

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

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
14 FUND; PROVIDING A TRANSITION FOR THE BONDING AUTHORITY OF THE BOARD OF HOUSING AND
15 THE MONTANA FACILITY FINANCE AUTHORITY; PROVIDING RULEMAKING AUTHORITY; PROVIDING A
16 STATUTORY APPROPRIATION; CREATING STATE DEBT; AMENDING SECTIONS 2-15-104, 2-15-1814, 2-
17 15-1815, 2-18-103, 5-11-222, 15-35-108, 15-38-302, 17-2-105, 17-5-703, 17-5-704, 17-5-710, 17-5-711, 17-5-
18 1302, 17-5-1312, 17-5-1325, 17-5-1502, 17-5-1503, 17-5-1507, 17-5-1508, 17-5-1509, 17-5-1511, 17-5-1521,
19 17-5-1524, 17-5-1526, 17-5-1527, 17-5-1624, 17-6-105, 17-6-201, 17-6-204, 17-6-211, 17-6-302, 17-6-305, 17-
20 6-308, 17-6-309, 17-6-311, 17-6-313, 17-6-314, 17-6-316, 17-6-317, 17-6-318, 17-6-319, 17-6-321, 17-6-322,
21 17-6-324, 17-6-345, 17-6-347, 17-6-403, 17-6-406, 17-6-407, 17-7-111, 17-7-502, 32-1-202, 85-1-102, 85-1-
22 601, 85-1-602, 85-1-603, 85-1-605, 85-1-606, 85-1-608, 85-1-609, 85-1-610, 85-1-612, 85-1-613, 85-1-615, 85-
23 1-616, 85-1-617, 85-1-618, 85-1-621, 85-1-622, 85-1-624, 85-2-105, 85-2-506, 90-1-101, 90-1-116, 90-1-119,
24 90-1-201, 90-1-203, 90-1-204, 90-1-205, 90-1-501, 90-1-502, 90-6-103, 90-6-104, 90-6-106, 90-6-107, 90-6-
25 108, 90-6-109, 90-6-110, 90-6-111, 90-6-112, 90-6-113, 90-6-115, 90-6-116, 90-6-119, 90-6-121, 90-6-123, 90-
26 6-125, 90-6-126, 90-6-127, 90-6-132, 90-6-133, 90-6-134, 90-6-135, 90-6-136, 90-6-504, 90-6-701, 90-6-715,
27 90-7-102, 90-7-112, 90-7-113, 90-7-116, 90-7-202, 90-7-211, 90-7-212, 90-7-225, 90-7-228, 90-7-229, 90-7-
28 230, 90-7-301, 90-7-302, 90-7-303, 90-7-304, 90-7-305, 90-7-307, 90-7-311, 90-7-312, 90-7-317, 90-7-318, 90-

1 9-103, 90-9-202, 90-9-203, 90-9-301, 90-9-306, 90-9-307, 90-9-308, 90-9-309, AND 90-9-311, MCA;
2 REPEALING SECTIONS 17-6-409, 90-1-104, 90-6-120, AND 90-7-319, MCA; AND PROVIDING EFFECTIVE
3 DATES.”

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6
7 NEW SECTION. **Section 1. State bank created -- purpose -- legislative audit.** (1) There is a state
8 bank of Montana, created as a department within state government and headed by the bank president. The
9 name of the bank is the "Last Chance State Bank". The bank is to operate as an investment company, as
10 defined in 32-1-108.

11 (2) The board of examiners shall act as the board of directors of the bank. The bank is under the
12 overall management and control of the board of examiners, which shall approve the articles of incorporation as
13 developed by the advisory board as defined in [section 2], adopt policies as recommended by the advisory
14 board for bank governance to be implemented by the bank president, and oversee the bank president's
15 management of the bank.

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

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

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

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

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

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

1

2 NEW SECTION. Section 2. Definitions. As used in [sections 2 through 7], the following definitions

3 apply:

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

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

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

7

8 NEW SECTION. Section 3. Application of banking, public obligation registration laws -- limited

9 guarantee of deposits -- deposits not taxable. (1) (a) Except as provided in subsection (1)(b), the bank is

10 subject to the laws, rules, and regulations generally applicable to an investment company, as defined in 32-1-

11 108, 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-

12 423 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-

13 445, 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,

14 32-1-491 through 32-1-494, and Title 32, chapter 1, part 7.

15 (b) The department of administration has no approval authority over the bank's articles of
16 incorporation, as provided in 32-1-301, and the rules of the bank supersede those of the department of
17 administration only as the department of administration rules apply to the bank itself and conflict with the bank's
18 requirements as a state agency or with [sections 2 through 7].

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

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

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

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

1

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

5 (2) The board of investments shall deposit with the bank the proceeds of revenue bonds issued
6 pursuant to [section 142] to finance the startup of the bank.

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

9 (4) As of [the effective date of this section], the bank shall assume the duties associated with
10 bonds, notes of anticipation, or loans issued under Titles 85 and 90 and as provided in Title 17, chapter 5, parts
11 13 and 15, and must be considered a successor to the department of natural resources and conservation with
12 regard to loan programs in Title 85 and to the department of commerce with regard to programs in Title 90,
13 including the loan programs of the board of housing and Montana facility finance authority. Repayment of bonds
14 issued by the board of investments for programs assigned to the bank as of [the effective date of this section]
15 are the responsibility of the bank and must be coordinated with the board of investments.

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

18

19 NEW SECTION. Section 5. Advisory board duties. (1) In addition to the duties assigned under 32-
20 1-202, the advisory board on behalf of the state bank shall:

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

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

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

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

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

1 (2) The advisory board may not conduct hearings, as provided in 32-1-202(4) related to the state
2 bank but may request that the board of examiners conduct a hearing if a protest about a bank activity rises to
3 the level of a hearing.

4

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

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

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

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

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

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

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

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

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

21 (2) The bank has the same authority and powers of the board of investments as provided in 17-5-
22 1504.

23 (3) The bank may serve as a reserve depository for funds deposited by banks in this state that
24 choose to use the state bank of Montana as a reserve depository and perform the functions and provide the
25 services of a clearinghouse, including providing all facilities for domestic and foreign exchange. The bank may
26 rediscount paper on terms that the board of examiners determines.

27 (4) Subject to the provisions of subsection (6) and as provided in [sections 2 through 7] and
28 elsewhere in law, the bank may:

- 1 (a) make loans to or purchase, guarantee, or hold loans for:
- 2 (i) state-chartered or federally chartered lending agencies or institutions or any other financial
- 3 institutions;
- 4 (ii) holders of certificates of deposit issued by the bank or holders of savings accounts with the
- 5 bank up to 90% of the value of the certificates of deposit or the savings accounts, which are to be used as
- 6 security;
- 7 (iii) farmers who are residents of this state if the loans are secured by recorded mortgages that
- 8 give the bank a first lien on real estate in Montana in amounts not to exceed 80% of the value of the security;
- 9 (iv) individuals or bank holding companies for the purpose of purchasing or refinancing the
- 10 purchase of bank stock of a bank located in this state;
- 11 (v) nonprofit organizations that are exempt from federal taxation under 26 U.S.C. 501(c)(3) if the
- 12 loans are used for construction, reconstruction, repair, renovation, maintenance, and associated costs;
- 13 (vi) nonprofit corporations that provide funds to rural businesses under programs created in 7
- 14 U.S.C. 1932, et seq., or regulated under 7 CFR 1948, 1951, or 1955 regarding businesses and community
- 15 development in rural areas;
- 16 (vii) instrumentalities of the state or local governments; or
- 17 (viii) an investment company created for completing a trust preferred securities transaction for the
- 18 benefit of a financial institution located in this state;
- 19 (b) make agricultural real estate loans as a participant in the agricultural mortgage secondary
- 20 market program established under 12 U.S.C. 2279aa through 2279aa-14; and
- 21 (c) purchase participation interests in loans made or held by banks, bank holding companies,
- 22 state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any
- 23 other entity that provides financial services and that meets underlying standards that are generally accepted by
- 24 state or federal financial regulatory agencies.
- 25 (5) The bank may not make loans until the accrued interest from the coal tax bond fund as
- 26 provided in Title 17, chapter 5, part 7, and any other capital reserves of the bank reach \$20 million, as certified
- 27 by the state treasurer to the board of examiners.
- 28 (6) Except for loans to programs required under Title 17, 85, or 90, the bank shall impose the

1 same terms for a loan or an extension of credit as permitted for any state-chartered bank or credit union under
2 this title.

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

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

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

14 (10) The bank shall coordinate with:

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

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

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

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

28

1 NEW SECTION. Section 7. Bank loans to beginning farmers. (1) Subject to the provisions of
2 [section 6(5)], the bank shall maintain and administer a revolving loan fund for the purpose of making or
3 participating in loans to farmers or ranchers for startup operations in this state to help them buy agricultural real
4 estate, farming or ranching equipment, and livestock.

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

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

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

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

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

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

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

18

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

20 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
21 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state
22 government and their respective functions are allocated by this chapter among and within the following
23 departments or entities:

24 (a) department of administration;

25 (b) department of military affairs;

26 (c) department of revenue;

27 (d) state board of education;

28 (e) department of labor and industry;

- 1 (f) department of commerce;
- 2 (g) department of justice;
- 3 (h) department of public health and human services;
- 4 (i) department of corrections;
- 5 (j) department of transportation;
- 6 (k) department of public service regulation;
- 7 (l) department of agriculture;
- 8 (m) department of livestock;
- 9 (n) department of natural resources and conservation;
- 10 (o) department of fish, wildlife, and parks;
- 11 (p) department of environmental quality;
- 12 (q) last chance state bank.

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

- 15 ~~(a)(i)~~ The principal unit of a department is a division. Each division is headed by an administrator.
- 16 ~~(b)(ii)~~ The principal unit of a division is a bureau. Each bureau is headed by a chief.
- 17 ~~(c)(iii)~~ The principal unit of a bureau is a section. Each section is headed by a supervisor.
- 18 (b) The principal officer of the last chance state bank is the bank president."

19
 20 **Section 9.** Section 2-15-1814, MCA, is amended to read:

21 **"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial.** (1) There is a board of
 22 housing.

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

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

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

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

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

5 (7) A member of the board may not be considered to have a conflict of interest under the provisions of
 6 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution that may
 7 participate in the board's programs."
 8

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

10 **"2-15-1815. Montana facility finance authority.** (1) There is created a public ~~body corporate~~
 11 corporation designated as the Montana facility finance authority. This authority is constituted as a public
 12 instrumentality, and its exercise of the powers conferred by Title 90, chapter 7, must be considered and are
 13 held to be the performance of an essential public function.

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

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

18 (4) The board is allocated to the ~~department of commerce~~ last chance state bank for administrative
 19 purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in 90-7-
 20 203."
 21

22 **Section 11.** Section 2-18-103, MCA, is amended to read:

23 **"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following
 24 officers and employees in state government:

- 25 (1) elected officials;
- 26 (2) county assessors and their chief deputies;
- 27 (3) employees of the office of consumer counsel;
- 28 (4) judges and employees of the judicial branch;

- 1 (5) members of boards and commissions appointed by the governor, the legislature, or other elected
- 2 state officials;
- 3 (6) officers or members of the militia;
- 4 (7) agency heads appointed by the governor;
- 5 (8) academic and professional administrative personnel with individual contracts under the authority
- 6 of the board of regents of higher education;
- 7 (9) academic and professional administrative personnel and live-in houseparents who have entered
- 8 into individual contracts with the state school for the deaf and blind under the authority of the state board of
- 9 public education;
- 10 (10) investment officer, assistant investment officer, executive director, and eight professional staff
- 11 positions of the board of investments;
- 12 (11) four professional staff positions under the board of oil and gas conservation;
- 13 (12) director of the Montana state lottery and assistant director for security of the Montana state lottery;
- 14 (13) executive director and employees of the state compensation insurance fund;
- 15 (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- 16 (15) executive director of the Montana wheat and barley committee;
- 17 (16) commissioner of banking and financial institutions;
- 18 (17) training coordinator for county attorneys;
- 19 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- 20 (19) chief information officer in the department of administration;
- 21 (20) chief business development officer and six professional staff positions in the office of economic
- 22 development provided for in 2-15-218; ~~and~~
- 23 (21) the director of the office of state public defender provided for in 2-15-1029; and
- 24 (22) president of the last chance state bank."

26 **Section 12.** Section 5-11-222, MCA, is amended to read:

27 **"5-11-222. Reports to legislature.** (1) (a) Except as provided in subsection (1)(b) and (6), a report to

28 the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or

1 before September 1 of each year preceding the convening of a regular session of the legislature.

2 (b) If otherwise specified in law, a report may be required more or less frequently than the biennial
3 requirement in subsection (1)(a).

4 (2) Reports to the legislature include:

5 (a) annual reports on the unified investment program for public funds and public retirement systems
6 and state compensation insurance fund assets audits from the board of investments in accordance with Article
7 VIII, section 13 of the Montana constitution;

8 (b) federal mandates requirements from the governor in accordance with 2-1-407;

9 (c) activities of the state records committee in accordance with 2-6-1108;

10 (d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

11 (e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-
12 410;

13 (f) progress on gender and racial balance from the governor in accordance with 2-15-108;

14 (g) a mental health report from the ombudsman in accordance with 2-15-210;

15 (h) policies related to children and families from the interagency coordinating council for state
16 prevention in accordance with 2-15-225;

17 (i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

18 (j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in
19 accordance with 2-15-3113;

20 (k) the allocation of space report from the department of administration required in accordance with 2-
21 17-101;

22 (l) information technology activities in accordance with 2-17-512;

23 (m) state strategic information technology plan exceptions, if granted, from the department of
24 administration in accordance with 2-17-515;

25 (n) the state strategic information technology plan and biennial report from the department of
26 administration in accordance with 2-17-521 and 2-17-522;

27 (o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-
28 17-825 and 5-5-216;

- 1 (p) statistical and other data related to business transacted by the courts from the court administrator,
2 if requested, in accordance with 3-1-702;
- 3 (q) the judicial standards commission report in accordance with 3-1-1126;
- 4 (r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office
5 of budget and program planning in accordance with 5-4-208;
- 6 (s) a link to annual state agency reports on grants awarded in the previous fiscal year established by
7 the legislative finance committee in accordance with 5-12-208;
- 8 (t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance
9 with 5-12-302(4);
- 10 (u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair
11 the independence of the legislative audit division in accordance with 5-13-305;
- 12 (v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with
13 5-13-311;
- 14 (w) school funding commission reports each fifth interim in accordance with 5-20-301;
- 15 (x) a report of political committee operations conducted on state-owned property, if required, from a
16 political committee to the legislative services division in accordance with 13-37-404;
- 17 (y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;
- 18 (z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;
- 19 (aa) semiannual reports on the Montana heritage preservation and development account from the
20 Montana heritage preservation and development commission in accordance with 15-65-121;
- 21 (bb) general marijuana regulation reports from the department of revenue in accordance with 16-12-
22 110;
- 23 (cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-
24 532(3);
- 25 (dd) annual reports on general fund and nongeneral fund encumbrances from the department of
26 administration in accordance with 17-1-102;
- 27 (ee) loans or loan extensions authorized for two consecutive fiscal years from the department of
28 administration and office of commissioner of higher education, including negative cash balances from the

- 1 commissioner of higher education, in accordance with 17-2-107;
- 2 (ff) a report of local government entities that have balances contrary to limitations provided for in 17-2-
- 3 302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;
- 4 (gg) an annual report from the board of investments in accordance with 17-5-1650(2);
- 5 (hh) a report on retirement system trust investments and benefits from the board of investments in
- 6 accordance with 17-6-230;
- 7 (ii) recommendations for reductions in spending and related analysis, if required, from the office of
- 8 budget and program planning in accordance with 17-7-140;
- 9 (jj) a statewide facility inventory and condition assessment from the department of administration in
- 10 accordance with 17-7-202;
- 11 (kk) actuary reports and investigations for public retirement systems from the public employees'
- 12 retirement board in accordance with 19-2-405;
- 13 (ll) a work report from the public employees' retirement board in accordance with 19-2-407;
- 14 (mm) annual actuarial reports and evaluations from the teachers' retirement board in accordance with
- 15 19-20-201;
- 16 (nn) reports from the state director of K-12 career and vocational and technical education, as
- 17 requested, in accordance with 20-7-308;
- 18 (oo) 5-year state plan for career and technical education reports from the board of regents in
- 19 accordance with 20-7-330;
- 20 (pp) a gifted and talented students report from the office of public instruction in accordance with 20-7-
- 21 904;
- 22 (qq) status changes for at-risk students from the office of public instruction in accordance with 20-9-
- 23 328;
- 24 (rr) status changes for American Indian students from the office of public instruction in accordance with
- 25 20-9-330;
- 26 (ss) reports regarding the Montana Indian language preservation program from the office of public
- 27 instruction in accordance with 20-9-537;
- 28 (tt) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

- 1 (uu) expenditures and activities of the Montana agricultural experiment station and extension service,
2 as requested, in accordance with 20-25-236;
- 3 (vv) reports, if requested by the legislature, from the president of each of the units of the higher
4 education system in accordance with 20-25-305;
- 5 (ww) reports, if prepared by a public postsecondary institution, regarding free expression activities on
6 campus in accordance with 20-25-1506;
- 7 (xx) reports from the Montana historical society trustees in accordance with 22-3-107;
- 8 (yy) state lottery reports in accordance with 23-7-202;
- 9 (zz) a report from the division of banking and financial institutions, if required, from the department of
10 administration in accordance with 32-11-306;
- 11 (aaa) state fund reports, if required, from the commissioner in accordance with 33-1-115;
- 12 (bbb) reports from the department of labor and industry in accordance with 39-6-101;
- 13 (ccc) victim unemployment benefits reports from the department of labor and industry in accordance
14 with 39-51-2111;
- 15 (ddd) state fund business reports in accordance with 39-71-2363;
- 16 (eee) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;
- 17 (fff) child custody reports from the office of the court administrator in accordance with 41-3-1004;
- 18 (ggg) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the
19 governor in accordance with 46-23-316;
- 20 (hhh) annual statewide public defender reports from the office of state public defender in accordance
21 with 47-1-125;
- 22 (iii) a trauma care system report from the department of public health and human services in
23 accordance with 50-6-402;
- 24 (jjj) an older Montanans trust fund report from the department of public health and human services in
25 accordance with 52-3-115;
- 26 (kkk) Montana criminal justice oversight council reports in accordance with 53-1-216;
- 27 (lll) medicaid block grant reports from the department of public health and human services in
28 accordance with 53-1-611;

