

**Amendment - 1st Reading/2nd House-blue - Requested by: (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0881.002.004

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

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1 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in  
2 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account  
3 must be retained in the big sky economic development fund.

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

7

8 **Section 2.** Section 17-6-407, MCA, is amended to read:

9 **"17-6-407. Microbusiness development loan account and finance program administrative**

10 **account-- criteria -- limitations.** (1) (a) There is in the state special revenue fund a microbusiness  
11 development loan account into which funds allocated for that purpose ~~and money received in repayment of the~~  
12 ~~principal of development loans~~ and money received in repayment of the principal of development loans must be  
13 deposited.

14 (b) The department may make development loans from the account to a certified microbusiness  
15 development corporation.

16 ~~(c) Interest earned on the account must be deposited in the microbusiness finance program~~  
17 ~~administrative account established in subsection (2).~~

18 (2) There is ~~in the state special revenue fund a microbusiness finance program administrative~~  
19 ~~account into which~~ an economic development state special revenue account created in 90-1-205 in which the  
20 following money must be deposited:

21 (a) all interest received on development loans received directly from microbusiness development  
22 corporations;

23 (b) service charges or fees received from certified microbusiness development corporations;

24 (c) grants, donations, and private or public income; and

25 (d) all interest earned on money in the account and interest earned on money in the account  
26 provided for in subsection (1)(a).

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

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1 ~~used to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and~~  
2 ~~other operating expenses of the program.~~

3 (4)(3) Subject to subsection (1), a certified microbusiness development corporation that receives a  
4 development loan may apply for an additional loan if the applicant meets the performance criteria established  
5 by the department.

6 (5)(4) To establish the criteria for making development loans, the department shall consider:

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

22 (6)(5) Development loan funds may be used by a certified microbusiness development corporation to:

- 23 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is  
24 intended and used for the purpose of providing or enhancing the certified microbusiness development  
25 corporation's ability to provide and administer loans, technical assistance, or management training to  
26 microbusinesses;
- 27 (b) establish a revolving loan fund from which the certified microbusiness development corporation

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1 may make loans to qualified microbusinesses, provided that a single loan does not exceed \$100,000 and the  
2 outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness  
3 or to two or more microbusinesses in which any one person holds more than a 20% equity share does not  
4 exceed \$100,000;

5 (c) establish a guarantee fund from which the certified microbusiness development corporation  
6 may guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee  
7 may not exceed \$100,000, and the aggregate of all guarantees to a microbusiness or a project participated in  
8 by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a  
9 20% equity share may not exceed \$100,000.

10 ~~(7)(6)~~ Development loan funds may not be:

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

13 (b) used to:

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

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

17 ~~(8)(7)~~ Certified microbusiness development corporations are required to contribute cash from other  
18 sources to leverage and secure development loans from the program. Contributions provided by the  
19 corporation must be on a ratio of at least \$1 from other sources for each \$6 from the program. These  
20 contributions may come from a public or private source other than the program and may be in the form of equity  
21 capital, loans, or grants.

22 ~~(9)(8)~~ Development loans must be made pursuant to a development loan agreement and may be  
23 amortization or term loans, bear interest at less than the market rate, be renewable, be callable, and contain  
24 other terms and conditions considered appropriate by the department and that are consistent with the purposes  
25 of and with rules promulgated to implement this part.

26 ~~(10)(9)~~ Each certified microbusiness development corporation that receives a development loan under  
27 this part shall provide the department with an annual audit from an independent certified public accountant. The

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1 audit must cover all of the microbusiness development corporation's activities and must include verification of  
2 compliance with requirements specific to the microbusiness program.

3 ~~(11)~~(10) A certified microbusiness development corporation that is in default for nonperformance under  
4 rules established by the department may be required to refund the outstanding balance of development loans  
5 awarded prior to the default declaration. A development loan is secured by a first lien on all funds and all  
6 receivables administered under the authority of the microbusiness development act by the corporation receiving  
7 the loan."

8

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

10 **"17-6-409. Authority to accept funds -- funding authorization.** ~~(4)~~The department may accept  
11 grants, donations, and other private and public income, including payments of interest on loans made by the  
12 department under the provisions of this part and fees charged by the department. The department shall deposit  
13 all money received under this section in the ~~microbusiness finance program administrative account established~~  
14 in 17-6-407 economic development state special revenue account established in 90-1-205.

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

17

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

19 **"39-11-205. Primary sector business training account.** (1) There is an account in the state special  
20 revenue fund called the primary sector business training account.

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

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

26 (a) the primary sector business training program;

27 (b) program costs; and

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

2

3 **NEW SECTION. Section 11. Transfer of defederalized economic development funds.** (1) By  
4 September 1, 2023, AND BY SEPTEMBER 1 OF SUBSEQUENT YEARS IN WHICH FUNDS BECOME AVAILABLE, the state  
5 treasurer shall transfer the following defederalized funds to the economic development state special revenue  
6 account established in 90-1-205:

7 (a) all American Rescue Plan Act of 2021, Public Law 117-2, funds ~~authorized by the American~~  
8 ~~rescue plan economic transformation and stabilization and workforce development advisory commission in~~  
9 ~~sections 11 and appropriated in section~~ 12, Chapter 401, Laws of 2021, ~~to the office of budget and program~~  
10 ~~planning and allocated~~ for use by the department of commerce for economic development programs, ~~except~~  
11 ~~programs administered by the board of investments;~~

12 (b) all state small business credit initiative funds authorized by section 15, Chapter 401, Laws of  
13 2021, and section 3301 of the American Rescue Plan Act of 2021, Public Law 117-2;

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

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

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

21

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

24

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

26

- END -