of Havre, north
21 of Dutton, and east of Cut Bank and in northeastern Montana, from the waters of the Missouri River, that will
22 provide water for domestic use, industrial use, and stock water for communities and rural residences that lie south
23 of the Canadian border, west of the North Dakota border, north of the Missouri River, and east of range 39.

24 (4) The funds made available as grants must be administered by the department of natural resources
25 and conservation for eligible projects. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)"

26

27 **Section 114.** Section 90-7-102, MCA, is amended to read:

28 **"90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following
29 definitions apply:

30 (1) "Authority" means the Montana facility finance authority created in 2-15-1815.

- 1 (2) "Capital reserve account" means the account established in 90-7-317.
- 2 (3) "Costs" means costs allowed under 90-7-103.
- 3 (4) "Eligible facility" means any eligible facility as defined in 90-7-104.
- 4 (5) (a) "Institution" means any public or private:
- 5 (i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible facility
- 6 in this state;
- 7 (ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease
- 8 center in this state; or
- 9 (iii) for-profit or nonprofit corporation or other organization authorized to provide for or to operate a project
- 10 or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code,
- 11 26 U.S.C. 144(a).
- 12 (b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by
- 13 one or more nonprofit entities:
- 14 (i) a network of health care providers, regardless of how it is organized;
- 15 (ii) an integrated health care delivery system;
- 16 (iii) a joint venture or partnership between or among health care providers;
- 17 (iv) a purchasing alliance composed of health care providers;
- 18 (v) any health insurers and third-party administrators that are participants in a system, network, joint
- 19 venture, or partnership that provides health services through one or more health facilities.
- 20 (6) "Participating institution" means an institution that undertakes the financing, refunding, or refinancing
- 21 of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of this chapter.
- 22 (7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal
- 23 repayments, and other income received or to be received by the authority from any source on account of the
- 24 eligible facilities.
- 25 (8) "State bank" means the last chance state bank established in [section 1].
- 26

27 **Section 115.** Section 90-7-112, MCA, is amended to read:

28 **"90-7-112. Exemption from taxation -- securities law.** (1) The authority performs a public function for

29 the benefit of the people of the state for the improvement of their health and living conditions and is a public

30 instrumentality of the state. Accordingly, the income or other revenue of the authority, ~~and~~ all property owned by

1 the authority, and any bonds, notes, or other obligations issued under this chapter, their transfer, and income
 2 therefrom, including any profit made on the sale thereof of property owned by the authority; are exempt at all
 3 times from all taxation in the state of Montana.

4 (2) Bonds, notes, or other obligations issued by the state bank on behalf of the authority are exempt from
 5 the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with the
 6 state securities commissioner for public inspection."

7
 8 **Section 116.** Section 90-7-113, MCA, is amended to read:

9 **"90-7-113. Bonds as legal investment.** (1) Bonds issued by the state bank on behalf of the authority
 10 under the provisions of this chapter are securities in which funds may be legally and properly invested, including
 11 capital in the control of or belonging to:

- 12 (a) public officers and public bodies of the state and its political subdivisions;
- 13 (b) insurance companies;
- 14 (c) credit unions, building and loan associations, investment companies, savings banks, banking
 15 associations, and trust companies;
- 16 (d) personal representatives, public administrators, trustees, and other fiduciaries; and
- 17 (e) pension, profit-sharing, and retirement funds.

18 (2) Bonds issued under this chapter are securities that may properly and legally be deposited with and
 19 received by any state or municipal officer or any agency or municipality of the state for any purpose for which the
 20 deposit of bonds or obligations of the state is authorized by law."

21
 22 **Section 117.** Section 90-7-116, MCA, is amended to read:

23 **"90-7-116. Taxation of certain projects financed by authority.** (1) Regardless of whether the title to
 24 a project is held by the authority or, a trustee acting for the authority, or the state bank, if the project is being
 25 financed by the state bank as an authority project on behalf of a for-profit corporation or other organization, the
 26 project is subject to taxation to the same extent, in the same manner, and under the same procedures as privately
 27 owned property in similar circumstances if the project is leased to or held by private interests on both the
 28 assessment date and the date the county commissioners set the mill levies in any year. The project is not subject
 29 to taxation in any year during which it is not leased to or held by private interests on both the assessment date
 30 and the date the county commissioners set the mill levy.

1 (2) When personal property owned by the authority or a trustee acting for the authority is taxed under
 2 this section and the personal property taxes on the personal property are delinquent, a levy by warrant for
 3 distraint for collection of the delinquent taxes may be made only on the personal property against which the taxes
 4 were levied."