1 (mmm) reports on the approval and implementation status of medicaid section 1115 waivers in
2 accordance with 53-2-215;
3 (nnn) provider rate, medicaid waiver, or medicaid state plan change reports from the department of
4 public health and human services in accordance with 53-6-101;
5 (ooo) medicaid funding reports from the department of public health and human services in
6 accordance with 53-6-110;
7 (ppp) proposals regarding managed care for medicaid recipients, if required, from the department of
8 public health and human services in accordance with 53-6-116;
9 (qqq) suicide reduction plans from the department of public health and human services in accordance
10 with 53-21-1102;
11 (rrr) a compliance and inspection report from the department of corrections in accordance with 53-30-
12 604;
13 (sss) emergency medical services grants from the department of transportation in accordance with 61-
14 2-109;
15 (ttt) annual financial reports on the environmental contingency account from the department of
16 environmental quality in accordance with 75-1-1101;
17 (uuu) the Flathead basin commission report in accordance with 75-7-304;
18 (vvv) a report from the land board, if prepared, in accordance with 76-12-109;
19 (www) an annual state trust land report from the land board in accordance with 77-1-223;
20 (xxx) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-
21 713;
22 (yyy) state water plans from the department of natural resources and conservation in accordance with
23 85-1-203;
24 (zzz) reports on the allocation of renewable resources grants and loans for emergencies, if required,
25 from the department of natural resources and conservation in accordance with 85-1-605;
26 (aaaa) water storage projects from the governor's office in accordance with 85-1-704;
27 (bbbb) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-
28 338;

- 1 (cccc) upland game bird enhancement program reports in accordance with 87-1-250;
- 2 (dddd) private land/public wildlife advisory committee reports in accordance with 87-1-269;
- 3 (eeee) a future fisheries improvement program report from the department of fish, wildlife, and parks in
- 4 accordance with 87-1-272;
- 5 (ffff) license revenue recommendations from the department of fish, wildlife, and parks in accordance
- 6 with 87-1-629;
- 7 (gggg) land information data reports from the state library in accordance with 90-1-404;
- 8 (hhhh) hydrocarbon and geology investigation reports from the bureau of mines and geology in
- 9 accordance with 90-2-201;
- 10 (iiii) coal ash markets investigation reports from the department of commerce in accordance with 90-2-
- 11 202;
- 12 (jjjj) an annual report from the pacific northwest electric power and conservation planning council in
- 13 accordance with 90-4-403;
- 14 (kkkk) community property-assessed capital enhancements program reports from the Montana facility
- 15 finance authority in accordance with 90-4-1303;
- 16 (llll) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-
- 17 604;
- 18 (mmmm) matching infrastructure planning grant awards by the department of commerce in accordance
- 19 with 90-6-703(3); and
- 20 (nnnn) treasure state endowment program reports from the department of commerce in accordance
- 21 with 90-6-710;
- 22 (3) Reports to the legislature include reports made to an interim committee as follows:
- 23 (a) reports to the law and justice interim committee, including:
- 24 (i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;
- 25 (ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;
- 26 (iii) reports from the department of justice and public safety officer standards and training council in
- 27 accordance with 2-15-2029;
- 28 (iv) information on the Montana False Claims Act from the department of justice in accordance with 17-

- 1 8-416;
- 2 (v) annual case status reports from the attorney general in accordance with 41-3-210;
- 3 (vi) office of court administrator reports in accordance with 41-5-2003;
- 4 (vii) statewide public safety communications system activities from the department of justice in
- 5 accordance with 44-4-1606;
- 6 (viii) reports on the status of the crisis intervention team training program from the board of crime
- 7 control in accordance with 44-7-110;
- 8 (ix) restorative justice grant program status and performance from the board of crime control in
- 9 accordance with 44-7-302;
- 10 (x) reports on offenders under supervision with new offenses or violations from the department of
- 11 corrections in accordance with 46-23-1016;
- 12 (xi) supervision responses grid reports from the department of corrections in accordance with 46-23-
- 13 1028;
- 14 (xii) statewide public defender reports and information from the office of state public defender in
- 15 accordance with 47-1-125;
- 16 (xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal
- 17 analyst in accordance with 47-1-125;
- 18 (xiv) every 5 years, statewide public defender reports on the percentage change in funding from the
- 19 office of state public defender in accordance with 47-1-125; and
- 20 (xv) a report from the quality assurance unit from the department of corrections in accordance with 53-
- 21 1-211;
- 22 (b) reports to the state administration and veterans' affairs interim committee, including:
- 23 (i) a report that includes information technology activities and additional information from the
- 24 information technology board in accordance with 2-17-512 and 2-17-513;
- 25 (ii) a report from the capitol complex advisory council in accordance with 2-17-804;
- 26 (iii) a report on the employee incentive award program from the department of administration in
- 27 accordance with 2-18-1103;
- 28 (iv) a board of veterans' affairs report in accordance with 10-2-102;

- 1 (v) a report on grants to the Montana civil air patrol from the department of military affairs in
2 accordance with 10-3-802;
- 3 (vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-
4 205;
- 5 (vii) a report regarding the youth voting program, if requested, from the secretary of state in
6 accordance with 13-22-108;
- 7 (viii) a report from the commissioner of political practices in accordance with 13-37-120;
- 8 (ix) a report on retirement system trust investments from the board of investments in accordance with
9 17-6-230;
- 10 (x) actuarial valuations and other reports from the public employees' retirement board in accordance
11 with 19-2-405 and 19-3-117;
- 12 (xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-
13 20-201 and 19-20-216;
- 14 (xii) a report on the reemployment of retired members of the teachers' retirement system from the
15 teachers' retirement board in accordance with 19-20-732; and
- 16 (xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the
17 secretary of state in accordance with 30-9A-527;
- 18 (c) reports to the children, families, health, and human services interim committee, including:
- 19 (i) performance data from the department of public health and human services in accordance with 2-
20 15-2225;
- 21 (ii) quarterly reports on data requirements from the department of public health and human services in
22 accordance with 5-12-303;
- 23 (iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;
- 24 (iv) Montana HELP Act workforce development reports from the department of public health and
25 human services in accordance with 39-12-103;
- 26 (v) annual reports from the child and family ombudsman in accordance with 41-3-1211;
- 27 (vi) reports on activities and recommendations on child protective services activities, if required, from
28 the child and family ombudsman in accordance with 41-3-1215;

- 1 (vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the
- 2 department of public health and human services in accordance with 52-2-311;
- 3 (viii) private alternative adolescent residential and outdoor programs reports from the department of
- 4 public health and human services in accordance with 52-2-803;
- 5 (ix) an annual Montana parents as scholars program report from the department of public health and
- 6 human services in accordance with 53-4-209;
- 7 (x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of
- 8 public health and human services in accordance with 53-6-101;
- 9 (xi) a report concerning mental health managed care services, if managed care is in place, from the
- 10 advisory council in accordance with 53-6-710;
- 11 (xii) quarterly medicaid reports related to expansion from the department of public health and human
- 12 services in accordance with 53-6-1325;
- 13 (xiii) annual Montana developmental center reports from the department of public health and human
- 14 services in accordance with 53-20-225; and
- 15 (xiv) annual children's mental health outcomes from the department of public health and human
- 16 services in accordance with 53-21-508;
- 17 (xv) suicide reduction plans from the department of public health and human services in accordance
- 18 with 53-21-1102;
- 19 (d) reports to the economic affairs interim committee, including:
- 20 (i) the annual state compensation insurance fund budget from the board of directors in accordance
- 21 with 5-5-223 and 39-71-2363;
- 22 (ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-
- 23 110(3);
- 24 (iii) medical marijuana registry reports from the department of revenue in accordance with 16-12-
- 25 532(3);
- 26 (iv) annual reports on complaints against physicians certifying medical marijuana use from the board of
- 27 medical examiners in accordance with 16-12-532(4);
- 28 (v) an annual report on the administrative rate required from the department of commerce from the

- 1 Montana heritage preservation and development commission in accordance with 22-3-1002;
- 2 (vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;
- 3 (vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-
- 4 2375;
- 5 (viii) annual reinsurance reports from the Montana reinsurance association board required in
- 6 accordance with 33-22-1308;
- 7 (ix) reports from the department of labor and industry concerning board attendance in accordance with
- 8 37-1-107;
- 9 (x) annual reports on physician complaints related to medical marijuana from the board of medical
- 10 examiners in accordance with 37-3-203;
- 11 (xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;
- 12 (xii) status reports on the special revenue account and fees charged as a funding source from the
- 13 board of funeral service in accordance with 37-19-204;
- 14 (xiii) unemployment insurance program integrity act reports from the department of labor and industry
- 15 in accordance with 39-15-706;
- 16 (xiv) status reports on the distressed wood products industry revolving loan program from the
- 17 department of commerce in accordance with 90-1-503;
- 18 (e) reports to the education interim committee, including:
- 19 (i) reemployment of retired teachers, specialists, and administrators reports from the retirement board
- 20 in accordance with 19-20-732;
- 21 (ii) a report on participation in the interstate compact on educational opportunity for military children in
- 22 accordance with 20-1-231;
- 23 (iii) grow your own grant program reports from the commissioner of higher education in accordance
- 24 with 20-4-601;
- 25 (iv) standards of accreditation proposals and economic impact statements from the board of public
- 26 education in accordance with 20-7-101;
- 27 (v) advanced opportunity program reports from the board of public education in accordance with 20-7-
- 28 1506;

- 1 (vi) progress on transformational learning plans from the board of public education in accordance with
2 20-7-1602;
- 3 (vii) budget amendments, if needed, from school districts in accordance with 20-9-161;
- 4 (viii) annual Montana resident student financial aid program reports from the commissioner of higher
5 education in accordance with 20-26-105;
- 6 (ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-
7 423; and
- 8 (x) interdisciplinary child information agreement reports from the office of public instruction in
9 accordance with 52-2-211;
- 10 (f) reports to the energy and telecommunications interim committee, including:
- 11 (i) the high-performance building report from the department of administration in accordance with 17-
12 7-214;
- 13 (ii) an annual report from the consumer counsel in accordance with 69-1-222;
- 14 (iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of
15 revenue in accordance with 69-8-402;
- 16 (iv) small-scale hydroelectric power generation reports from the department of natural resources and
17 conservation in accordance with 85-1-501; and
- 18 (v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;
- 19 (g) reports to the revenue interim committee, including:
- 20 (i) use of the qualified endowment tax credit report from the department of revenue in accordance
21 with 15-1-230;
- 22 (ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-
23 7-111;
- 24 (iii) gray water property tax abatement usage reports from the department of revenue in accordance
25 with 15-24-3211;
- 26 (iv) information about job growth incentive tax credits from the department of revenue in accordance
27 with 15-30-2361;
- 28 (v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

- 1 (vi) tax havens from the department of revenue in accordance with 15-31-322;
- 2 (vii) media production tax credit economic impact reports from the department of commerce in
- 3 accordance with 15-31-1011;
- 4 (viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-
- 5 532(5);
- 6 (ix) complaints against physicians certifying use of medical marijuana from the board of medical
- 7 examiners in accordance with 16-12-532(5); and
- 8 (x) reports that actual or projected receipts will result in less revenue than estimated from the office of
- 9 budget and program planning, if necessary, in accordance with 17-7-140;
- 10 (h) reports to the transportation interim committee, including:
- 11 (i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;
- 12 (ii) cooperative agreement negotiations from the department of transportation in accordance with 15-
- 13 70-450;
- 14 (iii) an annual alternative project delivery contracting report from the department of transportation in
- 15 accordance with 60-2-119; and
- 16 (iv) a special fuels inspection report from the department of transportation in accordance with 61-10-
- 17 154;
- 18 (i) reports to the environmental quality council, including:
- 19 (i) compliance and enforcement reports required in accordance with 75-1-314;
- 20 (ii) the state solid waste management and resource recovery plan, every 5 years, from the department
- 21 of environmental quality in accordance with 75-10-111;
- 22 (iii) annual orphan share reports from the department of environmental quality in accordance with 75-
- 23 10-743;
- 24 (iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;
- 25 (v) annual subdivision sanitation reports from the department of environmental quality in accordance
- 26 with 76-4-116;
- 27 (vi) state trust land accessibility reports from the department of natural resources and conservation in
- 28 accordance with 77-1-820;

- 1 (vii) biennial land banking reports and annual state land cabin and home site sales reports from the
2 department of natural resources and conservation in accordance with 77-2-366;
- 3 (viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural
4 resources and conservation in accordance with 80-7-1006;
- 5 (ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;
- 6 (x) annual invasive species council reports in accordance with 80-7-1203;
- 7 (xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;
- 8 (xii) annual sage grouse population reports from the department of fish, wildlife, and parks in
9 accordance with 87-1-201;
- 10 (xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in
11 accordance with 87-1-901;
- 12 (xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in
13 accordance with 87-2-702;
- 14 (xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in
15 accordance with 87-5-807; and
- 16 (xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;
- 17 (j) reports to the water policy interim committee, including:
- 18 (i) drought and water supply advisory committee reports in accordance with 2-15-3308;
- 19 (ii) total maximum daily load reports from the department of environmental quality in accordance with
20 75-5-703;
- 21 (iii) state water plans from the department of natural resources and conservation in accordance with
22 85-1-203;
- 23 (iv) small-scale hydroelectric power generation reports from the department of natural resources and
24 conservation and the state bank in accordance with 85-1-501;
- 25 (v) renewable resource grant program and loan program reports from the department of natural
26 resources and conservation in accordance with 85-1-621;
- 27 (vi) quarterly adjudication reports from the department of natural resources and conservation and the
28 water court in accordance with 85-2-281;

- 1 (vii) water reservation reports from the department of natural resources and conservation in
2 accordance with 85-2-316;
- 3 (viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436;
4 and
- 5 (ix) ground water investigation program reports from the bureau of mines and geology in accordance
6 with 85-2-525;
- 7 (k) reports to the local government interim committee, including:
- 8 (i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;
- 9 (ii) assistance to local governments on federal land management proposals from the department of
10 commerce in accordance with 90-1-182; and
- 11 (iii) emergency financial assistance to local government reports from the department of commerce, if
12 requests are made, in accordance with 90-6-703(2);
- 13 (l) reports to the state-tribal relations committee, including:
- 14 (i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;
- 15 (ii) the Montana Indian language preservation program report from the state-tribal economic
16 development commission in accordance with 20-9-537;
- 17 (iii) reports from the missing indigenous persons task force in accordance with 44-2-411
- 18 (iv) a decennial economic contributions and impacts of Indian reservations report from the department
19 of commerce in accordance with 90-1-105;
- 20 (v) state-tribal economic development commission activities reports from the state-tribal economic
21 development commission in accordance with 90-1-132; and
- 22 (vi) state-tribal economic development commission reports provided regularly by the state director of
23 Indian affairs in accordance with 90-11-102.
- 24 (4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a
25 report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of
26 each year preceding the convening of a regular session of the legislature and in accordance with 5-11-
27 210(1)(b).
- 28 (b) After receiving an oral report, an interim or administrative committee responsible for receiving the

1 report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

2 (c) This section may not be interpreted to preclude an interim or administrative committee from
3 requesting additional information.

4 (5) Reports to the legislature include multistate compact and agreement reports including:

5 (a) multistate tax compact reports in accordance with 15-1-601;

6 (b) interstate compact on educational opportunity for military children reports in accordance with 20-1-
7 230 and 20-1-231;

8 (c) compact for education reports in accordance with 20-2-501;

9 (d) Western regional higher education compact reports in accordance with 20-25-801;

10 (e) interstate insurance product regulation compact reports in accordance with 33-39-101;

11 (f) interstate medical licensure compact reports in accordance with 37-3-356;

12 (g) interstate compact on juveniles reports in accordance with 41-6-101;

13 (h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

14 (i) vehicle equipment safety compact reports in accordance with 61-2-201;

15 (j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

16 (k) western interstate nuclear compact reports in accordance with 90-5-201.

17 (6) Reports, transfers, statements, assessments, recommendations and changes required under 17-
18 7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-
19 115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports
20 required in subsections (2)(a), (2)(gg), (2)(hh), and (3)(b)(ix) must be provided following issuance of reports
21 issued under Title 5, chapter 13."

22

23 **Section 13.** Section 15-35-108, MCA, is amended to read:

24 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this
25 chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

1 (2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range
2 building program account established in 17-7-221.

3 (3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year
4 thereafter must be allocated for provision of basic library services for the residents of all counties through library
5 federations and for payment of the costs of participating in regional and national networking and must be
6 deposited in the basic library services account established in 22-1-202.

7 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year
8 thereafter must be allocated to the department of natural resources and conservation for conservation districts
9 and deposited in the conservation district account established in 76-15-106.

10 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year
11 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth
12 through agriculture account established in 90-9-104.

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

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

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

23 (9) The amount of 5.8% through June 30, 2023, and beginning July 1, 2023, the amount of 2.9% must
24 be credited to the coal natural resource account established in 90-6-1001(2).

25 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
26 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

27 (11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the
28 provisions of this chapter must be credited to the general fund of the state.

1 (b) The interest income of the coal severance tax permanent fund ~~that is~~ must be deposited in the
2 ~~general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows~~ last chance
3 state bank. The money is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

4 (i) to the department of agriculture:

5 (A) \$65,000 for the cooperative development center;

6 (B) \$900,000 for the growth through agriculture program provided for in Title 90, chapter 9;

7 (C) \$600,000 for the Montana food and agricultural development program provided for in Title 80,
8 chapter 11;

9 (ii) to the department of commerce:

10 (A) \$325,000 for a small business development center;

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

12 (C) \$625,000 for certified regional development corporations;

13 (D) \$500,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

14 and

15 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2027--secs. 13, 15, 18, Ch. 343, L.
16 2019.)

17 **15-35-108. (Effective July 1, 2027) Disposal of severance taxes.** Severance taxes collected under
18 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

22 (2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range
23 building program account established in 17-7-221.

