

1 HOUSE BILL NO. 881

2 INTRODUCED BY E. BUTTREY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE BIG SKY

5 ECONOMIC DEVELOPMENT PROGRAM; REMOVING LOCAL AND TRIBAL GOVERNMENTS AS ELIGIBLE

6 APPLICANTS; ALLOWING BUSINESSES TO APPLY DIRECTLY TO THE PROGRAM; REMOVING

7 REQUIREMENTS RELATING TO HIGH-POVERTY COUNTIES; REMOVING REQUIREMENTS

8 ASSOCIATED WITH JOB CREATION; REMOVING ALLOCATIONS FOR DISTRIBUTIONS TO LOCAL OR

9 TRIBAL GOVERNMENTS AND CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS; ALLOWING

10 AWARDS FOR WORKFORCE ACTIVITIES; REVISING A STATUTORY APPROPRIATION ALLOCATION;

11 TRANSFERRING FUNDS FROM THE MICROBUSINESS FINANCE PROGRAM ADMINISTRATIVE

12 ACCOUNT TO THE ECONOMIC DEVELOPMENT STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING

13 FUNDS FROM THE PRIMARY SECTOR BUSINESS TRAINING ACCOUNT TO THE ECONOMIC

14 DEVELOPMENT STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING DEFEDERALIZED ECONOMIC

15 DEVELOPMENT FUNDS FROM THE DEPARTMENT OF COMMERCE TO THE ECONOMIC

16 DEVELOPMENT STATE SPECIAL REVENUE ACCOUNT; EXTENDING THE SUNSET DATE ON THE COAL

17 SEVERANCE TAX TRUST FUND FOR THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; REVISING

18 DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 17-5-703, 17-6-407, 17-6-

19 409, 39-11-205, 90-1-201, 90-1-202, 90-1-203, 90-1-204, AND 90-1-205, MCA; AND PROVIDING AN

20 EFFECTIVE DATE."

21

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

23

24 **Section 1.** Section 17-5-703, MCA, is amended to read:

25 **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX,

26 section 5, of the Montana constitution is composed of the following funds:

27 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal

28 severance tax must be deposited;

1 **Section 3.** Section 17-6-409, MCA, is amended to read:

2 **"17-6-409. Authority to accept funds -- funding authorization.** ~~(4)~~The department may accept
3 grants, donations, and other private and public income, including payments of interest on loans made by the
4 department under the provisions of this part and fees charged by the department. The department shall deposit
5 all money received under this section in the ~~microbusiness finance program administrative account established~~
6 in 17-6-407 economic development state special revenue account established in 90-1-205.

7 ~~(2) The money in the microbusiness finance program administrative account may be appropriated for~~
8 ~~the purposes stated in this part."~~

9
10 **Section 4.** Section 39-11-205, MCA, is amended to read:

11 **"39-11-205. Primary sector business training account.** (1) There is an account in the state special
12 revenue fund called the primary sector business training account.

13 (2) On July 1 of each year, the state treasurer shall transfer any funds appropriated to the
14 department of commerce primary sector business training program from the general fund to the primary sector
15 business training account.

16 (3) ~~Money Subject to legislative fund transfer, the money~~ deposited or retained in the account must
17 be used for:

- 18 (a) the primary sector business training program;
- 19 (b) program costs; and
- 20 (c) expenses incurred in administering the primary sector business training program.
- 21 (4) Money deposited in the account must be retained and may not revert to the general fund.
- 22 (5) All interest earned on money in the account must be retained and used for the purposes
23 outlined in subsection (3)."

24
25 **Section 5.** Section 90-1-201, MCA, is amended to read:

26 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky
27 economic development program that consists of:

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

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

2 (b) Interest and income from the big sky economic development fund may be used to administer
3 the big sky economic development program and to provide financial assistance for qualified economic
4 development purposes under this part.