5

6 **Section 118.** Section 90-7-202, MCA, is amended to read:

7 **"90-7-202. Powers of authority.** The authority may:

8 (1) sue and be sued;

9 (2) have a seal;

10 (3) adopt all procedural and substantive rules necessary for the administration of this chapter;

11 ~~(4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or~~
 12 ~~refunding bonds;~~

13 ~~———(5) except as provided in 17-6-308, invest any funds that are not required for immediate use, subject to~~
 14 ~~any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except that all~~
 15 ~~investment income from funds invested by the authority, less the cost for investment, must be deposited in an~~
 16 ~~enterprise fund to the credit of the authority to be used to carry out the purposes of this chapter;~~

17 ~~———(6) contract in its own name for the investment of funds, borrowing of funds, or any other purposes it~~
 18 ~~considers appropriate to carry out the purposes of this chapter;~~

19 ~~———(7) participate with any financial institution in the purchase or guarantee of any loan or obligation;~~

20 ~~———(8) issue bond anticipation notes or any other anticipatory financial obligations to secure funding of~~
 21 ~~eligible facilities;~~

22 ~~———(9) enter into agreements or make advance commitments to ensure repayments required by loan~~
 23 ~~agreements made by a lender. These agreements are subject to terms and conditions established by the~~
 24 ~~authority;~~

25 ~~———(10) establish programs to make, sell, purchase, or insure loans to finance the costs of eligible facilities~~
 26 ~~from any funds;~~

27 ~~(11)~~(4) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state, a
 28 municipality, or any other source;

29 ~~(12)~~(5) enter into contracts, including guaranteed investment contracts, or other transactions with a
 30 federal agency, an agency or instrumentality of the state, a municipality, a private organization, or any other entity

- 1 consistent with the exercise of any power under this chapter;
- 2 ~~(13)~~(6) with regard to property:
- 3 (a) acquire real or personal property or any right, interest, or easement in real or personal property by
- 4 gift, purchase, transfer, foreclosure, lease, or otherwise;
- 5 (b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of property;
- 6 (c) hold, sell, assign, or otherwise dispose of, through the state bank, any mortgage or loan owned by
- 7 it or in its control or custody;
- 8 (d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired,
- 9 including any equity or right of redemption;
- 10 (e) make any disposition by public or private sale, with or without public bidding;
- 11 (f) commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract,
- 12 or other agreement;
- 13 (g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in
- 14 lieu of foreclosure; and
- 15 (h) operate, manage, lease, dispose of, and otherwise deal with property in any manner necessary or
- 16 desirable to protect its interests or the holders of its bonds or notes issued on its behalf if that action is consistent
- 17 with any agreement with the holders;
- 18 ~~(14)~~(7) service, contract, and pay for the servicing of loans;
- 19 ~~(15)~~(8) provide general technical services in the analysis, planning, design, processing, construction,
- 20 rehabilitation, and management of eligible facilities whenever considered appropriate;
- 21 ~~(16) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the modification~~
- 22 ~~of the rate of interest, time, or payment of any installment of principal, interest, or security or any other term of~~
- 23 ~~any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage loan commitment,~~
- 24 ~~construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and~~
- 25 ~~noteholders;~~
- 26 ~~(17)~~(9) collect reasonable interest, fees, and charges from participating institutions in connection with
- 27 making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and
- 28 other evidences of indebtedness. Except as provided in 17-6-308, the interest, fees, and charges must be
- 29 deposited to an enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the amounts
- 30 required to pay the costs of the authority, including operating and administrative expenses, reasonable

1 allowances for losses that may be incurred, and bond financing costs, ~~and to provide funds to make loans to~~
 2 ~~finance the costs of eligible facilities or to make grants for the purposes described in 90-7-211(2)(e).~~

3 ~~(18) make loans pursuant to 17-6-308;~~

4 ~~(19)~~(10) establish program parameters for loan or grant recommendation or approval by authority staff;
 5 and

6 ~~(20)~~(11) perform any other acts necessary and convenient to carry out the purposes of this chapter."
 7

8 **Section 119.** Section 90-7-211, MCA, is amended to read:

9 **"90-7-211. Necessary expenses -- fees.** (1) All expenses of the authority incurred in carrying out the
 10 provisions of this chapter are payable solely from funds provided under the authority of this chapter. Liability may
 11 not be incurred by the authority beyond the extent to which money has been provided under this chapter, except
 12 for the purposes of meeting the necessary expenses of initial organization and operation and until the date that
 13 the authority derives money from funds provided under this chapter. The authority may borrow money from the
 14 state bank for necessary expenses of organization and operation. The borrowed money must be repaid within
 15 a reasonable time after the authority receives funds provided for under this chapter.