24 (3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year
25 thereafter must be allocated for provision of basic library services for the residents of all counties through library
26 federations and for payment of the costs of participating in regional and national networking and must be
27 deposited in the basic library services account established in 22-1-202.

28 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year

1 thereafter must be allocated to the department of natural resources and conservation for conservation districts
2 and deposited in the conservation district account established in 76-15-106.

3 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year
4 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth
5 through agriculture account established in 90-9-104.

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

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

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

16 (9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-
17 1001(2).

18 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
19 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

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

22

23 **Section 14.** Section 15-38-302, MCA, is amended to read:

24 **"15-38-302. Natural resources projects state special revenue account created -- revenue**
25 **allocated -- limitations on appropriations from account.** (1) There is a natural resources projects state
26 special revenue account within the state special revenue fund established in 17-2-102.

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

- 1 (a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;
- 2 (b) the resource indemnity and ground water assessment tax under the provisions of 15-38-106; and
- 3 (c) the oil and natural gas production tax as provided in 15-36-331; ~~and~~
- 4 ~~(d) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource~~
- 5 ~~loan debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-~~
- 6 ~~619.~~

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

9

10 **Section 15.** Section 17-2-105, MCA, is amended to read:

11 **"17-2-105. Maintenance of fund and account records and interfund loans.** (1) The state treasurer
 12 shall record receipts and disbursements for treasury funds and shall maintain fund records in a manner that
 13 reflects the total cash and invested balance of each fund. The state treasurer shall also maintain records of
 14 individual funds within the debt service, custodial, capital projects, and trust fund types in a manner that reflects
 15 the total cash and invested balance of each fund. When necessary to meet federal or other requirements that
 16 money be segregated in the treasury, the state treasurer may establish accounts, funds, or subfunds within any
 17 fund type listed in 17-2-102.

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

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

26 (3) As the reporting requirements of subsection (1) affect the last chance state bank established in
 27 [section 1], the state treasurer's responsibilities are limited to reports on transfers of money to the last chance
 28 state bank. The provisions of subsection (2) do not apply to the last chance state bank, although the state

1 treasurer may use the last chance state bank as a source for a loan."

2

3 **Section 16.** Section 17-5-703, MCA, is amended to read:

4 **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX,
5 section 5, of the Montana constitution is composed of the following funds:

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

8 (b) a Montana coal endowment fund;

9 (c) a Montana coal endowment regional water system fund;

10 (d) a coal severance tax permanent fund;

11 (e) a coal severance tax income fund;

12 (f) a big sky economic development fund; and

13 (g) a school facilities fund.

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

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

17 (ii) _____ the amount necessary to meet the obligations of the state that are payable from the Montana
18 coal endowment fund, the Montana coal endowment regional water system fund, or the big sky economic
19 development fund to the respective account as provided in subsection (3)(a), (3)(b), or (5).

20 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
21 (2)(a) must be transferred from that fund to the last chance state bank, except as provided in subsections (4)
22 and (5) through (6).

23 (3) (a) The state treasurer shall monthly transfer from the Montana coal endowment fund to the
24 Montana coal endowment special revenue account the amount of earnings, excluding unrealized gains and
25 losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-
26 710. Earnings not transferred to the Montana coal endowment special revenue account must be ~~retained in the~~
27 ~~Montana coal endowment fund~~ transferred to the last chance state bank.

28 (b) The state treasurer shall monthly transfer from the Montana coal endowment regional water

1 system fund to the Montana coal endowment regional water system special revenue account the amount of
2 earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable
3 from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the
4 Montana coal endowment regional water system special revenue account must be ~~retained in the Montana coal~~
5 ~~endowment regional water system fund~~ transferred to the last chance state bank.

6 (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund
7 provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that
8 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer
9 when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this
10 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the
11 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
12 retained in the fund.

13 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established
14 in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of
15 the state that are payable from the account. Earnings not transferred to the account established in 20-9-525
16 must be retained in the school facilities fund.

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

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

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

28 (6) The amount transferred to the last chance state bank under this section may be used for any

1 purpose of the last chance state bank listed in [sections 6 and 7]. (Terminates June 30, 2031--secs. 1 through
2 3, Ch. 305, L. 2015.)

3 **17-5-703. (Effective July 1, 2031) Coal severance tax trust funds.** (1) The trust established under
4 Article IX, section 5, of the Montana constitution is composed of the following funds:

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

7 (b) a Montana coal endowment fund;

8 (c) a coal severance tax permanent fund;

9 (d) a coal severance tax income fund;

10 (e) a big sky economic development fund; and

11 (f) a school facilities fund.

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

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

15 (ii) _____ the amount necessary to meet the obligations of the state that are payable from the Montana
16 coal endowment fund or the big sky economic development fund to the respective account as provided in
17 subsection (3) or (5).

18 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
19 (2)(a) must be transferred from that fund to the last chance state bank, except as provided in subsections (4)
20 and (5) through (6).

21 (3) The state treasurer shall monthly transfer from the Montana coal endowment fund to the Montana
22 coal endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
23 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.
24 Earnings not transferred to the Montana coal endowment special revenue account must be ~~retained in the~~
25 ~~Montana coal endowment fund.~~ transferred to the last chance state bank.

26 (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund
27 provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that
28 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer

1 when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this
2 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the
3 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
4 retained in the fund.

5 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established
6 in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of
7 the state that are payable from the account. Earnings not transferred to the account established in 20-9-525
8 must be retained in the school facilities fund.

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

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

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

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

22

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

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

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

1 **(b)** Beginning July 1, 2025, income and earnings, excluding unrealized gains and losses, from the
2 coal severance tax bond fund not otherwise distributed as provided in 17-5-703 must be deposited in the last
3 chance state bank for any purpose listed in [sections 6 and 7]."

4

5 **Section 18.** Section 17-5-710, MCA, is amended to read:

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

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

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

22 (4) The board of examiners ~~may employ a~~ shall use the last chance state bank as fiscal agent to
23 assist in the performance of its duties.

24 (5) All proceeds of a state of Montana coal severance tax bonds issue must be deposited in the last
25 chance state bank, a capital projects fund, or a state special revenue account established for that bond issue,
26 except that:

27 (a) bond proceeds used to pay interest on the bonds and accrued interest received must be deposited
28 in a debt service fund established for that bond issue;

1 (b) any premiums received may be deposited in a debt service fund established for that bond issue;
2 and
3 (c) bond proceeds used to pay the cost of issuance may be deposited in a separate account within
4 the state special revenue account."
5

6 **Section 19.** Section 17-5-711, MCA, is amended to read:

7 **"17-5-711. Trust indenture.** In the discretion of the board of examiners, a series of bonds or notes
8 issued under this part may be secured by a trust indenture by and between the board of examiners and a
9 trustee, which may be the last chance state bank or any trust company or bank having the powers of a trust
10 company within or outside of the state. Each trust indenture or an executed counterpart ~~thereof shall~~ of the trust
11 indenture must be filed in the office of the secretary of state of Montana. The filing of a trust indenture or an
12 executed counterpart ~~thereof of the trust indenture~~ in the office of the county clerk of the county in which the
13 property covered by the trust indenture is located is constructive notice of its contents to all persons from the
14 time of the filing, and the recording of the trust indenture or its contents is not necessary."
15

16 **Section 20.** Section 17-5-1302, MCA, is amended to read:

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

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

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

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

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

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

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

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

28 (8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to

1 issue private activity bonds or governmental bonds.

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

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

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

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

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

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

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

12 ~~(15)~~(16) "State issuer" means the state and any agency of the state authorized to issue private activity
13 bonds. For this part only, the Montana higher education student assistance corporation, to the extent authorized
14 under federal law to issue private activity bonds, is considered a state issuer.

15 ~~(16)~~(17) "State portion" means that portion of the state's volume cap reserved for state issuers.

16 ~~(17)~~(18) "State's volume cap" means that amount of the volume cap specified by the department
17 pursuant to 17-5-1311(2).

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

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

22

23 **Section 21.** Section 17-5-1312, MCA, is amended to read:

24 **"17-5-1312. Allocation to state issuers.** (1) Except as provided in subsection (6), the state portion
25 must be allocated to state issuers pursuant to 17-5-1316.

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

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

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

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

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

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

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

State Issuer	Percentage
Board	4%
<u>MBH State Bank</u>	41% <u>45%</u>
MBI	25%
MHESAC	26%
MFFA	4%
Total	100%

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

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

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

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

18

19 **Section 22.** Section 17-5-1325, MCA, is amended to read:

20 **"17-5-1325. Reassignment of bonding authority for agricultural purposes -- contingency.** If, ~~at~~
21 ~~some time in the future,~~ federal taxation laws allow the use of tax-exempt bonds to provide loans for the

1 acquisition of farm or ranch land, a downpayment on the acquisition of farm or ranch land, or the acquisition or
2 construction of depreciable property used in the operation of a farm or ranch, the allocation of bonding authority
3 originally assigned to the Montana agricultural loan authority must be reassigned to the ~~Montana board of~~
4 ~~investments~~ state bank to provide those loans."

5

6 **Section 23.** Section 17-5-1502, MCA, is amended to read:

7 **"17-5-1502. Legislative declaration.** (1) It is the policy of the state of Montana, in the interest of
8 promoting the health, safety, and general welfare of all the people of the state, to increase job opportunities and
9 to retain existing jobs by making available, through the board of investments and the state bank, funds for
10 industrial, commercial, manufacturing, natural resource, agricultural, livestock, recreational, tourist, and health
11 care development.

12 (2) The legislature finds that:

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

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

18 (c) the state of Montana has a responsibility to help create a favorable climate for new and improved
19 job opportunities and a stable, growing, and healthy economy for its citizens by encouraging the development
20 of business."

21

22 **Section 24.** Section 17-5-1503, MCA, is amended to read:

23 **"17-5-1503. Definitions.** As used in this part, unless the context requires otherwise, the following
24 definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23

24 **Section 25.** Section 17-5-1507, MCA, is amended to read:

25 **"17-5-1507. Bond anticipation notes -- issuance -- payment of principal and interest.** (1) The
26 board may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived
27 from the sale of the bonds. The notes shall be designated as "bond anticipation notes". The proceeds of the
28 sale of the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could

1 be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary to redeem
2 outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No
3 renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were
4 issued.

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

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

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

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

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

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

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

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

28 (4) In connection with the issuance and sale of notes as provided in this section, the board may

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

6

7 **Section 26.** Section 17-5-1508, MCA, is amended to read:

8 **"17-5-1508. Provisions of bond resolutions.** A resolution authorizing notes or bonds or any issue
 9 ~~thereof of notes or bonds~~ may contain provisions, which must be a part of the contract or contracts with the
 10 holders ~~thereof~~ of the notes or bonds, as to:

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

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

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

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

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

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

26 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
 27 amended or abrogated, the amount of notes or bonds to which the holders of which shall are required to
 28 consent ~~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~~ property, rights, powers, and duties in trust as the authority
5 determines ~~to be is~~ is necessary;

6 (10) defining the acts or omissions that ~~shall~~ constitute a default in the obligations and duties of the
7 board to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes
8 or bonds in the event of ~~such 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
10 the holders of the notes or bonds."
11

12 **Section 27.** Section 17-5-1509, MCA, is amended to read:

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

16 **Section 28.** 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 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
22 the 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
24 depository 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 29.** Section 17-5-1521, MCA, is amended to read:

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

2 (a) procedures for soliciting and evaluating applications and for notifying the local government of the
3 application for purposes of complying with 17-5-1526 and 17-5-1527; and

4 (b) a system for evaluating applications, considering the following criteria:

5 (i) the applicant's net worth;

6 (ii) the applicant's training and experience in the industry involved in the proposed project;

7 (iii) the applicant's prospects for succeeding in the proposed project;

8 (iv) the degree to which the new or increased business resulting from the loan will meet the objectives
9 of 17-5-1502; and

10 (v) any other factors the ~~board~~state bank may prescribe.

11 (2) The board shall adopt rules for the:

12 (a) organization, approval, standards, and regulation of project applicants;

13 (b) approval, standards, and regulation of financial institutions under this part;

14 (c) assessment, collection, and payment of all fees and charges in connection with making,
15 purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending,
16 and guaranty programs; and

17 (d) ~~such~~ other matters ~~as~~that the board considers necessary or desirable."
18

19 **Section 30.** Section 17-5-1524, MCA, is amended to read:

20 "17-5-1524. Taxation of projects. (1) Notwithstanding the fact that title to a project may be in the
21 state bank or the board, ~~such the~~ projects are subject to taxation to the same extent, in the same manner, and
22 under the same procedures as privately owned property in similar circumstances if ~~such the~~ projects are leased
23 to or held by private interests on both the assessment date and the date the levy is made in that year. ~~Such~~
24 These projects are not subject to taxation in any year if they are not leased to or held by private interests on
25 both the assessment date and the date the levy is made in that year.

26 (2) When personal property owned by the board is taxed under this section and ~~such~~ personal
27 property taxes are delinquent, levy by warrant for distraint for collection of such delinquent taxes may be made
28 only on personal property against which ~~such any~~ taxes were levied."

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Section 31. Section 17-5-1526, MCA, is amended to read:

"17-5-1526. Procedure prior to financing projects. (1) The state bank, subject to certification of capitalization under [section 6(5)], and the board may finance projects, other than major projects, under this part only when ~~it~~the state bank or the board, as applicable, finds that:

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

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

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

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

(e) an applicant has submitted a statement indicating any contracts to construct the projects will require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. For the purposes of this subsection (1)(e), "Substantially-substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

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

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

1 collective bargaining agreement covering the work to be performed.

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

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

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

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

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

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

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

22

23 **Section 32.** Section 17-5-1527, MCA, is amended to read:

24 "**17-5-1527. Procedure prior to financing major projects.** (1) The state bank, subject to certification
25 of capitalization under [section 6(5)], or the board may finance major projects under this part only when ~~it~~ the
26 state bank or the board, as applicable, finds that:

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

28 (b) the financing to be provided by the state bank or the board for a project does not exceed either

1 \$50 million or 90% of the cost or appraised value of the project, whichever is less;

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

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

8 (e) any contracts to construct the projects require all contractors to give preference to the employment
9 of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their
10 qualifications are substantially equal to those of nonresidents. For the purposes of subsection (1)(e),
11 "~~Substantially~~ substantially equal qualifications" means the qualifications of two or more persons among whom
12 the employer cannot make a reasonable determination that the qualifications held by one person are
13 significantly better suited for the position than the qualifications held by the other persons.

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

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

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

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

28 (b) if a request for a local hearing is not received, the state bank or the board, as applicable, may hold

1 the hearing at a time and place ~~it~~that the state bank or the board, as applicable, prescribes.

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

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

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

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

14 (7) The state bank and the board ~~is~~are encouraged to consider applications for project financing
15 related to infrastructure and facilities necessary for the development of the state-owned coal assets."
16

17 **Section 33.** Section 17-5-1624, MCA, is amended to read:

18 **"17-5-1624. Trust indenture.** (1) In the discretion of the board, the bonds or notes of the board may
19 be secured by a trust indenture between the board and a corporate trustee, which may be the last chance state
20 bank, a trust company, or another bank having the power of a trust company inside or outside the state. A trust
21 indenture may contain provisions for protecting and enforcing bondholders' rights and remedies that are
22 reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in
23 relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board
24 may provide by a trust indenture for the payment of the proceeds of the bonds or notes and the revenues to the
25 trustee under the trust indenture of another depository and for the method of disbursement, with safeguards
26 and restrictions it considers necessary.

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

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Section 34. Section 17-6-105, MCA, is amended to read:

"17-6-105. ~~State treasurer as treasurer~~ Depositories of state agencies -- deposits of money. (1)

The state treasurer is designated the treasurer of every state agency and institution.

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

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

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

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

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

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

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

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

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

1 credit of the state treasurer.

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

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

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

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

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

16 (9) On or before September 15 immediately preceding a regular legislative session, the department
17 shall submit to the legislative fiscal analyst and the legislative auditor a report detailing all active accounts for
18 which a modified deposit schedule has been approved under subsection (8).

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

22

23 **Section 35.** Section 17-6-201, MCA, is amended to read:

24 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program
25 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
26 administered by the board of investments in accordance with the prudent expert principle, which requires an
27 investment manager to:

28 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then

1 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters
2 exercises in the conduct of an enterprise of a like character with like aims;

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

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

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

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

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

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

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

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

21 (e) This section does not prevent investment in home loan mortgages under the provisions of the
22 Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

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

28 (5) The board shall:

- 1 (a) assist agencies with public money to determine if, when, and how much surplus cash is available
2 for investment;
- 3 (b) determine the amount of surplus treasury cash to be invested;
- 4 (c) determine the type of investment to be made;
- 5 (d) prepare the claim to pay for the investment; and
- 6 (e) keep an account of the total of each investment fund and of all the investments belonging to the
7 fund and a record of the participation of each treasury fund account in each investment fund.
- 8 (6) The board may:
- 9 (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the
10 transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a
11 qualified appraiser.
- 12 (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-
13 6-105;
- 14 (c) direct the sale of securities in the program at their full and true value when found necessary to
15 raise money for payments due from the treasury funds for which the securities have been purchased.
- 16 (7) The cost of administering and accounting for each investment fund must be deducted from the
17 income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of
18 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
19 the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108."

20

21 **Section 36.** Section 17-6-204, MCA, is amended to read:

22 **"17-6-204. Short-term investment of local government funds.** (1) The governing body of any city,
23 county, school district, or other local government unit or political subdivision that has funds that are available for
24 investment and are not required by law or by any covenant or agreement with bondholders or others to be
25 segregated and invested in a different manner may direct its treasurer to remit the funds to the state treasurer
26 for investment under the direction of the board of investments as part of the short-term pooled investment fund
27 or may deposit the funds with the last chance state bank. The provisions of subsections (2) through (4) apply to
28 the respective depository.

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

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

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

13

14 **Section 37.** Section 17-6-211, MCA, is amended to read:

15 **"17-6-211. Preference to in-state investment firms for investments -- commitment agreement**

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

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

28

1 **Section 38.** 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) "Clean and healthful environment" means an environment that is relatively free from pollution that
6 threatens human health, including as a minimum, compliance with federal and state environmental and health
7 standards.