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

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

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

8 ~~(c)(b) "Economic development organization" means:~~

9 (i) ~~(A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from~~
10 ~~taxation 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); or~~

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

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

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

15 ~~(d) "Employee benefits" means health, welfare, and pension contributions that meet the requirements~~
16 ~~of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.~~

17 (c) "Eligible business" means a for-profit or nonprofit business or tribally owned business that is
18 engaged in business activities in the state that will provide a significant positive economic impact to the
19 community, region, or state.

20 ~~(e) "High poverty county" means a county in this state that has a poverty rate greater than Montana's~~
21 ~~average poverty rate as determined by the U.S. bureau of the census estimates for the most current year~~
22 ~~available.~~

23 ~~(f) "Local government" means a county, consolidated government, city, town, or district or local public~~
24 ~~entity with the authority to spend or receive public funds.~~

25 ~~(g) "Tribal government" means one of the federally recognized tribal governments of Montana."~~

26

27 **Section 6.** Section 90-1-202, MCA, is amended to read:

28 **"90-1-202. Purpose.** (1) The legislature finds and declares that economic development is a public

1 purpose. The purpose of the big sky economic development program is to assist in economic development for
2 Montana that will:

- 3 (a) create good-paying jobs for Montana residents;
- 4 (b) promote long-term, stable economic growth in Montana;
- 5 ~~(c) encourage local economic development organizations;~~
- 6 ~~(d) create partnerships between the state, local governments, tribal governments, and local economic~~
7 ~~development organizations that are interested in pursuing these same economic development goals;~~

- 8 ~~(e)(c)~~ retain or expand existing businesses;
- 9 ~~(f)(d)~~ provide a better life for future generations through greater economic growth and prosperity in
10 Montana; and

- 11 ~~(g)(e)~~ encourage workforce development, including workforce training and job creation, in high-
12 poverty counties by providing targeted assistance.

13 (2) As provided in 30-20-206, manufacturing ammunition components is a qualified economic
14 development purpose."

15

16 **Section 7.** Section 90-1-203, MCA, is amended to read:

17 **"90-1-203. Types of financial assistance available.** (1) The department shall provide for and make
18 grants and loans available to local governments and tribal governments eligible businesses for economic
19 development projects and to certified regional development corporations from the money in the economic
20 development special revenue account provided for in 90-1-205.

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

23

24 **Section 8.** Section 90-1-204, MCA, is amended to read:

25 **"90-1-204. Priorities for funding -- rulemaking.** (1) Under the big sky economic development
26 program provided for in 90-1-201, the department must receive proposals for grants and loans from local
27 governments and tribal governments eligible businesses and may accept proposals from economic
28 development organizations and preferred lenders on behalf of businesses. A local government shall Eligible

1 businesses may work with an economic development organization on a proposal. The department shall work
2 with the local government eligible businesses and the economic development organization ~~or with an applicant~~
3 ~~tribal government~~ in preparing cost estimates for a proposed project. In reviewing proposals, the department
4 may consult with other state agencies with expertise pertinent to the proposal.

5 (2) (a) The department shall adopt rules necessary to implement the big sky economic
6 development program ~~prioritizing loans over grants when reasonable in collaboration with economic~~
7 development organizations actively serving communities. The department shall consider low-interest loans,
8 forgivable loans, and grants when adopting rules. ~~In adopting rules, the department shall look to the rules~~
9 ~~adopted for the Montana coal endowment program and other similar state programs. To the extent feasible, the~~
10 ~~department shall make the rules compatible with those other programs. To the extent feasible, the department~~
11 ~~shall employ an approach pertaining to the use of funds so that, except as provided in subsection (2)(b), the~~
12 ~~needs of rural areas are balanced with the needs of the state's urban centers.~~

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

16 (e)(b) The rules must provide for the types of uses of funds available under the big sky economic
17 development program. The types of uses of funds by these funds include but are not limited to:

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

19 (A)(i) a reduction in the interest rate of a commercial loan for the expansion of a basic sector
20 company;

21 (B)(ii) a grant or low-interest loan for relocation expenses for a basic sector company; and

22 (C)(iii) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector
23 company;

24 (iv) short-term working capital loans; and

25 (v) workforce activities or job creation; and

26 (vi) planning projects that would provide significant economic benefit to require matching funds to
27 be considered.