16 (2) When an application is made to the authority by any participating institution for financial assistance
 17 to provide for its eligible facilities, the application may be accompanied by an initial planning service fee in an
 18 amount determined by the authority. The initial planning service fee may be included in the cost of the eligible
 19 facilities to be financed. In addition to the initial fee, an annual planning service fee may be paid to the authority
 20 by each participating institution in an amount determined by the authority. The annual planning service fee may
 21 be paid on the dates or in installments that are satisfactory to the authority. The fees must be deposited in the
 22 state bank in an account to the credit of the authority to be used for:

23 (a) necessary expenses to determine the need for eligible facilities in the area concerned, and to that
 24 end, the authority may use recognized voluntary and official health planning organizations and agencies at local,
 25 regional, and state levels;

26 (b) necessary administrative, operating, and financing expenses;

27 (c) reserves held by the state bank for anticipated future expenses or loan losses;

28 (d) loans to finance the costs of eligible facilities; and

29 (e) grants made available through the authority to institutions to assist in determining eligibility for or
 30 compliance with government programs.

1 (3) The authority may, for a negotiated fee, retain the services of any other public or private person, firm,
 2 partnership, association, or corporation for the furnishing of services and data for use by the authority in
 3 determining the need for and location of any eligible facility for which application is being made or for other
 4 services or surveys that the authority considers necessary to carry out the purposes of this chapter."

5

6 **Section 120.** Section 90-7-212, MCA, is amended to read:

7 **"90-7-212. Purchase of bonds by authority.** The authority state bank may purchase ~~its~~ bonds or notes
 8 that were sold on behalf of the authority. The authority state bank may hold, pledge, cancel, or resell ~~such~~ the
 9 bonds or notes; subject to and in accordance with agreements with bondholders or noteholders."

10

11 **Section 121.** Section 90-7-225, MCA, is amended to read:

12 **"90-7-225. Procedure prior to financing qualified small bond issue projects.** (1) In addition to
 13 meeting the other requirements contained in this chapter or in state or federal law, the requirements of
 14 subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

15 (2) The authority shall find that the financing is in the public interest. In order to determine whether or
 16 not the financing is in the public interest, a public hearing must be conducted in the following manner:

17 (a) the city or county in which the project will be located must be notified, and the city and county shall,
 18 within 14 days after receipt of the notice, notify the ~~board~~ authority if it elects to conduct the hearing; or

19 (b) if a request for a local hearing is not received by the authority within 14 days after the notification in
 20 subsection (2)(a), the authority may hold the hearing at a time and place it determines.

21 (3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the
 22 hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held
 23 and the project will be located. The notice must include the time and place of the hearing, a general description
 24 of the nature and location of the project, the name of the lessee, borrower, or user of the project and the
 25 maximum principal amount of the financing to be ~~provided by the authority~~ requested of the state bank.

26 (4) If the hearing required by subsection (2) is conducted by a local government, the governing body of
 27 the local government shall notify the authority of its determination of whether the financing is in the public interest
 28 within 14 days after the completion of the public hearing.

29 (5) The authority shall provide to the state bank a summary of the hearing and the determination of
 30 whether the financing is in the public interest along with a recommended amount of financing."

1

2 **Section 122.** Section 90-7-228, MCA, is amended to read:

3 **"90-7-228. Additional reserves, funds, and accounts.** The ~~authority~~ state bank may in its discretion
4 establish additional reserves or other funds or accounts necessary, desirable, or convenient to further the
5 accomplishment of the purposes of this chapter or to comply with the provisions of its resolution or agreements."

6

7 **Section 123.** Section 90-7-229, MCA, is amended to read:

8 **"90-7-229. Procedure prior to financing certain projects.** (1) In addition to meeting the other
9 requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4)
10 must be met before financing is provided for a project described in 90-7-104(1)(l).

11 (2) The authority shall find that the financing is in the public interest. In order to determine whether or
12 not the financing is in the public interest, a public hearing must be conducted in the following manner:

13 (a) the city or county in which the project will be located must be notified, and the city and county shall,
14 within 14 days after receipt of the notice, notify the ~~board~~ authority if it elects to conduct the hearing; or

15 (b) if a request for a local hearing is not received by the authority within 14 days after the notification in
16 subsection (2)(a), the authority may hold the hearing at a time and place it determines.

17 (3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the
18 hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held
19 and the project will be located. The notice must include the time and place of the hearing, a general description
20 of the nature and location of the project, the name of the lessee, borrower, or user of the project, and the
21 maximum principal amount of the financing to be ~~provided by the authority~~ requested of the state bank.

22 (4) If the hearing required by subsection (2) is conducted by a local government, the governing body of
23 the local government shall notify the authority of its determination of whether the financing is in the public interest
24 within 14 days after the completion of the public hearing.

25 (5) The authority shall provide to the state bank a summary of the hearing and the determination of
26 whether the financing is in the public interest along with a recommended amount of financing."