8 (3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility
9 located in Montana that has a generating capacity greater than or equal to 100 megawatts.

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

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

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

15 (a) drinking water systems;

16 (b) wastewater treatment;

17 (c) sanitary sewer or storm sewer systems;

18 (d) solid waste disposal and separation systems;

19 (e) roads;

20 (f) bridges; or

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

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

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

27 (8) "Intermediary loan" means a loan provided to a local economic development organization with a
28 revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural

1 development loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs,
2 including but not limited to programs from the economic development administration of the U.S. department of
3 commerce and the community development financial institution program from the U.S. department of the
4 treasury.

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

6 (10) "Local economic development organization" means:

7 (a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
8 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);

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

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

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

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

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

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

19 (14) "Owner" means an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451
20 or a public utility regulated by the public service commission in accordance with Title 69 that owns a coal-fired
21 generating unit.

22 (15) "Service fees" means the fees normally charged by a financial institution for servicing a loan,
23 including amounts charged for collecting payments and remitting amounts to the fund.

24 (16) "State bank" means the last chance state bank created under [section 1].

25

26 **Section 39.** Section 17-6-305, MCA, is amended to read:

27 **"17-6-305. Investment of coal tax trust fund in Montana economy -- report by board.** (1) Subject
28 to the provisions of 17-6-201(1) and the certification of capitalization under [section 6(5)], the ~~board~~ state bank

1 shall endeavor to invest 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana
2 economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments
3 made pursuant to this section do not include investments made pursuant to 17-6-309(2). For purposes of
4 calculating the 25% of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1).
5 The portion of the permanent coal tax trust fund contained in portfolios formerly administered by the Montana
6 board of science and technology development is included in the 25% of the trust fund allocated to the ~~board~~
7 state bank for in-state investment under this section. This subsection does not prohibit the board from investing
8 more than 25% of the permanent coal tax trust fund in the Montana economy if it is prudent to do so and the
9 investments will benefit the Montana economy, but the state bank is responsible for investing the 25% and the
10 board may invest any amount greater than the 25% as well as the principal remaining in the permanent coal tax
11 trust fund.

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

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

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

18

19 **Section 40.** Section 17-6-308, MCA, is amended to read:

20 **"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) through (8) of this
21 section and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested
22 as authorized by rules adopted by the board.

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

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

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

20 (5) The ~~board~~ state bank shall allow the board of housing to administer \$50 million of the permanent
21 coal tax trust fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title
22 90, chapter 6, part 6.

23 (6) The ~~board~~ state bank shall allow the board of housing to administer \$15 million of the permanent
24 coal tax trust fund for the purpose of providing loans for the development and preservation of homes and
25 apartments to assist low-income and moderate-income persons with meeting their basic housing needs
26 pursuant to 90-6-137.

27 (7) (a) Subject to subsections (7)(b) and (7)(c), the ~~board~~ state bank may make working capital loans
28 from the permanent coal tax trust fund to an owner of a coal-fired generating unit.

- 1 (b) Loans may be provided in accordance with subsection (7)(a) to an owner to finance:
- 2 (i) the everyday operations and required maintenance of a coal-fired generating unit of which an
- 3 owner has a shared interest;
- 4 (ii) the purchase of an additional interest in a coal-fired generating unit of which an owner has a shared
- 5 interest;
- 6 (iii) the purchase of coal to use at a coal-fired generating unit or improvements necessary to utilize coal
- 7 from a different source at a coal-fired generating unit. When considering loan requests made under this
- 8 subsection (7)(b)(iii), the ~~board-state bank~~ shall give preference to requests that allow for utilization of coal
- 9 resources located in Montana or allow for improvements to utilize coal resources located in Montana that are
- 10 determined to be economically feasible.
- 11 (iv) the purchase of electric transmission lines and associated facilities of a design capacity of 500
- 12 kilovolts or more primarily used to transmit electricity generated by a coal-fired resource;
- 13 (v) costs related to decommissioning and remediation of a coal-fired generating unit or affected
- 14 property to meet applicable legal obligations as defined in 75-8-103; or
- 15 (vi) any combination of subsections (7)(b)(i) through (7)(b)(v).
- 16 (c) The ~~board-state bank~~ may charge a working capital loan application fee of up to \$500.
- 17 (8) The ~~board-state bank~~ may make loans from the permanent coal tax trust fund to a city, town,
- 18 county, or consolidated city-county government impacted by the closure of a coal-fired generating unit to secure
- 19 and maintain existing infrastructure.
- 20 (9) The ~~board-state bank~~ shall adopt rules to allow a nonprofit corporation to apply for economic
- 21 assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for
- 22 for-profit corporations.
- 23 (10) All repayments of proceeds pursuant to subsection (3) of investments made from the coal
- 24 severance tax trust fund must be deposited in the coal severance tax permanent fund."
- 25

26 **Section 41.** Section 17-6-309, MCA, is amended to read:

27 **"17-6-309. Investment preferences.** (1) Subject to the provisions of subsection (2), in deciding which

28 of several investments of equal or comparable security and return are to be made when sufficient funds are not

1 available to fund all possible investments, the state bank, subject to certification of capitalization under [section
2 6(5)] or the board, as applicable, shall give preference to the business investments that:

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

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

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

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

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

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

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

20 (3) The state bank or the board, as applicable, may make a working capital loan to an owner of a
21 coal-fired generating unit if the loan will prevent the elimination of jobs and provide stability in a community
22 impacted by the operation of a coal-fired generating unit."
23

24 **Section 42.** Section 17-6-311, MCA, is amended to read:

25 **"17-6-311. Limitation on size of investments.** (1) Except as provided in subsection (2) (3) and this
26 subsection, an investment may not be made that will result in any one business enterprise or person receiving a
27 benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of
28 which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business

1 enterprise or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the
2 debt incurred for the project or enterprise for the coal tax investment that was made to the business enterprise
3 or person must be held by a commercial lender. This subsection does not:

- 4 (a) apply to a loan made pursuant to 17-6-317; or
- 5 (b) limit the ~~board's~~ authority of the state bank or the board, as applicable, to make loans to the capital
6 reserve account as provided in 17-6-308(2).

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

9 ~~(2)(3)~~ The total amount of loans made pursuant to 17-6-309(2) may not exceed \$80 million, the total
10 amount of loans made pursuant to 17-6-317 may not exceed \$70 million, and a single loan may not be less
11 than \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that
12 is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the state bank or
13 board shall consider:

- 14 (a) the estimated number of jobs to be created by the project within a 4-year period from the time that
15 the loan is made and the impact of the jobs on the state and the community where the project will be located;
- 16 (b) the long-term effect of corporate and personal income taxes estimated to be paid by the business
17 and its employees;
- 18 (c) the current and projected ability of the community to provide necessary infrastructure for economic
19 and community development purposes;
- 20 (d) the amount of increased salaries, wages, and business incomes of existing jobholders and
21 businesses; and
- 22 (e) other matters that the board considers necessary.

23 ~~(3)(4)~~ The total amount of loans made annually pursuant to 17-6-309(3) may not exceed \$50 million.
24 In determining the size of a loan, the state bank or the board shall consider:

- 25 (a) the direct and indirect tax implications to the state if a coal-fired generating unit is retired
26 prematurely;
- 27 (b) the current and projected ability of an owner to operate and maintain a coal-fired generating unit;
- 28 and

1 (c) other matters that the state bank or the board, as applicable, considers necessary."

2

3 **Section 43.** Section 17-6-313, MCA, is amended to read:

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

8

9 **Section 44.** Section 17-6-314, MCA, is amended to read:

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

14

15 **Section 45.** Section 17-6-316, MCA, is amended to read:

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

26 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the state bank or the board,
27 as applicable, is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2)
28 is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

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

6

7 **Section 46.** Section 17-6-317, MCA, is amended to read:

8 **"17-6-317. Participation by private financial institutions -- rulemaking.** (1) (a) The state bank,
9 subject to certification of capitalization under [section 6(5)], or the board may separately or jointly participate
10 with private financial institutions in making loans to a business enterprise if the loan will:

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

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

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

17 (b) Loans under this section may be made only to:

18 (i) business enterprises that are producing or will produce value-added products or commodities; or

19 (ii) owners of coal-fired generating units for the purposes established in 17-6-308(7).

20 (c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under
21 17-6-318.

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

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

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

28 (iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a

1 participating private financial institution, then the additional security or guarantees must be proportional to the
2 amount loaned by all participants, including the board of investments.

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

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

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

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

9 (ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;

10 (iii) 6% for the second 5 years; and

11 (iv) the ~~board's~~ posted interest rate of the state bank or the board for the third 5 years, but not to
12 exceed 10% a year.

13 (e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the state bank or
14 the board, whichever is responsible for the loan, receives certification that the required number of jobs has
15 been created or as provided in subsection (2)(e)(ii). If the state bank or the board disburses loan proceeds prior
16 to creation of the required jobs, the loan must bear interest at the ~~board's~~ posted rate of the state bank or the
17 board, as applicable.

18 (ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination
19 of jobs, the state bank or the board, as applicable, shall require the submission of financial data that allows the
20 state bank or the board, as applicable, to determine if the loan and interest rate will in fact prevent the
21 elimination of jobs.

22 (f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of
23 required jobs, the state bank or the board, as applicable, may apply a graduated scale to increase the interest
24 rate, not to exceed the ~~board's~~ posted rate of the state bank or the board, as applicable.

25 (g) For purposes of calculating job creation or retention requirements, the state bank and the board
26 shall use the state's average weekly wage, as defined in 39-71-116, multiplied by the number of jobs required.
27 This calculated number is the minimum aggregate salary threshold that is required to be eligible for a reduced
28 interest rate. If individual jobs created pay less than the state's average weekly wage, the borrower shall create

1 more jobs to meet the minimum aggregate salary threshold. If fewer jobs are created or retained than required
2 in subsection (2)(d)(i) or (2)(d)(ii) but aggregate salaries meet the minimum aggregate salary threshold, the
3 borrower is eligible for the reduced interest rate. A job paying less than the minimum wage, provided for in 39-
4 3-409, may not be included in the required number of jobs.

5 (h) (i) A participating private financial institution may charge interest in an amount equal to the
6 national prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6%
7 or greater than 12%.

8 (ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to
9 an adjustable or fixed rate on terms acceptable to the borrower and lender.

10 (iii) A participating private financial institution, or lead private financial institution if more than one is
11 participating, may charge a 0.5% annual service fee.

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

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

16 (3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion
17 of the loan must be made based on the percentage of completion to ensure that the construction portion of the
18 loan is advanced prior to completion of the project.

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

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

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

28 (c) A public utility may pay dividends to investors and bonuses to employees if the public utility is

1 current on its loan payments and has available funds equal to at least 15% of the outstanding principal balance
2 of the loan.

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

5

6 **Section 47.** Section 17-6-318, MCA, is amended to read:

7 **"17-6-318. Job credit interest rate reduction for business loan participation.** (1) A borrower who
8 uses the proceeds of a business loan participation funded under the provisions of this part to create jobs
9 employing Montana residents is entitled to a job credit interest rate reduction for each job created to employ a
10 Montana resident. A borrower who uses the proceeds of a loan made pursuant to 17-6-309(2) to create jobs is
11 entitled to a job credit interest rate reduction for each job created. The job credit interest rate reduction is equal
12 to 0.05% for each job created to employ a Montana resident, up to a maximum interest rate reduction of 2.5%.

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

14 (a) exceeds the state's average weekly wage, as defined in 39-71-116, the amount of the job credit
15 interest rate reduction may be increased proportionately for each increment of 25% above the state's average
16 weekly wage to a maximum of two times the state's average weekly wage; or

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

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

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

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

27

28 **Section 48.** Section 17-6-319, MCA, is amended to read:

1 **"17-6-319. Incentive to financial institution for small business loan participation.** A financial
 2 institution, other than the state bank, that originates a small business loan no larger than 0.05% of the balance
 3 of the Montana permanent coal tax trust fund at the end of the last-completed fiscal year is entitled to an
 4 additional service fee in the form of a discount equal to 0.5% of the ~~board's~~ participation in the loan by the state
 5 bank or the board, as applicable. The state bank or the board shall consider the additional service fee discount
 6 to the financial institution as part of the rate of return provided in 17-6-314."

7

8 **Section 49.** Section 17-6-321, MCA, is amended to read:

9 **"17-6-321. Audits.** ~~The board's~~ Any books and records related to in-state investments of the state
 10 bank and the board must be audited once each fiscal year by or at the direction of the legislative auditor. The
 11 actual cost of this audit must be paid from the ~~board's~~ funds of the state bank or the board, as applicable."

12

13 **Section 50.** Section 17-6-322, MCA, is amended to read:

14 **"17-6-322. Report.** ~~The~~ Both the state bank and the board shall include in ~~its~~ their respective annual
 15 ~~report~~ reports a section on the results of the previous year's operations of the investment in the Montana
 16 economy from the permanent coal tax trust fund, as required in 17-6-305, including:

- 17 (1) financial statements audited by independent auditors;
 - 18 (2) a summary report of loan activity; and
 - 19 (3) a comparison of the performance of the investments in the Montana economy in relation to the
- 20 purposes contained in 17-6-303."

21

22 **Section 51.** Section 17-6-324, MCA, is amended to read:

23 **"17-6-324. Rulemaking authority.** (1) The state bank and the board may jointly adopt rules to
 24 implement the provisions of this part and 17-6-211(2). Rules adopted by the state bank and the board may
 25 include:

- 26 (a) definitions of small- and medium-sized businesses;
 - 27 (b) a method of committing funds to financial institutions, including guidelines for lead private financial
- 28 institutions if a consortium of private financial institutions is participating in a loan made pursuant to 17-6-317;

1 (c) guidelines for graduation clauses for refinancing and early payment of loans made pursuant to 17-
2 6-317;

3 (d) types of service fees; and

4 (e) types of investments to be made.

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

7

8 **Section 52.** Section 17-6-345, MCA, is amended to read:

9 **"17-6-345. Intermediary relending program.** (1) The state bank and the board may set aside an
10 amount, not to exceed \$10 million, from the in-state investment percentage provided for in 17-6-305 for the
11 purpose of creating an intermediary relending program. The state bank may participate in the intermediary
12 relending program prior to certification of capitalization under [section 6(7)] if the state bank's advisory board
13 considers the participation to be a sound financial move.

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

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

17 (4) An intermediary loan made under this section may be offered only to an applicant that will pledge
18 and use the loan funds as matching funds for the U.S. department of agriculture rural development loan
19 program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not
20 limited to programs from the economic development administration of the U.S. department of commerce and
21 the community development financial institution program from the U.S. department of the treasury."

22

23 **Section 53.** Section 17-6-347, MCA, is amended to read:

24 **"17-6-347. Purchase of seasoned or mature loans ~~by board~~.** The state bank and the board may
25 purchase a portion of a seasoned or mature loan from a local economic development organization's revolving
26 loan program."

27

28 **Section 54.** Section 17-6-403, MCA, is amended to read:

1 "17-6-403. **Definitions.** As used in this part, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

20

21 **Section 55.** Section 17-6-406, MCA, is amended to read:

22 "**17-6-406. Microbusiness finance program -- powers and duties of department and state bank -**
23 **- rulemaking.** (1) There is a microbusiness finance program administered by the department.

24 (2) The department shall adopt rules to implement the provisions of this part, including but not
25 limited to:

26 ~~(1)(a)~~ establishing criteria and procedures for certifying microbusiness development corporations;

27 ~~(2)~~ ~~establishing criteria and procedures to select from competing development loan applications and~~
28 ~~to award development loans to certified microbusiness development corporations;~~

1 ~~(3)(b)~~ establishing criteria and procedures to be followed by certified microbusiness development
2 corporations that administer revolving loan funds supported by the program;

3 ~~(4)~~ ~~determining the amount and method of computation and payment of interest rates charged to~~
4 ~~recipients of development loans and specifying amortization schedules and other terms and conditions for~~
5 ~~development loans as may be necessary;~~

6 ~~(5)~~ ~~establishing criteria for determining nonperformance and declaring default in the administration of~~
7 ~~development loans and requiring the refund of defaulted development loan funds to the microbusiness~~
8 ~~development loan account;~~

9 ~~(6)~~ ~~establishing criteria for satisfactory performance in development loan administration to determine~~
10 ~~eligibility for renewal of development loans or for additional development loans;~~

11 ~~(7)(c)~~ establishing guidelines for maximum and minimum interest rates that may be charged by
12 certified microbusiness development corporations on microbusiness loans; and

13 ~~(8)(d)~~ dividing the state into not more than 12 multicounty service regions within each of which not
14 more than one microbusiness development corporation may be funded at any time. However, a corporation that
15 is funded as a statewide microbusiness development corporation under 17-6-408 may offer specialized
16 services to constituents within regions or within an Indian reservation having a funded regional microbusiness
17 development corporation.

18 (3) The state bank shall adopt rules to implement the provisions of this part, including:

19 (a) establishing criteria and procedures to select from competing development loan applications
20 and to award development loans to certified microbusiness development corporations;

21 (b) determining the amount and method of computation and payment of interest rates charged to
22 recipients of development loans and specifying amortization schedules and other terms and conditions for
23 development loans as may be necessary;

24 (c) establishing criteria for determining nonperformance and declaring default in the administration
25 of development loans and requiring the refund of defaulted development loan funds to the microbusiness
26 development loan account; and

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

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Section 56. Section 17-6-407, MCA, is amended to read:

"17-6-407. Microbusiness development loan account and finance program administrative account loans -- criteria -- limitations. (1) ~~(a) There is in the state special revenue fund a~~ The state bank may, subject to certification of capitalization under [section 6(5)], make microbusiness development loan account into which funds allocated for that purpose and money received in loans to a certified microbusiness development corporation and receive repayment of the principal of development loans. Repayment must be deposited in an account to be used for microbusiness development loans.

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

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

~~(2) There is in the state special revenue fund a microbusiness finance program administrative account into which must be deposited:~~

~~(a) and all interest received on development loans received directly from microbusiness development corporations, along with;~~

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

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

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

~~(3) Money in the administrative account may be transferred to the development loan account or be used to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other operating expenses of the program.~~

~~(4)(2) Subject to subsection (1), a~~ A certified microbusiness development corporation that receives a development loan may apply for an additional loan if the applicant meets the performance criteria established by the department state bank.