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

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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~~
6 ~~resource 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 high-~~
11 ~~poverty county may not exceed \$7,500 for each expected job.~~

12 ~~(iii)(c) The rules must require equal matching funds for a grant or loan, except that the rules for a~~
13 ~~grant or a loan in a high-poverty county may allow a 50% to 100% match requirement for the high-poverty~~
14 ~~county.~~

15 ~~(e)(d) The rules may provide for greater incentives for a high-poverty rural county.~~

16 ~~(f) The rules must provide for the full or partial repayment of a grant if the new jobs or some of the~~
17 ~~new jobs for which a grant is given are not created.~~

18 ~~(g) A grant or loan under the big sky economic development program may be made only for a new job~~
19 ~~that has an average weekly wage that meets or exceeds the lesser of 170% of Montana's current minimum~~
20 ~~wage or the current average weekly wage of the county in which the employees are to be principally employed.~~
21 ~~For purposes of this subsection (2)(g) and subject to subsection (2)(h), the department may consider the value~~
22 ~~of employee benefits in determining whether the wage requirements have been met.~~

23 ~~(h) Nothing in subsection (2)(g) exempts an employer from minimum wage requirements."~~

24

25 **Section 9.** Section 90-1-205, MCA, is amended to read:

26 **"90-1-205. Economic development special revenue account.** (1) There is an economic
27 development state special revenue account. The account receives earnings from the big sky economic
28 development fund as provided in 17-5-703. The money in the account may be used only as provided in this

1 part.

2 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the
3 department. ~~Of the~~ The money that is deposited in the account that is not must be used as provided in this part,
4 for administrative expenses, or for other economic development purposes:

5 ~~(a) 75% must be allocated for distribution to local governments and tribal governments to be used for~~
6 ~~job creation efforts; and~~

7 ~~(b) 25% must be allocated for distribution to certified regional development corporations, economic~~
8 ~~development organizations that are located in a county that is not part of a certified regional development~~
9 ~~corporation, and tribal governments."~~

10

11 **NEW SECTION. Section 10. Fund transfers to economic development state special revenue**
12 **account.** By September 1, 2023, the state treasurer shall transfer all funds from the following accounts to the
13 economic development state special revenue account established in 90-1-205:

14 (1) the microbusiness finance program administrative account established in 17-6-407; and

15 (2) the primary sector business training account established in 39-11-205.

16

17 **NEW SECTION. Section 11. Transfer of defederalized economic development funds.** (1) By
18 September 1, 2023, and by September 1 of subsequent years in which funds become available, the state
19 treasurer shall transfer the following defederalized funds to the economic development state special revenue
20 account established in 90-1-205:

21 (a) all American Rescue Plan Act of 2021, Public Law 117-2, funds authorized by the American
22 rescue plan economic transformation and stabilization and workforce development advisory commission in
23 sections 11 and 12, Chapter 401, Laws of 2021, for use by the department of commerce for economic
24 development programs;

25 (b) all state small business credit initiative funds authorized by section 15, Chapter 401, Laws of
26 2021, and section 3301 of the American Rescue Plan Act of 2021, Public Law 117-2;

27 (c) all U.S. economic development administration revolving loan funds administered at the
28 department of commerce; and

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1 (d) any other defederalized economic development funds administered at the department of
2 commerce.

3 (2) For the purposes of this section, "defederalized" means the federal government has released
4 the federal requirements associated with specific awarded funds; and therefore these funds are no longer
5 considered federal funds and are released of any former obligations of the federal award.

6
7 **NEW SECTION. Section 12. Notification to tribal governments.** The secretary of state shall send a
8 copy of [this act] to each federally recognized tribal government in Montana.

9
10 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 2023.

11 - END -