27

28 **Section 124.** Section 90-7-230, MCA, is amended to read:

29 **"90-7-230. Taxation of projects.** (1) Regardless of whether the title to a project is held by the authority
30 or a trustee acting for the authority, if the project is being financed by the ~~authority~~ state bank on behalf of a

1 for-profit corporation or other organization, the project is subject to taxation to the same extent, in the same
 2 manner, and under the same procedures as privately owned property in similar circumstances if the project is
 3 leased to or held by private interests on both the assessment date and the date the county commissioners set
 4 the mill levies in any year. The project is not subject to taxation in any year during which it is not leased to or held
 5 by private interests on both the assessment date and the date the county commissioners set the mill levy.

6 (2) When personal property owned by the authority or a trustee acting for the authority is taxed under
 7 this section and the personal property taxes on the personal property are delinquent, levy by warrant for distraint
 8 for collection of the delinquent taxes may be made only on the personal property against which the taxes were
 9 levied."

10

11 **Section 125.** Section 90-7-301, MCA, is amended to read:

12 **"90-7-301. Notes.** The state bank, on behalf of the authority, is authorized from time to time to issue its
 13 negotiable notes for any corporate purpose designated by the authority, including the payment of all or any part
 14 of the cost of any eligible facility, and to renew from time to time any notes by the issuance of new notes, whether
 15 the notes to be renewed have or have not matured. The state bank, on behalf of the authority, may issue notes
 16 partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The
 17 notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution by the state
 18 bank authorizing notes on behalf of the authority or any issue of notes may contain any provisions that the
 19 authority state bank is authorized to include in any resolution authorizing bonds ~~of the authority~~. The authority
 20 state bank may include in its notes any terms, covenants, or conditions that it is authorized to include in any
 21 bonds. All notes must be payable from the proceeds of bonds, renewal notes, the revenue of the authority, or
 22 other available money not otherwise pledged, subject only to any contractual rights of the holders of any of its
 23 notes or other obligations then outstanding."

24

25 **Section 126.** Section 90-7-302, MCA, is amended to read:

26 **"90-7-302. Bonds and notes of authority.** (1) The state bank, on behalf of the authority, may in each
 27 biennium borrow money and issue bonds and notes in an aggregate principal amount not to exceed \$500 million,
 28 exclusive of bonds or notes issued to refund outstanding bonds or notes.

29 (2) Bonds must be authorized. The authority state bank may specify that the bonds must be dated and
 30 must mature, except that a bond may not mature more than 40 years from the date of its issue. Bonds must bear

1 interest at a rate or rates, be in denominations, be in the proper registered or bearer form, be executed in a
 2 manner, be payable in a medium of payment and at a place or places, and be subject to terms of redemption that
 3 the ~~authority~~ state bank may provide.

4 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the Uniform
 5 Commercial Code, subject to requirements as to registration.

6 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time
 7 or times that the ~~authority~~ state bank may determine.

8 (5) Before the issuance of any bonds, the state bank shall confer with the authority ~~shall and~~ make
 9 provisions, by lease or other agreement, regarding the eligible facility or facilities being financed by the issue of
 10 the bonds, for rentals or other considerations sufficient, in the judgment of the ~~authority~~ state bank, to:

- 11 (a) pay the principal of and interest on the bonds as they become due;
- 12 (b) create and maintain the reserves for payment of the principal and interest;
- 13 (c) meet all obligations in connection with the lease or other agreement; and
- 14 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
 15 obligations are to be met or costs are to be paid by a party other than the authority.

16 (6) ~~The authority, before issuing~~ Before the state bank, on behalf of the authority, issues any bonds, the
 17 authority shall certify that an applicant has submitted a statement that indicates that any contract let for a public
 18 project costing more than \$25,000 and financed from the proceeds of bonds issued under this part will contain
 19 a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district
 20 in which the work is being performed unless the contractor performing the work has entered into a collective
 21 bargaining agreement covering the work to be performed.

22 (7) The state bank, on behalf of the authority, may combine, for the purposes of a single offering, bonds
 23 financing more than one eligible facility under this chapter."
 24

25 **Section 127.** Section 90-7-303, MCA, is amended to read:

26 **"90-7-303. Procedure for issuance of bonds.** (1) The ~~authority~~ state bank may not finance any eligible
 27 facility unless, prior to the issuance of any bonds or notes, the ~~members find~~ authority finds that the facility is an
 28 eligible facility and will be operated by an institution for the purpose of providing services contemplated by this
 29 chapter.

30 (2) The authority may not allow the proceeds of any bonds or notes to be expended for any eligible

1 facility that is a health care facility unless the facility has been reviewed and approved by the appropriate regional
2 and state health planning boards and has received any approval required by Title 50, chapter 5, part 3.

3 (3) The authority may not allow the proceeds of any bonds or notes to be expended for any eligible
4 facility unless the institution provides evidence that the eligible facility is financially feasible and that the institution
5 reasonably expects that it will generate sufficient revenue to pay principal and interest payments when they
6 become due."