1 ~~(5)~~(3) To establish the criteria for making development loans, the ~~department~~state bank shall

2 consider:

3 (a) the plan for providing services to microbusinesses;

4 (b) the scope of services to be provided by the certified microbusiness development corporation;

5 (c) the geographic representation of all regions of the state, including urban, rural, and tribal
6 communities;

7 (d) the plan for providing service to minorities, women, and low-income persons;

8 (e) the ability of the corporation to provide business training and technical assistance to
9 microbusiness clients;

10 (f) the ability of the corporation, with a plan, to:

11 (i) monitor and provide financial oversight of recipients of microbusiness loans;

12 (ii) administer a revolving loan fund; and

13 (iii) investigate and qualify financing proposals and to service credit accounts;

14 (g) sources and sufficiency of operating funds for the certified microbusiness development
15 corporation; and

16 (h) the intent of the corporation, with a plan and written indications of local institutional support, to
17 provide services to a designated multicounty region of the state.

18 ~~(6)~~(4) Development loan funds may be used by a certified microbusiness development corporation to:

19 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is
20 intended and used for the purpose of providing or enhancing the certified microbusiness development
21 corporation's ability to provide and administer loans, technical assistance, or management training to
22 microbusinesses;

23 (b) establish a revolving loan fund from which the certified microbusiness development corporation
24 may make loans to qualified microbusinesses, provided that a single loan does not exceed \$100,000 and the
25 outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness
26 or to two or more microbusinesses in which any one person holds more than a 20% equity share does not
27 exceed \$100,000;

28 (c) establish a guarantee fund from which the certified microbusiness development corporation may

1 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may
2 not exceed \$100,000, and the aggregate of all guarantees to a microbusiness or a project participated in by
3 more than one microbusiness or to two or more microbusinesses in which any one person holds more than a
4 20% equity share may not exceed \$100,000.

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

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

8 (b) used to:

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

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

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

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

22 ~~(40)~~(8) Each certified microbusiness development corporation that receives a development loan under
23 this part shall provide the ~~department~~ state bank with an annual audit from an independent certified public
24 accountant. The audit must cover all of the microbusiness development corporation's activities and must
25 include verification of compliance with requirements specific to the microbusiness program.

26 ~~(44)~~(9) A certified microbusiness development corporation that is in default for nonperformance under
27 rules established by the ~~department~~ state bank may be required to refund the outstanding balance of
28 development loans awarded prior to the default declaration. A development loan is secured by a first lien on all

1 funds and all receivables administered under the authority of the microbusiness development act by the
2 corporation receiving the loan."

3

4 **Section 57.** Section 17-7-111, MCA, is amended to read:

5 **"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and**
6 **contents.** (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state
7 need information that is consistent and accurate. Necessary information includes detailed disbursements by
8 fund type for each agency and program for the appropriate time period, recommendations for creating a
9 balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

10 (b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst
11 shall by agreement:

12 (i) establish necessary standards, formats, and other matters necessary to share information between
13 the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget;
14 and

15 (ii) provide for the collection and provision of budgetary and financial information that is in addition to or
16 different from the information otherwise required to be provided pursuant to this section.

17 (2) In the preparation of a state budget, the budget director shall, not later than the date specified in
18 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget
19 estimates by the budget director. These forms must be prescribed by the budget director to procure the
20 information required by subsection (3). The forms must be submitted to the budget director by the date provided
21 in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-
22 112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or
23 the instructions given for completing the forms.

24 (3) The agency budget request must set forth a balanced financial plan for the agency completing the
25 forms for each fiscal year of the ensuing biennium. The plan must consist of:

26 (a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101,
27 for the current base budget expenditures, including statutory appropriations, and for each present law
28 adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel

1 positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total
2 anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing
3 biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in
4 progress;

5 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the
6 current biennium and estimated for the subsequent biennium;

7 (c) a statement of the agency mission and a statement of goals and objectives for each program of
8 the agency. The goals and objectives must include, in a concise form, sufficient specific information and
9 quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and
10 its programs and to allow a determination, at some future date, on whether the agency has succeeded in
11 attaining its goals and objectives.

12 (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated
13 FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by
14 program;

15 (e) actual disbursements for the completed fiscal year of the current biennium, estimated
16 disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by
17 disbursement category;

18 (f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general
19 appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the
20 budget director. Each agency plan must include base budget reductions that reflect the required percentage
21 reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations
22 of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff
23 under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund
24 balances to the general fund. The plan must include:

25 (i) a prioritized list of services that would be eliminated or reduced;

26 (ii) for each service included in the prioritized list, the savings that would result from the elimination or
27 reduction; and

28 (iii) the consequences or impacts of the proposed elimination or reduction of each service.

- 1 (g) a reference for each new information technology proposal stating whether the new proposal is
2 included in the approved agency information technology plan as required in 2-17-523;
- 3 (h) energy cost saving information as required by 90-4-616; and
- 4 (i) other information the budget director feels is necessary for the preparation of a budget.
- 5 (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with
6 17-7-112:
- 7 (a) detailed recommendations for capital developments for:
- 8 (i) local infrastructure projects;
- 9 (ii) funding for energy development-impacted areas; and
- 10 (iii) the state long-range building program. Each recommendation for the capital developments long-
11 range building program must be presented by institution, agency, or branch, by funding source, with a
12 description of each proposed project.
- 13 (b) a statewide project budget summary as provided in 2-17-526;
- 14 (c) the proposed pay plan schedule for all executive branch employees at the program level by fund,
15 with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under
16 this subsection is not an unfair labor practice under 39-31-401.
- 17 (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part
18 3, the renewable resource grant and loan ~~program~~ programs under Title 85, chapter 1, part 6, the reclamation
19 and development grants program under Title 90, chapter 2, part 11, and the Montana coal endowment program
20 under Title 90, chapter 6, part 7.
- 21 (5) The board of regents shall submit, with its budget request for each university unit in accordance
22 with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this
23 subsection (5). The report must include the following information for each year of the biennium, contrasted with
24 the same information for the last-completed fiscal year and the fiscal year in progress:
- 25 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;
- 26 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each
27 outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal
28 funding requirements for each bond indenture; and

1 (c) a schedule showing the total funds available from each bond indenture and its associated
2 accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source
3 and project for each year of the current and ensuing bienniums.

4 (6) (a) The department of revenue shall make Montana individual income tax information available by
5 removing names, addresses, and social security numbers and substituting in their place a state accounting
6 record identifier number. Except for the purposes of complying with federal law, the department may not alter
7 the data in any other way.

8 (b) The department of revenue shall provide the name and address of a taxpayer on written request
9 of the budget director when the values on the requested return, including estimated payments, are considered
10 necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to
11 materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the
12 return or payments on the analysis being performed.

13 (7) The following provisions apply to the development of the budget request for the department of
14 public health and human services:

15 (a) Adjustments to the present law base must be separated by each category described in 17-7-
16 102(10) in order for the legislature to determine the changes that are attributable to legally mandated workload,
17 caseload, or enrollment increases or decreases, constitutional or statutory schedules or formulas, inflationary or
18 deflationary adjustments, and elimination of nonrecurring appropriations.

19 (b) Inflation adjustments to the present law base for the institutions or services described in
20 subsection (7)(c) must be based on a reliable national index for the particular service or a similar service or the
21 consumer price index for urban wage earners and workers. An inflation adjustment that is greater than the
22 applicable national index or consumer price index must be presented as a new proposal.

23 (c) Subsection (7)(b) applies to inflation adjustments for:

24 (i) the department-operated institutions described in 53-1-602; and

25 (ii) services provided by private sector businesses and other entities that provide direct services to
26 beneficiaries in medicaid programs that are administered by the department divisions responsible for
27 overseeing services for the elderly and for persons with mental illness, physical disabilities, or developmental
28 disabilities."

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Section 58. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory

appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; [section 7]; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined

1 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
 2 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
 3 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
 4 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
 5 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
 6 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 7 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 8 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
 9 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
 10 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
 11 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
 12 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
 13 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
 14 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
 15 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
 16 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
 17 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
 18 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
 19 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
 20 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
 21 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
 22 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

23

24 **Section 59.** Section 32-1-202, MCA, is amended to read:

25 **"32-1-202. Powers and duties of board.** The board shall:

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

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

28 and fulfill the duties required under [section 5];

1 ~~(2)~~(3) act in an advisory capacity with respect to the duties and powers given by statute or otherwise
2 to the department as the duties and powers relate to banking; and
3 ~~(3)~~(4) conduct hearings as provided in 32-1-204."
4

5 **Section 60.** Section 85-1-102, MCA, is amended to read:

6 **"85-1-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
7 apply:

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

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

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

11 (c) to administer contracts and receivables;

12 (d) to maintain project financial records;

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

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

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

18 (3) "Cost of works" means:

19 (a) the cost of construction, including any rehabilitation or alteration of the project;

20 (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered
21 necessary for the construction;

22 (c) the cost of all water rights acquired or exercised by the department in connection with the works;

23 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
24 construction and for a period not exceeding 3 years after the completion of construction;

25 (e) the cost of engineering and legal services, plans, specifications, surveys, estimates of cost, and
26 other expenses necessary or incident to determining the feasibility or practicability of any project;

27 (f) administrative expense; and

28 (g) other expenses that are necessary or incident to the financing authorized in this part and the

1 construction of the works and the placing of the works in operation.

2 (4) "Department" means the department of natural resources and conservation provided for in Title 2,
3 chapter 15, part 33.

4 (5) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts,
5 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
6 easements, or franchises to be acquired.

7 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
8 nongovernmental entity that is not eligible for loans ~~and~~or grants under 85-1-605.

9 (b) The term does not include a governmental entity, such as an agency, local government, or political
10 subdivision of the state, the United States, or any agency of the United States, or any other governmental
11 entity.

12 (7) "Project" means any one of the works defined in this section or any combination of works that are
13 physically connected or jointly managed and operated as a single unit.

14 (8) "Public benefits" means those benefits that accrue from a water development project or activity to
15 persons other than the private grant or loan recipient and that enhance the common well-being of the people of
16 Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction, agricultural
17 flood damage reduction, water quality enhancement, sediment reduction, access to recreation opportunities,
18 and wildlife conservation.

19 (9) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within
20 the debt service fund type of the state treasury, to be used as provided in 85-1-619.

21 (10) "Renewable resource loan proceeds account" means a separate account created by 85-1-617
22 within the state special revenue fund of the state treasury to:

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

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

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

1 ~~(11)~~(12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
2 other organized group or community that is located in Montana, that exercises self-government powers, and
3 that is recognized as eligible for those services that are provided by the United States to Indians because of
4 their status as Indians.

5 ~~(12)~~(13) "Water development activity" means an action or program to protect and enhance water-
6 based recreation or to protect or enhance water resources for the benefit of agriculture, flood control, or other
7 uses, including but not limited to the promotion of efficient use of water in agriculture, the improvement of water
8 quality in agriculture and other nonpoint source uses, the protection and enhancement of water-based
9 recreation, the control of erosion of streambanks and control of sedimentation in rivers and streams, and the
10 provision of greater local and state control of Montana's water resources. Water development activities may
11 provide any combination of marketable and nonmarketable benefits.

12 ~~(13)~~(14) "Water development project" means a project as defined in subsection (7), except that water
13 development projects:

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

15 (b) for purposes of the renewable resource grant and loan ~~program~~ programs, must include water
16 development activities.

17 ~~(14)~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property and
18 considered necessary or convenient for the operation of the works and all water rights acquired or exercised by
19 the department in connection with those works.

20 (b) The term includes:

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

24 (ii) all works for the conservation, development, storage, distribution, and utilization of water, including
25 but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation,
26 development of power, watering of stock, and supplying water for public, domestic, industrial, or other uses and
27 for fire protection."
28

1 **Section 61.** Section 85-1-601, MCA, is amended to read:

2 **"85-1-601. Purpose and policies.** (1) The legislature finds and declares that in order that the people
3 of Montana may enjoy the benefits of the state's water and other renewable resources, the state shall establish
4 ~~this a long-term renewable resource grant program and a loan program providing to provide~~ financial and
5 administrative assistance to private for-profit, private, nonprofit, local government, state government, and tribal
6 government entities for renewable resource ~~grant and loan~~ projects.

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

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

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

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

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

28 (7) Source watersheds are an integral component of Montana's water resources. Source watersheds

1 that provide the majority of the state's drinking and irrigated agricultural water are particularly important to
 2 maintaining the reliability, quantity, timing, and quality of Montana's environmental, drinking, and agricultural
 3 water supply. Because source watersheds have a critical role in enhancing water supply reliability, the
 4 maintenance and repair of source watersheds are eligible for the renewable resource grant and loan ~~program~~
 5 programs.

6 (8) Soil and range health play a vital role in protecting and sustaining Montana's renewable natural
 7 resources by retaining water, soil, and nutrients in place on the landscape. Enhancing soil and range health will
 8 provide long-term benefits to Montana's water and other renewable resources and to the users, wildlife, and
 9 economies they support."

10

11 **Section 62.** Section 85-1-602, MCA, is amended to read:

12 **"85-1-602. Objectives.** (1) ~~The department shall administer a renewable resource grant and loan~~
 13 ~~program to~~ To enhance Montana's renewable resources through projects that measurably conserve, develop,
 14 manage, or preserve resources, the department shall administer a renewable resource grant program and the
 15 state bank shall provide renewable resource loans, subject to certification of capitalization under [section 6(5)].

16 Either grants or loans may be provided to fund the following:

- 17 (a) feasibility, design, research, and resource assessment studies;
- 18 (b) preparation of construction, rehabilitation, or production plans; and
- 19 (c) construction, rehabilitation, production, education, or other implementation efforts.
- 20 (2) Projects that may enhance renewable resources in Montana include but are not limited to:
 - 21 (a) development of natural resource-based recreation;
 - 22 (b) development of natural, offstream, and tributary storage;
 - 23 (c) improvement of water use efficiency, including development of new, efficient water systems,
 24 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices
 25 required under 85-2-113; monitoring; and development of state, tribal, and federal water projects;
 - 26 (d) water-related projects that improve water quality, including livestock containment facility projects,
 27 soil and range health projects, and the maintenance and repair of source watersheds;
 - 28 (e) water-related projects that improve water quantity, including streamflows and water storage in

1 existing natural systems, such as riparian areas, flood plains, and wetlands;

2 (f) advancement of farming practices that reduce agricultural chemical use; and

3 (g) projects that facilitate the use of alternative renewable energy sources, as defined in 15-6-225.

4 (3) The renewable resource grant and loan ~~program is the~~ programs are key to the implementation
5 portion of the state water plan and must be administered to encourage grant and loan applications for projects
6 designed to accomplish the objectives of the plan.

7 (4) A grant or loan may not be awarded to a project that affects source watersheds or soil and range
8 health if the project would reduce, restrict, or prohibit any lawful access to the property that existed prior to the
9 project's implementation. This subsection does not apply to access that is temporarily created, granted, or
10 reduced due to project operations."
11

11

12 **Section 63.** Section 85-1-603, MCA, is amended to read:

13 **"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated --**

14 **renewable resource loan loss reserve fund created.** (1) (a) There is created a renewable resource loan
15 debt service fund ~~within the debt service fund type established in 17-2-102~~ within the state bank.

16 (b) The state pledges and allocates and directs to be credited to the renewable resource loan debt
17 service fund, as received:

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

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

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

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

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

28 (2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type

1 established in 17-2-102.

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

5 (c) If the ~~department~~ state bank determines that a loan loss has occurred on a loan made pursuant to
6 this part, the department shall transfer funds from the renewable resource loan loss reserve fund ~~must be~~
7 ~~transferred~~ to the renewable resource loan debt service fund within the state bank in an amount equal to the
8 amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."
9

10 **Section 64.** Section 85-1-605, MCA, is amended to read:

11 **"85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance.** (1) The
12 department may recommend to the legislature that grants ~~and loans~~ be made from revenue deposited in the
13 natural resources projects state special revenue account established in 15-38-302, ~~that loans be made from~~
14 ~~renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in~~
15 ~~85-1-617(5)~~, and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide
16 financial assistance to a department, agency, board, commission, or other division of state government, to a
17 city, county, or other political subdivision or local government body of the state, including an authority as
18 defined in 75-6-304, or to a tribal government. The legislature may approve by appropriation or other
19 appropriate means those grants ~~and loans~~ that it finds consistent with the policies and purposes of the program.

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

23 ~~(2)(3)~~ Nothing in this part creates or expands the state's or a local government's authority to incur
24 debt, ~~and the legislature may authorize loans only to state and local government entities otherwise structured to~~
25 ~~incur debt.~~

26 ~~(3)(4)~~ Loans may not be authorized except to a state, local, or tribal government entity that agrees to
27 secure the authorized loan with its bond.

28 ~~(4)(5)~~ In addition to implementing those projects approved by the legislature, the department may

1 request up to 10% of the grant funds available and up to \$10 million for loans from the natural resources
 2 projects state special revenue account established in 15-38-302 and the renewable resource loan proceeds
 3 account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both,
 4 may not be made because of the gross negligence of the state, local, or tribal government applicant, must be
 5 approved by the department, and must be defined as those projects otherwise eligible for either grant funding
 6 or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause substantial
 7 damages or legal liability to the project sponsor. In allocating the funds, the department shall inform the
 8 legislative fiscal analyst. The department shall provide a copy of the information to the legislature in accordance
 9 with 5-11-210.

10 ~~(5)(6)~~ The grants and loans provided for by this section may be made for projects that enhance
 11 renewable resources in the state through conservation, development, management, or preservation; for
 12 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
 13 approved by the legislature.

14 ~~(6)(7)~~ Grant and loan agreements with tribal governments in Montana entered into under this part
 15 must contain, in addition to other appropriate terms and conditions, the following conditions:

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

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

21 (c) an express waiver of any right to exhaust tribal remedies signed by the tribal government."
 22

23 **Section 65.** Section 85-1-606, MCA, is amended to read:

24 "**85-1-606. Grants and loans to private persons.** (1) To encourage the construction and
 25 development of water-related projects, the department may make grants ~~and loans~~ to private persons from
 26 funds appropriated from the natural resources projects state special revenue account established in 15-38-302
 27 ~~and may make.~~

28 (2) The state bank may make loans to private persons from both the natural resources projects

1 state special revenue account established in 15-38-302 and the renewable resource loan proceeds account.

