

SENATE BILL NO. 140

INTRODUCED BY D. ANKNEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF INVESTMENTS TO MAKE LOANS  
5 TO CERTAIN LOCAL GOVERNMENTS FROM THE MONTANA PERMANENT COAL TAX TRUST FUND FOR  
6 THE DEVELOPMENT AND MAINTENANCE OF INFRASTRUCTURE; AMENDING SECTIONS 17-6-302 AND  
7 17-6-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 17-6-302, MCA, is amended to read:  
12 **"17-6-302. Definitions.** As used in this part, unless the context requires otherwise, the following  
13 definitions apply:

14 (1) "Board" means the board of investments created in 2-15-1808.  
15 (2) "Clean and healthful environment" means an environment that is relatively free from pollution that  
16 threatens human health, including as a minimum, compliance with federal and state environmental and health  
17 standards.

18 (3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility located  
19 in Montana, where the unit has a generating capacity that is greater than or equal to 200 megawatts.

20 ~~(3)(4)~~ "Department" means the department of commerce provided for in 2-15-1801.

21 ~~(4)(5)~~ "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership  
22 interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal  
23 occupation is as an employee, officer, or partner of the enterprise.

24 (6) "Existing infrastructure" means public improvements, including but not limited to:

- 25 (a) drinking water systems;
- 26 (b) wastewater treatment;
- 27 (c) sanitary sewer or storm sewer systems;
- 28 (d) solid waste disposal and separation systems;
- 29 (e) roads;
- 30 (f) bridges; or

1 (g) any public improvements authorized by Title 7, chapter 11, part 10; Title 7, chapter 12, parts 41  
 2 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47.

3 ~~(5)(7)~~ "Financial institution" includes but is not limited to a ~~state-~~ state-chartered or federally chartered  
 4 bank or a savings and loan association, credit union, or development corporation created pursuant to Title 32,  
 5 chapter 4.

6 ~~(6)(8)~~ "Intermediary loan" means a loan provided to a local economic development organization with a  
 7 revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development  
 8 loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but  
 9 not limited to programs from the economic development administration of the U.S. department of commerce and  
 10 the community development financial institution program from the U.S. department of the treasury.

11 ~~(7)(9)~~ "Loan participation" means loans or portions of loans bought from a financial institution.

12 ~~(8)(10)~~ "Local economic development organization" means:

13 (a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation  
 14 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);

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

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

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

18 ~~(9)(11)~~ "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or  
 19 other ownership interests is owned and controlled by residents of Montana.

20 ~~(10)(12)~~ "Long-term benefit to the Montana economy" means an activity that strengthens the Montana  
 21 economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana  
 22 tax revenue in the future to the people of Montana, either directly or indirectly.

23 ~~(11)(13)~~ "Montana economy" means any business activities in the state of Montana, including those that  
 24 continue existing jobs or create new jobs in Montana.

25 ~~(12)(14)~~ "Service fees" means the fees normally charged by a financial institution for servicing a loan,  
 26 including amounts charged for collecting payments and remitting amounts to the fund."

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28 **Section 2.** Section 17-6-308, MCA, is amended to read:

29 **"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through ~~(5)~~ (6) and  
 30 subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized

1 by rules adopted by the board.

2 (2) The board may make loans from the permanent coal tax trust fund to the capital reserve account  
3 created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree  
4 in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must  
5 be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise  
6 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  
7 pledge of the revenue to the bonds and notes.

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

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

26 (5) The board shall allow the board of housing to administer \$40 million of the permanent coal tax trust  
27 fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6,  
28 part 6.

29 (6) The board may make loans from the permanent coal tax trust fund to a city, town, county, or  
30 consolidated city-county government impacted by the closure of a coal-fired generating unit to secure and

1 maintain existing infrastructure.

2           ~~(6)(7)~~ The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The  
3 rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit  
4 corporations.

5           ~~(7)(8)~~ All repayments of proceeds pursuant to subsection (3) of investments made from the coal  
6 severance tax trust fund must be deposited in the coal severance tax permanent fund."

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8           NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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