7

8 **Section 128.** Section 90-7-304, MCA, is amended to read:

9 **"90-7-304. Security of bondholders.** (1) The payment of the principal of and interest on any bonds
10 issued under this chapter must be secured by a pledge of the revenue out of which the bonds are made payable.

11 (2) The state bank may determine the extent to which the principal of and interest on any bonds issued
12 under the authority of this part may be secured by:

13 (a) a mortgage covering all or any part of the property of the participating institution;

14 (b) a pledge of the lease or loan agreement relating to the eligible facility; or

15 (c) another security device that is considered most advantageous by the ~~authority~~ state bank.

16 (3) The proceedings under which the bonds are authorized to be issued under the provisions of this
17 chapter and any mortgage given to secure the bonds, including a mortgage given by the borrower or lessee, may
18 contain any agreements and provisions customarily contained in instruments securing bonds, as ~~the authority~~
19 ~~considers~~ considered advisable by the state bank. The provisions may not be in conflict with the provisions of this
20 chapter, including without limitation provisions relating to:

21 (a) fixing and collection of rents or payments under any lease or loan agreement concerning the eligible
22 facility covered by the proceedings or mortgage;

23 (b) terms to be incorporated in the lease or loan agreement;

24 (c) maintenance and insurance of the eligible facility;

25 (d) creation and maintenance of special funds from the revenue of the eligible facility; and

26 (e) rights and remedies available in the event of a default to the bondholders or to the trustee under a
27 mortgage.

28 (4) The proceedings authorizing any bonds under the provisions of this chapter and any mortgage,
29 including a mortgage given by the lessee or borrower, securing bonds may provide that in the event of a default
30 in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained

1 in the proceedings or mortgage, the payment and performance may be enforced by mandamus or by the
 2 appointment of a receiver in equity with power to charge and collect rents and to apply the revenue from the
 3 project in accordance with the proceedings or the provisions of the mortgage.

4 (5) Any mortgage made by the authority state bank, lessee, or borrower to secure these bonds may
 5 provide that, in the event of a default in the payment of the bonds or the violation of any agreement contained in
 6 the mortgage, the mortgage may be foreclosed and the project sold under proceedings in equity or in any other
 7 manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of
 8 any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the trustee is
 9 the highest bidder. A breach of an agreement may not impose any pecuniary liability upon the authority state
 10 bank.

11 (6) The state bank may, whenever it considers necessary or desirable in fulfilling its purposes and subject
 12 to any agreement with bondholders and noteholders, consent to the modification of the rate of interest, time, or
 13 payment of any installment of principal, interest, or security or any other term of any contract, lease agreement,
 14 loan agreement, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or
 15 agreement of any kind."

16

17 **Section 129.** Section 90-7-305, MCA, is amended to read:

18 **"90-7-305. Trust agreement to secure bonds.** In the discretion of the authority state bank, any bonds
 19 issued under this chapter may be secured by a trust agreement between the authority state bank and a corporate
 20 trustee, which may be any trust company or other bank having the powers of a trust company in Montana or
 21 outside of Montana, if it is determined by the authority state bank to be in the best interest of financing the bonds.
 22 The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenue
 23 to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the project or
 24 any portion of the project. The trust agreement or resolution providing for the issuance of the bonds may contain
 25 provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and
 26 proper and not in violation of law, including particularly any provisions that have been specifically authorized to
 27 be included in a state bank resolution of ~~the authority~~ authorizing the bonds. A bank or trust company
 28 incorporated under the laws of this state that may act as depository of the proceeds of bonds or of revenue or
 29 other money may furnish indemnifying bonds or pledge securities that may be required by the authority state
 30 bank. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees

1 and may restrict the individual right of action by bondholders. In addition, a trust agreement or resolution may
2 contain other provisions that the authority state bank may consider reasonable and proper for the security of the
3 bondholders. All expenses incurred in carrying out the trust agreement or resolution may be treated as a part of
4 the cost of the operation of an eligible facility."

5

6 **Section 130.** Section 90-7-307, MCA, is amended to read:

7 **"90-7-307. Conveyance of title.** When the principal and interest on bonds issued by the state bank on
8 behalf of the authority to finance the cost of eligible facilities or to refinance outstanding indebtedness of one or
9 more participating institutions, including any refunding bonds issued to refund and refinance bonds, have been
10 fully paid and retired or when adequate provision has been made to fully pay and retire the bonds and all other
11 conditions of the resolution, lease, trust indenture, and mortgage or deed of trust or any other form of security
12 arrangement, if any, authorizing and securing the bonds have been satisfied and the lien of the mortgage or deed
13 of trust or any other form of security arrangement has been released in accordance with the provisions of the
14 security arrangement, the state bank and the authority shall promptly convey ~~its~~ any interest in the facilities and
15 any other facilities mortgaged or subject to deed of trust or any other form of security arrangement to secure the
16 bonds to the participating institution or institutions."