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

5 ~~(3)(4)~~ The department shall review, evaluate, and select the water-related projects for which grants ~~or~~
6 ~~loans~~ may be awarded.

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

11

12 **Section 66.** Section 85-1-608, MCA, is amended to read:

13 **"85-1-608. Applications for grants and loans to private persons.** (1) A private person may apply
14 for a grant or loan to finance a water-related project to be constructed, developed, and operated in Montana.

15 (2) An application for a loan or grant must be in the form prescribed by rule by the state bank or the
16 department, as applicable, and contain or be accompanied by any information necessary to adequately
17 describe the proposed project and necessary for evaluation of the proposed project under the criteria set out in
18 85-1-609 and 85-1-610."

19

20 **Section 67.** Section 85-1-609, MCA, is amended to read:

21 **"85-1-609. Eligibility for a loan or grant to a private person.** (1) The department may not award a
22 grant ~~or loan~~ to a private person unless the department finds, based on the application and the department's
23 investigation and evaluation of the proposal, that:

24 ~~(1)(a)~~ the proposed water-related project:

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

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

28 ~~(c)(iii)~~ will be economically feasible. ~~{A project is economically feasible if the project benefits exceed~~

1 the project costs. The department shall consider only quantifiable benefits and costs in calculating economic
2 feasibility.)

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

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

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

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

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

11 ~~(2)(b)~~ the applicant has adequate financial resources to construct, operate, and maintain the project.

12 The department shall consider financial resources from any source for which the applicant has qualified,
13 including a renewable resource grant or loan.

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

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

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

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

25

26 **Section 68.** Section 85-1-610, MCA, is amended to read:

27 **"85-1-610. Evaluation of grants and loans to private persons.** (1) The department shall consider
28 the following criteria and preferences in evaluating applications and selecting the recipients of grants and loans

1 for water-related projects that are eligible for funding under 85-1-609:

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

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

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

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

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

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

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

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

22

23 **Section 69.** Section 85-1-612, MCA, is amended to read:

24 **"85-1-612. Rulemaking authority. (1)** The department shall adopt rules:

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

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

28 ~~(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;
5 and

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

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

12

13 **Section 70.** Section 85-1-613, MCA, is amended to read:

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

21 (2) A loan to a private person that is a water users' association or ditch company organized and
22 incorporated pursuant to Title 35, chapter 14, or Title 85, chapter 6, part 1, may not be made from the natural
23 resources projects state special revenue account established in 15-38-302 or the renewable resource loan
24 proceeds account if the loan would exceed the lesser of \$3 million or an amount representing the annual debt
25 service on the loan that would exceed 80% of the annual net revenue of the system that would be pledged for
26 payment of the loan. In determining the amount of annual net revenue that may be pledged for payment of the
27 loan, annual expenses for operation and maintenance must be subtracted from the gross revenue of the
28 system.

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

5 (4) The period for repayment of loans may not exceed 30 years.

6 (5) The interest rate at which loans may be made under this part must be sufficient to:

7 (a) cover the bond debt service for a loan; and

8 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss
9 occurs.

10 (6) A loan made under this part may not be used for the cost of operation and maintenance of a
11 project."
12

13 **Section 71.** Section 85-1-615, MCA, is amended to read:

14 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1)**

15 The state has a lien upon a project constructed with money from the natural resources projects state special
16 revenue account established in 15-38-302 or the renewable resource loan proceeds account for the amount of
17 the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real
18 property, shares of stock in a water users' association, revenue of a water users' association, accounts
19 receivable of a water users' association, water purchase agreements, and property of any kind or nature owned
20 by the debtor, including all water rights. The ~~department state bank~~ shall file with the county clerk and recorder
21 of each county in which a part of the project is located either a financing statement or a real estate mortgage
22 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
23 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid until
24 paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state law
25 governing foreclosure of mortgages and liens.

26 (2) From the funds available under 15-38-301, 85-1-603, or 85-1-617, the state bank may:

27 (a) purchase a lien that is prior to the state's lien if:

28 (i) the ~~director of the department state bank~~ determines that the loan is in default and the prospects

- 1 for collecting the loan may be materially increased by purchasing the prior lien; and
- 2 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;
- 3 (b) operate property that is subject to the state's lien if the ~~director of the department~~ state bank
- 4 determines that the loan is in default and that the prospects for collecting the loan may be materially increased
- 5 by operating the property that is subject to the state's lien; or
- 6 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
- 7 subsection (2)(b).
- 8 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
- 9 possible to recover funds used under this section and funds loaned to the borrower."

10

11 **Section 72.** Section 85-1-616, MCA, is amended to read:

12 "**85-1-616. Administration of loans and grants.** (1) The department shall:

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

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

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

20

21 **Section 73.** Section 85-1-617, MCA, is amended to read:

22 "**85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account.** (1)

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

1 (2) Each series of renewable resource bonds may be issued by the board of examiners, upon request
2 of the ~~department~~ state bank, at public or private sale, in denominations and forms, whether payable to bearer
3 with attached interest coupons or registered as to principal or as to both principal and interest, with provisions
4 for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds,
5 bearing interest at a rate or rates, maturing at a rate or rates, maturing at a time or times not exceeding 30
6 years from date of issue, subject to optional or mandatory redemption at earlier times and prices and upon
7 notice, with provisions for payment and discharge by the deposit of funds or securities in escrow for that
8 purpose, and payable at the state bank or at the office of a banking institution or institutions ~~within or~~ outside
9 the state that the board of examiners shall determine subject to the limitations contained in this section and 17-
10 5-731.

11 (3) In the issuance of each series of renewable resource bonds, the interest rates and the maturities
12 and mandatory redemption provisions contained in the bonds must be established in a manner that the funds
13 then specifically pledged and appropriated by law to the renewable resource loan debt service fund will, in the
14 judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal,
15 redemption premiums, and interest due and payable in that year with respect to that and all prior series of
16 bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of
17 funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are
18 authorized to be issued.

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

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

27 (6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be
28 deposited in the renewable resource loan proceeds account established in subsection (5), except that any

1 principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under
 2 this section must be deposited in the renewable resource loan debt service fund and the renewable resource
 3 loan loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the
 4 renewable resource loan debt service fund and applied to the payment and redemption of outstanding bonds
 5 issued under this section as directed by the board of examiners, whether at maturity or on any earlier date on
 6 which they may be prepaid according to their terms.

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

9

10 **Section 74.** Section 85-1-618, MCA, is amended to read:

11 **"85-1-618. Restrictions on use of bond proceeds.** Renewable resource bond proceeds may be
 12 used only for the purpose of making loans as provided in the renewable resource grant and loan program or for
 13 purchasing liens and operating property as provided in 85-1-615."

14

15 **Section 75.** Section 85-1-621, MCA, is amended to read:

16 **"85-1-621. Report.** The department shall prepare a biennial report describing the status of the
 17 renewable resource grant and loan program. The state bank shall prepare a biennial report describing the
 18 status of the renewable resource loan program. Each report must describe ongoing projects and projects that
 19 have been completed during the biennium. The report-reports must identify and rank in order of priority the
 20 projects for which the department or the state bank has received applications. The department report must also
 21 describe proposed projects and activities for the coming biennium and recommendations for necessary
 22 appropriations. A copy of the report-reports must be submitted to the water policy interim committee in
 23 accordance with 5-11-210."

24

25 **Section 76.** Section 85-1-622, MCA, is amended to read:

26 **"85-1-622. Penalty.** A member, officer, attorney, or other employee of the board, ~~or~~ the department,
 27 or the state bank may not, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or
 28 other consideration for or in connection with any transaction or business under this part other than the salary,

1 fee, or other compensation that the person may receive as a member, officer, attorney, or employee. A person
2 convicted of violating any provision of this section shall be punished by a fine not to exceed \$2,000 or be
3 imprisoned for not to exceed 2 years, or both."

4

5 **Section 77.** Section 85-1-624, MCA, is amended to read:

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

12

13 **Section 78.** Section 85-2-105, MCA, is amended to read:

14 **"85-2-105. Water policy interim committee duties.** (1) The water policy interim committee
15 established in 5-5-231 shall meet as often as necessary, including during the interim between sessions, to
16 perform the duties specified within this section.

17 (2) On a continuing basis, the water policy interim committee may:

18 (a) advise the legislature on the adequacy of the state's water policy and on important state, regional,
19 national, and international developments that affect Montana's water resources;

20 (b) oversee the policies and activities of the department, other state executive agencies, and other
21 state institutions as those policies and activities affect the water resources of the state;

22 (c) assist with interagency coordination related to Montana's water resources; and

23 (d) communicate with the public on matters of water policy as well as the water resources of the state.

24 (3) On a regular basis, the water policy interim committee shall:

25 (a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

26 (b) analyze and comment on the report of the status of the state's renewable resource grant and loan

27 ~~program~~ programs required by 85-1-621, when filed by the department or the last chance state bank

28 established in [section 1];

1 (c) analyze and comment on water-related research undertaken by any state agency, institution,
2 college, or university;

3 (d) analyze, verify, and comment on the adequacy of and information contained in the water
4 information system maintained by the natural resource information system under 90-15-305; and

5 (e) provide recommendations and a report, if one is written, in accordance with 5-5-216 for studies
6 completed by the committee."
7

8 **Section 79.** Section 85-2-506, MCA, is amended to read:

9 **"85-2-506. Controlled ground water areas -- designation or modification.** (1) The department may
10 by rule designate or modify permanent or temporary controlled ground water areas as provided in this part. The
11 rule for each controlled ground water area must designate the boundaries of the controlled ground water area.

12 (2) The rulemaking process for designation or modification of a controlled ground water area may be
13 initiated by:

14 (a) the department;

15 (b) submission of a correct and complete petition from a state or local public health agency for
16 identified public health risks; or

17 (c) submission of a correct and complete petition:

18 (i) by a municipality, county, conservation district, or local water quality district formed under Title 7,
19 chapter 13, part 45; or

20 (ii) signed by at least one-third of the water right holders in a proposed controlled ground water area.

21 (3) (a) A correct and complete petition must:

22 (i) be in a form prescribed by the department and must contain analysis prepared by a hydrogeologist,
23 a qualified scientist, or a qualified licensed professional engineer concluding that one or more of the criteria
24 provided in subsection (5) are met; and

25 (ii) describe proposed measures, if any, to mitigate effects of the criteria identified in subsection (5)
26 that are alleged in the petition.

27 (b) When the department proposes a rule pursuant to this section, the place for the hearing must be
28 within or as close as practical to the proposed or existing controlled ground water area.

1 (c) (i) The department shall notify the petitioner of any defects in a petition within 180 days. If the
2 department does not notify the petitioner of any defects within 180 days, the petition must be treated as correct
3 and complete.

4 (ii) A petition that is not made correct and complete within 90 days from the date of notification by the
5 department of any defect is terminated.

6 (4) (a) Within 60 days after a petition is determined to be correct and complete, the department shall:

7 (i) deny in writing the petition in whole or in part, stating the reasons for denial;

8 (ii) inform the petitioner that the department will study the information presented in the petition for a
9 period not to exceed 90 days before denying or proceeding with the petition; or

10 (iii) initiate rulemaking proceedings in accordance with Title 2, chapter 4, part 3.

11 (b) Failure of the department to act under subsection (4)(a) does not mandate that the department
12 grant the petition for rulemaking.

13 (c) In addition to the notice requirements of Title 2, chapter 4, parts 1 through 4, the department shall
14 provide public notice of the rulemaking hearing by:

15 (i) publishing a notice at least once each week for 3 successive weeks, with the first notice not less
16 than 30 days before the date of the hearing in a newspaper of general circulation in the county or counties in
17 which the proposed controlled ground water area is located;

18 (ii) serving by mail a copy of the notice, not less than 30 days before the hearing, upon each person or
19 public agency known from an examination of the records of the department to be a water right holder with a
20 diversion within the proposed controlled ground water area, all landowners of record within the proposed
21 controlled ground water area, and each well driller licensed in Montana whose address is within any county in
22 which any part of the proposed controlled ground water area is located; and

23 (iii) serving by mail a copy of the notice upon any other person or state or federal agency that the
24 department feels may be interested in or affected by the proposed designation or modification of a controlled
25 ground water area.

26 (d) The notice under subsection (4)(c) must include a summary of the basis for the proposed rule.
27 Publication and mailing of the notice as prescribed in this section, when completed, is considered to be
28 sufficient notice of the hearing to all interested persons.

1 (5) The department may designate a permanent controlled ground water area by rule if it finds by a
2 preponderance of the evidence that any of the following criteria have been met and cannot be appropriately
3 mitigated:

4 (a) current or projected reductions of recharge to the aquifer or aquifers in the proposed controlled
5 ground water area will cause ground water levels to decline to the extent that water right holders cannot
6 reasonably exercise their water rights;

7 (b) current or projected ground water withdrawals from the aquifer or aquifers in the proposed
8 controlled ground water area have reduced or will reduce ground water levels or surface water availability
9 necessary for water right holders to reasonably exercise their water rights;

10 (c) current or projected ground water withdrawals from the aquifer or aquifers in the proposed
11 controlled ground water area have induced or altered or will induce or alter contaminant migration exceeding
12 relevant water quality standards;

13 (d) current or projected ground water withdrawals from the aquifer or aquifers in the proposed
14 controlled ground water area have impaired or will impair ground water quality necessary for water right holders
15 to reasonably exercise their water rights based on relevant water quality standards;

16 (e) ground water within the proposed controlled ground water area is not suited for beneficial use; or

17 (f) public health, safety, or welfare is or will become at risk.

18 (6) (a) If the department finds that sufficient facts are not available to designate a permanent
19 controlled ground water area, it may designate by rule a temporary controlled ground water area to allow
20 studies to obtain the facts needed to determine whether or not it is appropriate to designate a permanent
21 controlled ground water area. The department shall set the length of time that the temporary controlled ground
22 water area will be in effect. Subject to subsection (6)(c), the term of a temporary controlled ground water area
23 may be extended by rule.

24 (b) A temporary controlled ground water area designation is for the purpose of study and cannot
25 include the control provisions provided in subsection (7), other than measurement, water quality testing, and
26 reporting requirements.

27 (c) A temporary controlled ground water area designation may not exceed a total of 6 years, including
28 any extensions.

1 (d) Prior to expiration of a temporary controlled ground water area, the department may amend or
2 repeal the rule establishing the temporary controlled ground water area or may designate a permanent
3 controlled ground water area through the rulemaking process under this section.

4 (e) Studies for temporary controlled ground water areas may be considered for funding under the
5 renewable resource grant and loan ~~program~~ programs in Title 85, chapter 1, part 6.

6 (f) If there is a ground water investigation program within the bureau, the ground water assessment
7 steering committee established by 2-15-1523 shall consider temporary controlled ground water areas for study.

8 (7) A controlled ground water area may include but is not limited to the following control provisions:

9 (a) a provision closing the controlled ground water area to further appropriation of ground water;

10 (b) a provision restricting the development of future ground water appropriations in the controlled
11 ground water area by flow, volume, purpose, aquifer, depth, water temperature, water quality, density, or other
12 criteria that the department determines necessary;

13 (c) a provision requiring measurement of future ground water or surface water appropriations;

14 (d) a provision requiring the filing of notice on land records within the boundary of a permanent
15 controlled ground water area to inform prospective holders of an interest in the property of the existence of a
16 permanent controlled ground water area. Notice of the designation must be removed or modified as necessary
17 to accurately reflect modification or repeal of a permanent designation within 60 days.

18 (e) a provision for well spacing requirements, well construction constraints, and prior department
19 approval before well drilling, unless the well is regulated pursuant to Title 82, chapter 11;

20 (f) a provision for mitigation of ground water withdrawals;

21 (g) a provision for water quality testing;

22 (h) a provision for data reporting to the department; and

23 (i) other control provisions that the department determines are appropriate and adopts through
24 rulemaking.

25 (8) Pursuant to 85-20-1902, the provisions of this section do not apply within the exterior boundaries
26 of the Flathead Indian reservation."

27

28 **Section 80.** Section 90-1-101, MCA, is amended to read:

1 **"90-1-101. Declaration of necessity and public policy.** (1) It is hereby declared to be a necessity
 2 and the public policy of the state to promote, stimulate, and encourage the planning and development of the
 3 economy of the state in order to provide for the social and economic prosperity of its citizens. Such promotion
 4 and development of industry, commerce, agriculture, labor, and natural resources of the state require that
 5 cognizance be taken of the continuing migration of people to the urban areas in search of job opportunities and
 6 the fact that Montana is making a needed transition to a diversified economy. Community planning, greater
 7 diversification of industry and attraction of additional industry, accelerated development of natural resources,
 8 expansion of existing industry, creation of new uses for agricultural products, greater emphasis on scientific
 9 research, development of new markets for the products of the state, and the attainment of a proper balance in
 10 the overall economic base, without leaving behind those who remain in rural areas, are all necessary in order to
 11 create additional employment opportunities, increase personal income, retain quality of life for rural Montana,
 12 and promote the general welfare of the people of this state.

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

22 (3) The department of commerce ~~shall be regarded as is~~ performing a governmental function in
 23 carrying out the provisions of 90-1-102, 90-1-103, and 90-1-105 through 90-1-109."
 24

25 **Section 81.** Section 90-1-116, MCA, is amended to read:

26 **"90-1-116. State matching funds program for economic development -- distribution of**
 27 **proceeds -- criteria for grants -- local economic development matching funds.** (1) As used in this section,
 28 the following definitions apply:

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

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

5 (c) "State bank" means the last chance state bank established in [section1].

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

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

12 (3) An assistance grant to a certified regional development corporation will be made based on rules
13 adopted by the department for the state matching funds program. The rules for distribution of funds must
14 include consideration of:

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

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

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

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

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

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

21 (b) shall maintain department requirements for certification;

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

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

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

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

1 (5) Grants under this section must be used to conduct economic development programs consistent
2 with strategic plans that are adopted by the certified regional development corporations and the treasure
3 communities in the region and that are filed with the department."
4

5 **Section 82.** Section 90-1-119, MCA, is amended to read:

6 **"90-1-119. Grant award guidelines.** (1) The department of commerce may award grants of no more
7 than \$100,000 to a business meeting the criteria in 90-1-118.

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

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

13 (b) To receive the remaining 50% of the state matching grant, the business shall submit to the
14 participating federal agency, with copies to the department of commerce, a final phase I project report, a letter
15 of support from the sponsoring agency indicating that the sponsoring agency is interested in the phase II
16 proposal, and an application for phase II funding. The remaining 50% of the state matching grant is not
17 contingent upon approval of the phase II project by the participating federal agency.

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

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

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

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

27 (c) any other information required by the department of commerce by rule."
28

1 **Section 83.** Section 90-1-201, MCA, is amended to read:

2 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky
3 economic development program that consists of:

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

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

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

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

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

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

12 (c) "Economic development organization" means:

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

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

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

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

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

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

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

27 ~~(g)~~(h) "Tribal government" means one of the federally recognized tribal governments of Montana."
28

1 **Section 84.** Section 90-1-203, MCA, is amended to read:

2 **"90-1-203. Types of financial assistance available.** (1) The department shall provide for and make
3 grants ~~and loans available~~ to local governments and tribal governments for economic development projects and
4 to certified regional development corporations from the money in the economic development special revenue
5 account provided for in 90-1-205.

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

8

9 **Section 85.** Section 90-1-204, MCA, is amended to read:

10 **"90-1-204. Priorities for funding -- rulemaking.** (1) Under the big sky economic development
11 program provided for in 90-1-201, the department must receive proposals for grants ~~and loans~~ from local
12 governments and tribal governments. A local government shall work with an economic development
13 organization on a proposal. The department shall work with the local government and the economic
14 development organization or with an applicant tribal government in preparing cost estimates for a proposed
15 project. In reviewing proposals, the department may consult with other state agencies with expertise pertinent
16 to the proposal.

17 (2) (a) The department shall adopt rules necessary to implement the big sky economic development
18 program. In adopting rules, the department shall look to the rules adopted for the Montana coal endowment
19 program and other similar state programs. To the extent feasible, the department shall make the rules
20 compatible with those other programs. To the extent feasible, the department shall employ an approach
21 pertaining to the use of funds so that, except as provided in subsection (2)(b), the needs of rural areas are
22 balanced with the needs of the state's urban centers.

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

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

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

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

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

3 ~~(C)~~(B) rental assistance ~~or lease buy-downs~~ for a relocation or expansion project for a basic sector

4 company;

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

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

7 (B) industrial development;

8 (C) feasibility studies;

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

10 (E) matching funds for federal funds, including but not limited to brownfields funds and natural

11 resource damage funds.

12 (d) (i) The rules must provide for distribution methods for financial assistance available to local
13 governments and tribal governments. The rules must provide for distribution based upon the number of jobs
14 expected to be created because of the funding.

15 (ii) Funding may not exceed \$5,000 for each expected job, except that funding for a project in a high-
16 poverty county may not exceed \$7,500 for each expected job.

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

19 (e) The rules may provide for greater incentives for a high-poverty county.

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

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

27 (h) Nothing in subsection (2)(g) exempts an employer from minimum wage requirements."
28

1 **Section 86.** Section 90-1-205, MCA, is amended to read:

2 **"90-1-205. Economic development special revenue account.** (1) There is an economic
3 development state special revenue account. The account receives earnings from the big sky economic
4 development fund as provided in 17-5-703. The money in the big sky economic development fund and in the
5 economic development state special revenue account may be used only as provided in this part.

6 (2) The money in the big sky economic development fund may be used by the state bank, subject
7 to the certification of capitalization under [section 6(5)], for loans to local governments, tribal governments, and
8 certified regional development corporations or economic development organizations located in a county that is
9 not part of a certified regional development corporation.

10 ~~(2)~~(3) The money in the economic development state special revenue account is statutorily
11 appropriated, as provided in 17-7-502, to the department. Of the money that is deposited in the account that is
12 not used for administrative expenses or for other economic development purposes:

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

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

18

19 **Section 87.** Section 90-1-501, MCA, is amended to read:

20 **"90-1-501. Revolving loan program for distressed wood products industry -- finding.** (1) Due to
21 the current, well-documented decline in the wood products industry in Montana, the legislature finds that there
22 is a need to assist the Montana wood products industry as a whole through a revolving loan program.

23 (2) There is a special revenue account called the distressed wood products industry revolving loan
24 account ~~to the credit of the department of commerce~~ within the last chance state bank established in [section
25 1].

26 (3) (a) The distressed wood products industry revolving loan account consists of money deposited
27 into the account from an appropriation in Chapter 489, Laws of 2009, and money from any other source. Any
28 interest earned by the account must be deposited into the account and used to sustain the program.

1 (b) ~~Loan~~The last chance state bank shall use loan repayments and any interest generated from loan
2 repayments ~~must be used~~ as revolving loans for the wood products industry and are subject to the provisions of
3 subsections (5) through (7). These revolving loans are not subject to the provisions of this section.

4 (4) In any biennium, up to 36% of the funds in the distressed wood products industry revolving loan
5 account, not to exceed \$2.7 million, may be used as matching funds to secure additional federal money.
6 Federal funds must be deposited in a federal special revenue account and used for loans in accordance with
7 this part. State matching funds must be deposited in a special revenue account called the distressed wood
8 products matching fund.

9 (5) (a) Funds from the distressed wood products industry revolving loan account may be loaned to:

10 (i) individuals, including private contractors related to the wood products industry; or

11 (ii) businesses defined as small businesses pursuant to the regulations promulgated by the United
12 States small business administration pursuant to 13 CFR 121, et seq.

13 (b) Loans made pursuant to this subsection (5) must be made to individuals or small businesses that
14 are part of the critical, primary wood-processing infrastructure and have suffered economic hardships.

15 (6) Loans must be used to sustain and grow the wood products industry in Montana. Loans may be
16 used for:

17 (a) the purchase or lease of land or equipment;

18 (b) updating infrastructure, including retrofitting of infrastructure to facilitate new uses;

19 (c) working capital;

20 (d) debt service;

21 (e) matching funds for grants or other loans that comply with the intent of this section; or

22 (f) any other use the department determines would sustain and grow the wood products industry.

23 (7) (a) A loan may not exceed \$2 million, and the loan must be repaid within 15 years.

24 (b) A loan recipient may apply for another loan pursuant to this section 2 years or more after the date
25 the previous loan was approved."

26

27 **Section 88.** Section 90-1-502, MCA, is amended to read:

28 **"90-1-502. Administration of revolving loan account -- rulemaking authority.** (1) The department

1 ~~of commerce~~ last chance state bank established under [section 1] may adopt rules to implement this part
2 establishing:

3 (a) eligibility criteria, including demonstrated need, criteria for defining capital investments, feasibility
4 to create and retain jobs, financial capacity to repay the loans, estimated return on investment, and other
5 matters that the ~~department~~ last chance state bank considers necessary to ensure repayment of loans and to
6 encourage maximum use of the account;

7 (b) terms and conditions for the loans, including repayment schedules and interest; and

8 (c) a loan application fee.

9 (2) Loans must be made at a low interest rate. The ~~department~~ last chance state bank may set the
10 interest rate at an amount that will cover its administrative costs, but the rate may not be less than 1% a year.
11 The ~~department~~ last chance state bank may determine terms and conditions of loans, including recovery of
12 funds in the event of default."
13

14 **Section 89.** Section 90-6-103, MCA, is amended to read:

15 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
16 definitions apply:

17 (1) "Board" means the board of housing created in 2-15-1814.

18 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
19 indebtedness issued by the ~~board~~ state bank pursuant to this part, including those on which interest payments
20 are taxable and those on which interest payments are tax exempt.

21 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

22 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

23 (5) "Federally insured mortgage" means a mortgage loan for land development or residential housing
24 insured or guaranteed by the United States or a governmental agency or instrumentality of the United States or
25 a commitment by the United States or a governmental agency or instrumentalities of the United States to insure
26 a mortgage.

27 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
28 repayment of principal and interest by the United States or an instrumentality of the United States.

1 (7) "Governmental agency" means any department, division, public corporation, public agency,
2 political subdivision, or other public instrumentality of the state, the federal government, any other state or
3 public agency, or any two or more of the entities listed in this subsection.

4 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
5 projects, nursing home projects, personal-care projects, and any work or undertaking financed in whole or in
6 part under this part for the primary purpose of acquiring, constructing, or rehabilitating accommodations for
7 persons or families of lower income in need of housing. An undertaking may include any buildings, land,
8 equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable in
9 connection with a development, including but not limited to streets, sewers, utilities, parks, site preparation,
10 landscaping, and other nonhousing facilities that the board determines to be necessary, convenient, or
11 desirable.

12 (9) "Housing development costs" means the sum total of all costs incurred in a housing development
13 approved by the board as reasonable and necessary, including but not limited to:

14 (a) cost of land acquisition and any buildings on the land, including payments for options, deposits, or
15 contracts to purchase properties on the proposed housing development site or payments for the purchase of
16 properties;

17 (b) cost of site preparation, demolition, and clearing;

18 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
19 connection with the planning, execution, and financing of the housing development and the finding of an eligible
20 mortgagee or mortgagees for the housing development;

21 (d) cost of necessary studies, surveys, plans, and permits;

22 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
23 during construction;

24 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
25 apparatus, and similar facilities related to the real property;

26 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the
27 costs have been paid in cash or in a form other than cash;

28 (h) necessary expenses in connection with initial occupancy of the housing development;

1 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if
2 applicable, a limited-profit housing sponsor;

3 (j) an allowance established by the board for working capital and contingency reserves and reserves
4 for any anticipated operating deficits during construction and initial occupancy;

5 (k) cost of other items, including tenant relocation, that the board determines to be reasonable and
6 necessary for the housing development, less any net rents and other net revenue received from the operation
7 of the real and personal property on the development site during the construction.

8 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts,
9 firms, associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit
10 corporations, or other legal entities or any combination of the entities listed in this subsection that are:

11 (a) approved by the board;

12 (b) qualified to either own, construct, acquire, rehabilitate, operate, manage, or maintain a housing
13 development;

14 (c) subject to the rules of the board and other terms and conditions set forth in this part.

15 (11) "Lending institution" means any public or private entity or governmental agency approved by the
16 board maintaining an office in this state and authorized by law to make or participate in making residential
17 mortgages in the state.

18 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other entity,
19 or an individual restricted as to distribution of income and regulated as to rents, charges, rate of return, and
20 methods of operation as the board determines necessary to carry out this part.

21 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument that constitutes a valid lien
22 on real property in fee simple or on a leasehold under a lease having a remaining term at the time that the
23 mortgage is acquired that does not expire for at least that number of years beyond the maturity date of the
24 obligation secured by the mortgage established by the board as necessary to protect its interest as mortgagee.

25 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
26 improvements in the state.

27 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15, or a
28 nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and regulated as to

1 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
9 interest of any private individual, firm, partnership, or association seeking to derive profit or gain from the
10 organization or seeking to eliminate or minimize losses in any transactions with the organization, except that
11 the limitations 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
14 development undertaken by the organization and the disposition of the property or other interests of the
15 organization.

16 (16) "Persons and families of lower income" means persons and families with insufficient personal or
17 family income or other financial resources who require assistance under this part, as determined by the board,
18 taking into consideration:

19 (a) the amount of the total personal and family income, assets, and other financial resources available
20 for housing needs;

21 (b) the size of the family;

22 (c) the eligibility of persons and families under federal housing assistance of any type based on lower
23 income or a functional or physical disability;

24 (d) the ability of persons and families to compete successfully in the normal housing market and to
25 pay the amount at which private enterprise is providing decent, safe, and sanitary housing;

26 (e) the availability and cost of housing in particular areas; and

27 (f) needs of particular persons or families because of age or physical disabilities.

28 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to

1 provide decent, safe, and sanitary housing or to conform housing with state or local health, building, fire
2 prevention, and safety codes as determined by the board.

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

4

5 **Section 90.** Section 90-6-104, MCA, is amended to read:

6 **"90-6-104. General powers of the board.** The board may:

7 (1) sue and be sued;

8 (2) have a seal;

9 (3) adopt all procedural and substantive rules necessary for the administration of this part, including
10 rules concerning its mortgage, ~~and~~ construction, ~~and temporary lending~~ programs;

11 (4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its
12 powers under this part;

13 (5) enter into agreements or other transactions with any federal, state, or local governmental agency,
14 any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out
15 this part;

16 (6) enter into agreements under its rules with sponsors, mortgagors, or lending institutions for the
17 purpose of regulating the analysis, planning, development, and management of housing developments financed
18 in whole or in part by the proceeds of ~~its~~ loans or securities and mortgage purchase programs from the state
19 bank;

20 (7) enter into agreements or other transactions with, and accept grants and the cooperation of, any
21 governmental agency in furtherance of this part, including but not limited to the development, leasing,
22 maintenance, operation, and financing of any housing development;

23 (8) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them
24 in carrying out this part;

25 (9) acquire real or personal property or any right, interest, or easement therein by gift, purchase,
26 transfer, foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose
27 thereof; hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control or custody;
28 release or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any

1 equity or right of redemption; do any of the foregoing by public or private sale, with or without public bidding;
2 commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other
3 agreement; bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in
4 lieu of foreclosure; and operate, manage, lease, dispose of, and otherwise deal with ~~such this~~ property in any
5 manner necessary or desirable to protect its interests and the holders of ~~its~~ bonds or notes under this program
6 issued by the state bank and consistent with any agreement with ~~such those~~ holders;

7 (10) service and contract and pay for the servicing of loans;

8 (11) provide general technical services in the analysis, planning, design, processing, construction,
9 rehabilitation, and management of housing developments for persons and families of lower income where these
10 services are not otherwise available;

11 (12) provide general consultative services to housing developments for persons and families of lower
12 income and the residents ~~thereof~~ of those housing developments with respect to counseling and training in
13 management, home ownership, and maintenance ~~where~~ whenever these services are not otherwise available;

14 ~~(13) invest any funds not required for immediate use, subject to any agreements with its bondholders~~
15 ~~and noteholders, as provided in Title 17, chapter 6, except all investment income from funds of the board less~~
16 ~~the cost for investment as prescribed by law must be deposited in the housing authority enterprise fund;~~

17 ~~(14) sell its loans or securities to the federal national mortgage association or any other agency or~~
18 ~~instrumentality of the United States and invest in the capital stock issued by the association or other agency or~~
19 ~~instrumentality to the extent, if any, required as a condition of the sale;~~

20 ~~(15) consent, whenever it considers it necessary or desirable in fulfilling its purposes, to the~~
21 ~~modification of the rate of interest, time, and payment of any installment of principal or interest, security, or any~~
22 ~~other term of any contract, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance~~
23 ~~contract, or agreement of any kind, subject to any agreement with bondholders and noteholders;~~

24 ~~(16) collect reasonable interest, fees, and charges in connection with making and servicing its loans,~~
25 ~~notes, bonds, commitments, and other evidences of indebtedness and in connection with providing technical,~~
26 ~~consultative, and project assistance services. Interest fees and charges are limited to the amounts required to~~
27 ~~pay the costs of the board, including operating and administrative expenses and reasonable allowances for~~
28 ~~losses that may be incurred.~~

1 ~~(17) procure insurance against any loss in connection with its mortgages and mortgage loans and~~
2 ~~other assets or property in amounts and from insurers as the board considers desirable or necessary;~~
3 ~~(18)~~(13) act as agent for governmental agencies concerning acquisition, construction, leasing,
4 operation, or management of a housing development;
5 ~~(19) issue notes and bonds and replace lost, destroyed, or mutilated notes and bonds; and~~
6 ~~(20)~~(14) develop special programs for housing developments for veterans of the armed forces of the
7 United States who are unable to acquire safe and sanitary housing through lending institutions by conventional
8 means."

9
10 **Section 91.** Section 90-6-106, MCA, is amended to read:

11 "**90-6-106. Adoption of rules.** (1) The board shall adopt rules ~~respecting the regulation of borrowers,~~
12 regarding the admission of occupants in housing developments, the construction of ancillary facilities, and
13 requirements or restrictions necessary to implement this part.

14 (2) The board shall adopt rules for the:
15 (a) organization, approval, standards, and regulation of housing sponsors and eligible recipients;
16 ~~(b) approval, standards, and regulation of lending institutions under this part;~~
17 ~~(c) assessment, collection, and payment of all fees and charges in connection with making,~~
18 ~~purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending,~~
19 ~~and security purchase programs;~~

20 ~~(d)~~(b) assessment and collection of fees and charges in connection with its technical, consultative,
21 and project assistance activities;

22 ~~(e)~~(c) determination and regulation of ~~mortgagor and lending institution and their use of funds under~~
23 ~~this part,~~ sponsor and mortgagor equity definitions and limitations, and housing development costs; and

24 ~~(f)~~(d) percentage of housing units or housing developments assisted under this part that are reserved
25 for lower income persons and families and which allows for an economic mixture of residents.

26 (3) The state bank shall adopt rules regarding:

27 (a) loan approval standards under this part, determination and regulation of mortgagor and lending
28 institutions and their funds under this part, and reverse annuity mortgage loan terms and conditions as provided

1 in 90-6-504; and
 2 (b) assessment, collection, and payment of all fees and charges in connection with making,
 3 purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending,
 4 and security purchase programs."

5

6 **Section 92.** Section 90-6-107, MCA, is amended to read:

7 **"90-6-107. Deposit and expenditure of funds.** (1) There is a housing authority enterprise fund in the
 8 proprietary fund type as provided for in 17-2-102(2). There is a housing authority account in the state bank. All
 9 funds from the proceeds of bonds issued under this part, ~~fees,~~ must be deposited in the housing authority
 10 account in the state bank. Fees and other money received by the board, money appropriated by the legislature
 11 for the use of the board in carrying out this part, and money made available from any other source for the use of
 12 the board must be deposited in the housing authority enterprise fund. All funds deposited in the housing
 13 authority enterprise fund, except funds appropriated by the legislature for use of the board in payment of
 14 expenses incurred in carrying out this part, are continuously appropriated to and may be expended by the
 15 board for the purposes authorized in this part.