17

18 **Section 131.** Section 90-7-311, MCA, is amended to read:

19 **"90-7-311. Pledge of state not to impair -- to administer.** In accordance with the constitutions of the
20 United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any
21 agreement between the authority state bank and the holders of notes and bonds issued by the authority state
22 bank, including but not limited to an agreement to administer a loan program financed by the issuance of bonds;
23 and to employ a staff sufficient and competent for this purpose."

24

25 **Section 132.** Section 90-7-312, MCA, is amended to read:

26 **"90-7-312. Pledge of revenue, money, or property -- validity.** Any pledge made by the authority and
27 the state bank as its succeeding lender is valid and binding from the time the pledge is made. The revenue,
28 money, or property pledged and received by the authority or by the state bank on its behalf is immediately subject
29 to the lien of the pledge without any physical delivery or further act. The lien of any pledge is valid and binding
30 against all parties having claims of any kind, whether in tort, contract, or otherwise, against the authority or the

1 state bank as its successor, irrespective of whether ~~such~~ the parties having claims have received notice ~~thereof~~
 2 of the claims. Neither the resolution nor any other instrument by which a pledge is created is required to be
 3 recorded."

4

5 **Section 133.** Section 90-7-317, MCA, is amended to read:

6 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 7 provided for in ~~90-7-202(17)~~ 90-7-202(9).

8 (2) ~~The authority shall deposit into~~ state bank shall use the capital reserve account:

9 ~~—— (a) funds from state appropriations received for deposit into the account, as provided in 90-7-319, for~~
 10 ~~bonds issued to finance capital projects for community health facilities that contract with the state to provide~~
 11 ~~health care services, bonds issued to finance the facilities described in 90-7-220 and 90-7-221, or bonds used~~
 12 ~~to finance prerelease centers that contract with the state; and~~

13 ~~—— (b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures of~~
 14 ~~the authority authorizing their issuance.~~

15 ~~—— (3) The authority may also deposit into the capital reserve account:~~

16 ~~—— (a) revenue from fees and charges imposed by the authority;~~

17 ~~—— (b) income from the investment of funds belonging to the authority; and~~

18 ~~—— (c) any other funds that may be available to the authority for the purpose of the account from any other~~
 19 ~~source, including loans authorized under 90-7-320 as provided in 90-7-318 to fulfill obligations of the authority~~
 20 ~~undertaken prior to [the effective date of this section] or of the state bank on or after [the effective date of this~~
 21 ~~section]."~~

22

23 **Section 134.** Section 90-7-318, MCA, is amended to read:

24 **"90-7-318. Administration of capital reserve account.** (1) ~~The authority may pledge funds from the~~
 25 ~~capital reserve account or a subaccount created in the capital reserve account~~ may be used by the state bank
 26 ~~as security for the payment of bonds and notes issued by the authority~~ state bank; ~~as it may determine~~
 27 ~~determined~~ in the resolutions or indentures providing for their issuance.

28 (2) All funds held in the capital reserve account must be used solely for the payment of the principal and
 29 interest on bonds secured in whole or in part by the account or the debt service payments with respect to the
 30 bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any

1 redemption premium required to be paid when the bonds are redeemed prior to maturity.

2 (3) ~~Funds~~ The state bank shall manage the funds in the capital reserve account ~~may not, at any time,~~
3 ~~be withdrawn in an amount that reduces~~ to prevent the account ~~to~~ from being reduced below an amount less than
4 the sum of minimum capital reserve requirements established for the account except, with respect to bonds
5 secured in whole or in part by the account, for the purpose of making payments, when due, of principal, interest,
6 redemption premiums, and debt service fund payments for the payment of which other funds pledged are not
7 available.

8 ~~(4) Income or interest earned by or incremental to the capital reserve account due to its investment may~~
9 ~~be transferred to other accounts of the authority to the extent it does not reduce the amount of the capital reserve~~
10 ~~account below the sum of minimum capital reserve requirements for the account."~~

11

12 **Section 135.** Section 90-9-103, MCA, is amended to read:

13 **"90-9-103. Definitions.** As used in this chapter, the following definitions apply:

14 (1) "Act" means the Montana Growth Through Agriculture Act.

15 (2) "Agricultural business" means an enterprise engaged in the production, processing, marketing,
16 distribution, or exporting of agricultural products. The term includes any related business the primary function of
17 which is providing goods or services to an agricultural enterprise.

18 (3) "Company" means a natural person, firm, partnership, corporation, association, or other entity
19 authorized to conduct business in the state.

20 (4) "Council" means the Montana agriculture development council established in 2-15-3015.

21 (5) "Department" means the department of agriculture established in 2-15-3001.

22 (6) (a) "Matching funds" means the funds received by the ~~loan or~~ grant recipient from private, federal,
23 state, or commodity checkoff funds and contributed by the recipient in support of a loan or grant application in
24 an amount that is at least equal to the funds disbursed to the recipient by the council.

25 (b) Matching funds may not include other state grants.

26 (7) "State" means the state of Montana.

27 (8) "State bank" means the last chance state bank established under [section 1]."

28

29 **Section 136.** Section 90-9-202, MCA, is amended to read:

30 **"90-9-202. Powers and duties of council.** (1) The council shall:

1 (a) establish policies and priorities to enhance the future development of agriculture in Montana,
2 including the Indian reservations in the state;

3 (b) make ~~loans or~~ grants, pursuant to the provisions of Title 90, chapter 9, part 3, that have a short-term
4 or long-term ability to stimulate agriculture development and diversification in rural, urban, and tribal settings in
5 Montana; and

6 (c) accept grants or receive devises of money or property for use in making the ~~loans or~~ grants
7 authorized by this chapter.

8 (2) The council ~~may~~:

9 ~~— (a) defer or forgive any loan in whole or in part; and~~

10 ~~— (b) forgive any accrued interest in whole or in part.~~ shall forward to the state bank all records related to
11 loans outstanding as of [the effective date of this section]."

12

13 **Section 137.** Section 90-9-203, MCA, is amended to read:

14 **"90-9-203. Rulemaking.** The council shall adopt rules necessary to implement the provisions of this
15 chapter, including rules:

16 (1) governing the conduct of council business;

17 (2) establishing application procedures for ~~loans and~~ grants authorized in 90-9-202;

18 (3) establishing procedures to be followed by the council in its review process prior to making a ~~loan or~~
19 grant;

20 (4) establishing postdisbursement activities to monitor the use of a ~~loan or~~ grant by its recipient,
21 including:

22 (a) any reporting requirements; and

23 (b) procedures for repayment of a ~~loan or~~ grant upon failure of a recipient to meet the terms and
24 conditions of that ~~loan or~~ grant;

25 ~~(5) establishing interest rates for loans in accordance with market factors and the purposes of this~~
26 ~~chapter;~~

27 ~~(6)(5)~~ limiting the amount of ~~loans or~~ grants that any company may receive or apply for over a given
28 period of time;

29 ~~(7) governing the deferral or forgiveness of loans and any accrued interest; and~~

30 ~~(8)(6)~~ establishing other terms and conditions of ~~loans and~~ grants, as necessary, within the requirements

1 and purposes of this chapter."

2

3 **Section 138.** Section 90-9-301, MCA, is amended to read:

4 **"90-9-301. Agriculture seed capital account -- matching funds.** (1) There is an agriculture seed
5 capital account administered by the council. Money received by the council under 90-9-306 must be deposited
6 in this account.

7 (2) The council may ~~loan or~~ grant money from the agriculture seed capital account, pursuant to the
8 provisions of 90-9-308 through 90-9-311."

9

10 **Section 139.** Section 90-9-306, MCA, is amended to read:

11 **"90-9-306. Appropriation authority and funding -- prohibitions.** (1) The council may accept and
12 expend the funds that it receives from grants, donations, or other private or public income, including amounts
13 repaid as principal and interest on loans made by the council prior to [the effective date of this section]. These
14 funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of this chapter, except
15 that expenditures for actual and necessary expenses required for the efficient administration of this chapter must
16 be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

17 (2) Council members may not personally apply for or receive council funds. If an organization with which
18 a member is affiliated applies for council funds, the member shall disclose the nature of the affiliation and, if the
19 council member is a board member or officer of the organization, may not participate in the decision of the council
20 regarding the application."

21

22 **Section 140.** Section 90-9-307, MCA, is amended to read:

23 **"90-9-307. Accountability.** The council shall develop independent review and audit procedures to
24 ensure that ~~loans and~~ grants made by it are used for the specified purposes."

25

26 **Section 141.** Section 90-9-308, MCA, is amended to read:

27 **"90-9-308. Application for ~~loans and~~ grants -- additional criteria.** (1) All applicants shall complete
28 an application and provide financial information as established by rule.

29 (2) The council may not make a ~~loan or~~ grant unless the recipient provides matching funds prior to the
30 expenditure of any state funds. The council may accept as matching funds those funds expended by the recipient

1 within 1 year prior to the execution of the ~~loan or grant~~.

2 (3) The department may provide assistance to applicants during the application process."

3

4 **Section 142.** Section 90-9-309, MCA, is amended to read:

5 **"90-9-309. Terms and conditions of loans.** (1) The term of any ~~loan~~ loans made under this section by
6 the state bank, which are subject to the certification of capitalization requirement in [section 6(5)], may not exceed
7 8 years.

8 (2) The amount of any loan may not exceed \$100,000 in any 9-month period.

9 (3) Repayment of a loan is due in full upon dissolution or liquidation of the recipient company.

10 (4) The ~~council~~ state bank, subject to the certification of capitalization requirement in [section 6(5)], may
11 make a low-interest loan, at a rate established by rule, only if it determines that the applicant meets the criteria
12 set forth in 90-9-308 and 90-9-311 and the applicant:

13 (a) has unencumbered collateral to secure the full amount of the loan; or

14 (b) meets other requirements established by rule.

15 (5) The ~~council~~ state bank, subject to the certification of capitalization requirement in [section 6(5)], may
16 make a high-interest loan, at a rate established by rule, only if it determines that the applicant meets the criteria
17 set forth in 90-9-308 and 90-9-311.

18 (6) The ~~council~~ state bank may establish other terms and conditions by rule."

19

20 **Section 143.** Section 90-9-311, MCA, is amended to read:

21 **"90-9-311. General criteria underlying loans and grants.** ~~The council~~ Subject to the certification of
22 capitalization requirement in [section 6(5)], the state bank may make a loan ~~or grant~~ only if the ~~council~~ state bank
23 determines that:

24 (1) the loan ~~or grant~~ is consistent with the findings and purposes of this chapter because it primarily adds
25 value to Montana's agricultural products;

26 (2) the project for which the loan ~~or grant~~ is made has prospects for achieving commercial success given
27 the current personnel, experience, and resources of the applicant;

28 (3) the project for which the loan ~~or grant~~ is made is anticipated to create new jobs or retain existing jobs
29 in the state;

30 (4) the loan ~~or grant~~ is primarily intended to be used for processing or adding value to agricultural

1 products produced or potentially produced in the state; and

2 (5) the applicant has a management structure that allows the ~~council~~ state bank to reasonably conclude
3 that the applicant will comply with ongoing reporting requirements and postdisbursement monitoring activities
4 established by the council."
5

6 **NEW SECTION. Section 144. Revenue bonds.** The board of examiners shall, prior to July 1, 2012,
7 issue revenue bonds in the amount of \$15 million to establish initial reserves for the last chance state bank. The
8 revenue bonds must be issued pursuant to the Municipal Finance Consolidation Act of 1983 provided for in Title
9 17, chapter 5, part 16. The repayment term established for the revenue bonds may not exceed 10 years.
10 Pursuant to 17-5-720, repayment of the revenue bonds must be based on the last chance state bank's loan
11 programs and projects for which funds have not otherwise been encumbered.
12

13 **NEW SECTION. Section 145. Transition.** The department of natural resources and conservation for
14 its renewable resource grant and loan program, the department of commerce and the board of housing and
15 Montana facility finance authority, and the department of agriculture, on behalf of the growth through agriculture
16 program, shall develop transition plans for programs focused only on grants instead of grants and loans. The
17 transition plans and proposed budgets must be submitted to the board of examiners and the office of budget and
18 program planning under the timeframe required for agency budget submissions in 2013. The board of examiners
19 shall recommend to the 63rd legislature, through the governor's office, the drafting of legislation necessary for
20 a transition of loan and bonding authority to the last chance state bank from these programs and any other
21 legislation required to implement [sections 2 through 7].
22

23 **NEW SECTION. Section 146. Repealer.** The following sections of the Montana Code Annotated are
24 repealed:

25 17-6-409. Authority to accept funds -- funding authorization.
26 90-1-104. Functions of department of commerce -- recreational development.
27 90-6-120. Maintenance of capital reserve account.
28 90-7-319. Maintenance of capital reserve account.
29

30 **NEW SECTION. Section 147. Codification instruction.** (1) [Section 1] is intended to be codified as

1 an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [section 1].

2 (2) [Sections 2 through 7] are intended to be codified as an integral part of Title 17, and the provisions
3 of Title 17 apply to [sections 2 through 7].

4

5 **NEW SECTION. Section 148. Saving clause.** [This act] does not affect bonds, notes, or other financial
6 obligations that were incurred, rights and duties that matured, penalties that were incurred, or proceedings that
7 were begun before [the effective date of this act].

8

9 **NEW SECTION. Section 149. Severability.** If a part of [this act] is invalid, all valid parts that are
10 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
11 the part remains in effect in all valid applications that are severable from the invalid applications.

12

13 **NEW SECTION. Section 150. Two-thirds vote required.** Because [section 3] authorizes the creation
14 of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of
15 each house of the legislature for passage.

16

17 **NEW SECTION. Section 151. Effective dates.** (1) Except as provided in subsection (2), [this act] is
18 effective July 1, 2013.

19 (2) [Sections 144 through 146 and 150] and this section are effective July 1, 2011.

20

- END -