16 (2) There is a capital reserve account in the housing authority ~~enterprise fund~~ account provided for in
 17 subsection (1). The capital reserve account consists of the aggregate money retained by the ~~board~~ state bank
 18 under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119
 19 for each bond issue sold by the ~~board~~ state bank.

20 (3) Funds appropriated by the legislature for use of the board in payment of expenses incurred in
 21 carrying out this part must be deposited in the housing authority enterprise fund. Funds expended by the board
 22 under this subsection must be repaid by the board from the fees and charges collected under this part and from
 23 any other money available for repayment in accordance with this part."

24

25 **Section 93.** Section 90-6-108, MCA, is amended to read:

26 **"90-6-108. Financing programs of the board.** The ~~board~~ state bank may:

27 (1) make loans, subject to certification of capitalization under [section 6(5)], to lending institutions
 28 under terms and conditions ~~adopted by the board~~ requiring the proceeds to be used by the lending institution

1 for the making of mortgage loans for housing developments in the state for persons and families of lower
2 income;

3 (2) invest in, purchase or make commitments to purchase, and take assignments from lending
4 institutions of notes, mortgages, and other securities evidencing loans for the construction, rehabilitation,
5 purchase, leasing, or refinancing of housing developments for persons and families of lower income in this
6 state, under terms and conditions adopted by the ~~board~~ state bank;

7 (3) make, undertake commitments to make, and participate in the making of mortgage loans,
8 including federally insured mortgage loans, and make temporary loans and advances in anticipation of
9 permanent mortgage loans to housing sponsors to finance the construction or rehabilitation of housing
10 developments designed and planned for occupancy by persons and families of lower income in this state, under
11 terms and conditions adopted by the board;

12 (4) make, undertake commitments to make, and participate in the making of loans to persons and
13 families of lower income for housing development under terms and conditions adopted by the board, including
14 without limitation persons and families of lower income who are eligible or potentially eligible for federally
15 insured loans, federal mortgages, or other federal housing assistance, when the board determines that
16 mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent
17 terms and conditions;

18 (5) require that loans made to or securities issued by lending institutions ~~shall be~~ are additionally
19 secured as to payment of principal and interest by a pledge of and a lien upon collateral security in amounts
20 and consisting of obligations and securities as the ~~board~~ state bank determines to be necessary to ~~assure~~
21 ensure prompt payment of loans and interest. Collateral may be required ~~to be lodged with a bank or trust~~
22 ~~company designated by the board as custodian, or the board~~ state bank may enter into an agreement with the
23 lending institution requiring it to identify and maintain and service the collateral and the income ~~therefrom from~~
24 the obligations or securities solely in accordance with the agreement. A copy of each agreement and any
25 revisions or supplements ~~thereto shall~~ must be filed with the secretary of state, and no further filing or other
26 action under the Uniform Commercial Code or any other law ~~shall~~ may be required to perfect the security
27 interest of the ~~board~~ state bank in the collateral or in any additions or substitutions. The lien and trust is binding
28 from the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the

1 lending institution."

2

3 **Section 94.** Section 90-6-109, MCA, is amended to read:

4 **"90-6-109. Procedure prior to financing of housing developments.** (1) The ~~board~~state bank may
5 finance housing developments under this part only when the board finds and reports to the state bank that:

6 (a) there exists a shortage of decent, safe, and sanitary housing at rentals or prices ~~which~~that
7 persons and families of lower income can afford within the general housing market area to be served by the
8 proposed housing development;

9 (b) private enterprise has not provided an adequate supply of decent, safe, and sanitary housing in
10 the housing market area at rentals or prices ~~which~~that persons or families of lower income can afford or
11 provided sufficient mortgage financing for housing developments for occupancy by persons or families of lower
12 income;

13 (c) the housing sponsor undertaking the proposed housing development in this state will supply ~~well~~
14 ~~planned, well designed~~well-planned, well-designated housing; and ~~such sponsors are~~provides documentation
15 to the state bank that the housing sponsor is financially responsible;

16 (d) the housing development to be assisted under this part will be of public use and will provide a
17 public benefit, taking into account the existence of local government comprehensive plans, housing and land
18 use plans and regulations, areawide plans, and other public desires;

19 (e) the housing development does not involve the construction of second homes (for purposes of this
20 paragraph, "second home" means a home ~~which~~that would not qualify as the primary residence of the taxpayer
21 for federal income tax purposes relating to capital gains on the sale or exchange of residential property); and

22 (f) as to direct loans it is necessary to qualify for federal funds.

23 (2) The findings required under subsection (1) must be made after a public hearing whenever the
24 financing of housing relates to a development for rental units owned by a for-profit housing sponsor. The board
25 shall conduct the hearing unless it directs the governing body of the local government in which the proposed
26 housing development is to be located to conduct the hearing."

27

28 **Section 95.** Section 90-6-110, MCA, is amended to read:

1 **"90-6-110. Supervision of housing sponsors.** (1) The board may supervise housing sponsors of
2 housing developments financed under this part as follows:

3 (a) prescribe uniform systems of accounts and records for housing sponsors and require them to
4 make reports and give answers to specific questions on forms and at times specified by the board;

5 (b) enter upon and inspect the housing development and examine all books and records of the
6 housing sponsor with respect to capitalization, income, and other matters as specified by the board;

7 (c) supervise the operation and maintenance of any housing development and order repairs
8 necessary to protect the public and the board's interest or the health, welfare, or safety of the occupants;

9 (d) determine standards for and control resident selection by a housing sponsor;

10 (e) require any housing sponsor to pay to the board fees as it prescribes in connection with the
11 examination, inspection, supervision, auditing, or other regulation of the housing sponsor;

12 (f) order any housing sponsor to do or to refrain from doing things necessary to comply with the
13 provisions of law, the rules of the board, and the terms of any contract or agreement to which the housing
14 sponsor is a party;

15 ~~(g) regulate the retirement of any capital investment or the redemption of stock where any such~~
16 ~~retirement or redemption when added to any dividend or other distribution shall exceed in any one fiscal year~~
17 ~~10% or a lesser amount of the original face amount of any investment or equity of any housing sponsor, as~~
18 ~~determined by the board; and~~

19 ~~(h)(g)~~ adopt rules specifying the categories of cost which shall be allowable in the construction or
20 rehabilitation of a housing development.

21 (2) The board shall require any housing sponsor to certify the actual housing development costs prior
22 to periodic payments that may be required by the state bank or upon completion of the housing development,
23 subject to audit and determination by the board. The board may accept, in lieu of any certification of housing
24 development costs, other assurances of the housing development costs, in any form or manner ~~whatsoever~~, as
25 will enable the board to determine with reasonable accuracy the amount of housing development costs.

26 (3) The state bank shall coordinate with the board regarding retirement of any capital investment or
27 redemption of stock if the retirement of capital investment or redemption of stock when added to a dividend or
28 other distribution exceeds in any 1 fiscal year 10% or a lesser amount of the original face amount of any

1 investment or equity of any housing sponsor as determined by the state bank."

2

3 **Section 96.** Section 90-6-111, MCA, is amended to read:

4 **"90-6-111. Bonds and notes.** (1) ~~The board state bank may by resolution, from time to time, after~~
5 consultation with the board of investments, issue negotiable notes and bonds in a principal amount ~~that~~
6 determined by the board determines of housing to be necessary to provide sufficient funds for achieving ~~any of~~
7 ~~its~~ the purposes specified in this part, including the payment of interest on notes and bonds ~~of the board,~~
8 establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119,
9 and ~~all other~~ expenditures of the board incident to and necessary ~~or convenient~~ to carry out this part.

10 (2) ~~The board state bank may by resolution, from time to time,~~ issue notes to renew notes and bonds
11 to pay notes, including interest, and, whenever it considers refunding expedient, refund any bonds by the
12 issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to
13 refund bonds outstanding and partly for any of its other purposes.

14 (3) ~~Except as~~ Unless otherwise expressly provided by resolution of the ~~board~~ state bank, every issue
15 of its notes and bonds must be obligations ~~of the board~~ payable out of any revenue, assets, or money of the
16 ~~board~~ housing authority account, subject only to agreements with the holders of particular notes or bonds
17 pledging particular revenue, assets, or money.

18 (4) The notes and bonds must be authorized by resolutions of the ~~board~~ state bank, must bear a date,
19 and must mature at times that the resolutions provide. A note may not mature more than 10 years and a bond
20 may not mature more than 50 years from the date of its issue. The bonds may be issued as serial bonds
21 payable in annual or semiannual installments or as term bonds or as a combination of both. The notes and
22 bonds must bear interest at a rate or rates, be in denominations, be in a form, either coupon or registered, carry
23 registration privileges, be executed in a manner, be payable in a medium of payment, at places within or
24 without the state, and be subject to terms of redemption as provided in resolutions. ~~The board state bank shall~~
25 designate whether interest payments on the bonds are taxable or tax exempt. The notes and bonds of the
26 ~~board~~ state bank may be sold at public or private sale at prices, which may be above or below par, determined
27 by the ~~board~~ state bank.

28 (5) The total amount of notes and bonds outstanding at any time, except notes or bonds as to which

1 the ~~board's~~ obligation of the state bank has been satisfied and discharged by refunding or for which reserve for
2 payment or other means of payment have been otherwise provided, may not exceed \$1.5 billion. The issue
3 price of bonds sold at a discount, not the face amount of the bonds, counts against this statutory ceiling."
4

5 **Section 97.** Section 90-6-112, MCA, is amended to read:

6 **"90-6-112. Provision of bond resolutions.** A resolution by the state bank authorizing any notes or
7 bonds; or any issue ~~thereof~~ of notes or bonds; may contain provisions, ~~which shall~~ that must be a part of the
8 contract or contracts with the bond or note holders ~~thereof~~, as to:

9 (1) pledging all or any part of the ~~revenues~~ revenue or property related to the notes or bonds ~~of the~~
10 ~~board~~ to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds, subject to
11 existing agreements with noteholders or bondholders;

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

15 (3) the use and disposition of the gross income from mortgages owned by the board and payment of
16 principal of mortgages owned by the ~~board~~ state bank;

17 (4) the setting aside of reserves of sinking funds in the hands of trustees, paying agents, and other
18 depositories and ~~the their~~ regulation and disposition thereof;

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

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

24 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
25 amended or abrogated, the amount of notes or bonds to which the holders of ~~which~~ notes or bonds must
26 consent ~~thereto~~, and the manner in which ~~such the~~ consent may be given;

27 (8) a commitment to employ adequate and competent personnel at ~~such~~ reasonable compensation,
28 salaries, fees, and charges as may be determined by the board in conjunction with the department of

1 commerce and to maintain suitable facilities and services for the purpose of carrying out its programs;

2 (9) vesting in a trustee property, rights, powers, and duties in trust as the ~~board~~ state bank
3 determines;

4 (10) defining the acts or omissions to act ~~which shall~~ that constitute a default in the obligations and
5 duties of the ~~board~~ state bank to the holders of the notes or bonds and providing for the rights and remedies of
6 the holders of the notes or bonds in the event of ~~such a~~ default, including as a matter of right the appointment of
7 a receiver. Rights and remedies ~~shall~~ may not be inconsistent with the laws of the state and the other
8 provisions of this part; and

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

12 **Section 98.** Section 90-6-113, MCA, is amended to read:

13 **"90-6-113. Validity of pledge.** Any pledge made by the state bank and the board ~~shall be~~ is valid and
14 binding from the time the pledge is made. The ~~revenues, moneys, revenue~~ or property pledged and ~~thereafter~~
15 received by the state bank and the board ~~shall~~ is immediately ~~be~~ subject to the lien of the pledge without any
16 physical delivery ~~thereof~~ or further act. The lien of any pledge ~~shall be~~ is valid and binding against all parties
17 having claims of any kind in tort, contract, or otherwise against the state bank and the board, irrespective of
18 whether ~~such the~~ parties have notice ~~thereof~~ of the claims. Neither the resolution nor any other instrument by
19 which a pledge is created ~~need~~ are required to be recorded."
20

21 **Section 99.** Section 90-6-115, MCA, is amended to read:

22 **"90-6-115. Purchase of notes and bonds -- cancellation.** The ~~board~~ state bank, subject to existing
23 agreements with noteholders or bondholders, may, out of any funds available for that reason, purchase notes
24 or bonds of the ~~board, which shall thereupon~~ state bank issued under this part. If purchased by the state bank,
25 the notes or bonds must be canceled, at a price not exceeding:

26 (1) the current redemption price plus accrued interest to the next interest payment ~~thereon~~, if the
27 notes or bonds are then redeemable; or

28 (2) the redemption price applicable on the first date after the purchase upon which the notes or bonds

1 become subject to redemption plus accrued interest to that date, if the notes or bonds are not then
2 redeemable."

3

4 **Section 100.** 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
6 by a trust indenture between the ~~board~~ state bank and a corporate trustee, which may be a trust company or
7 other bank having the power of a trust company within or ~~without~~ outside the state. A trust indenture may
8 contain provisions for protecting and enforcing the rights and remedies of the bondholders ~~which that~~ are
9 reasonable and proper and not in violation of law, including covenants setting forth the duties of the ~~board~~ state
10 bank in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The
11 ~~board~~ state bank may provide by a trust indenture for the payment of the proceeds of the bonds and the
12 ~~revenues~~ revenue to the trustee under the trust indenture of another depository and for the method of
13 disbursement, with safeguards and 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 101.** 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
22 the ~~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

1 ~~shall~~may not be withdrawn at any time in an amount ~~which~~that reduces the amount of the account to less than
 2 the sum of minimum capital reserve requirements established for the account, except, with respect to bonds
 3 secured in whole or in part by the account, for the purpose of making payment, when due, of principal, interest,
 4 redemption premiums, and debt service payments for the payment of which other ~~moneys~~pledged funds are
 5 not available. ~~Any income or interest earned by or incremental to the capital reserve account due to its~~
 6 ~~investment may be transferred to other accounts of the board to the extent it does not reduce the amount of the~~
 7 ~~capital reserve account below the sum of minimum capital reserve requirements for the account.~~

8 (3) The ~~board~~state bank may not issue bonds secured in whole or in part by the capital reserve
 9 account unless the ~~board~~state bank deposits in the account from the proceeds of the bonds issued or from any
 10 other sources an amount not less than the minimum capital reserve requirement for these bonds. For the
 11 purposes of this section, the term "minimum capital reserve requirement" means, as of any particular date of
 12 computation, an amount of money, as provided in the resolution or indenture of the ~~board~~state bank
 13 authorizing the bonds or notes, equal to not more than the greatest of the respective amounts for the current or
 14 any future fiscal year of the ~~board~~ of annual debt service on the bonds ~~of the board~~ secured in whole or in part
 15 by the account. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all
 16 interest and principal payable on the bonds during the fiscal year, calculated on the assumption that all the
 17 bonds are paid at maturity. If any amount of the bonds is required to be redeemed on an earlier date by the
 18 operation of a debt service fund, then that amount is considered payable on those bonds during the year they
 19 are to be redeemed for the purposes of this calculation.

20 (4) In computing the amount of the capital reserve account, securities in which all or a portion of the
 21 account ~~shall~~must be invested ~~shall~~are to be valued at par or, if purchased at less than par, at their cost to the
 22 ~~board~~ state bank."

23

24 **Section 102.** Section 90-6-121, MCA, is amended to read:

25 **"90-6-121. Refunding obligations -- issuance.** The ~~board~~state bank may provide for the issuance
 26 of refunding obligations for refunding any obligations then outstanding ~~which~~that have been issued under this
 27 part, including the payment of any redemption premium and any interest accrued or to accrue to the date of
 28 redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the

1 holders, and the rights, duties, and obligations of the ~~board-state bank~~ are governed by the appropriate
2 provisions of this part ~~which~~ that relate to the issuance of obligations."

3

4 **Section 103.** Section 90-6-123, MCA, is amended to read:

5 **"90-6-123. Credit of state not pledged.** Obligations issued under the provisions of this part do not
6 constitute a debt or liability or obligation or a pledge of the faith and credit of the state but are payable solely
7 from the ~~revenues-revenue~~ or assets of the ~~board state bank~~. An obligation issued under this part ~~shall~~ must
8 contain on ~~the-its~~ face ~~thereof~~ a statement to the effect that the state of Montana is not liable on the obligation
9 and the obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is
10 pledged to the payment of the principal of or the interest on the obligation."

11

12 **Section 104.** Section 90-6-125, MCA, is amended to read:

13 **"90-6-125. Tax exemption of bonds.** Bonds, notes, or other obligations issued by the ~~board-state~~
14 bank under this part or by local housing authorities under Title 7, chapter 15, parts 21, 44, and 45, their transfer,
15 and their income (including any profits made on their sale) are free from taxation by the state or any political
16 subdivision or other instrumentality of the state, except for estate taxes. The ~~board-state bank~~ is not required to
17 pay recording or transfer fees or taxes on instruments recorded by it."

18

19 **Section 105.** Section 90-6-126, MCA, is amended to read:

20 **"90-6-126. Pledge of the state.** In accordance with the constitutions of the United States and the
21 state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between
22 the ~~board-state bank~~ and the holders of notes and bonds issued by the ~~board state bank~~, including but not
23 limited to an agreement ~~to~~ that the state bank, through the board, shall administer a loan program financed by
24 the issuance of bonds and ~~to~~ employ a staff sufficient and competent for this purpose."

25

26 **Section 106.** Section 90-6-127, MCA, is amended to read:

27 **"90-6-127. Allocation of state limit.** (1) All of the aggregate amount of qualified mortgage bonds that
28 may be issued during any calendar year in accordance with section 146 of the Internal Revenue Code, 26

1 U.S.C. 146, as amended, is allocated to the ~~board of housing~~ state bank.

2 (2) The board of housing may adopt standards for determining and may designate areas of chronic
3 economic distress within the meaning of section 143(j)(3) of the Internal Revenue Code, 26 U.S.C. 143(j)(3), as
4 amended."

5

6 **Section 107.** Section 90-6-132, MCA, is amended to read:

7 **"90-6-132. Definitions.** As used in 90-6-131 through 90-6-137, the following definitions apply:

8 (1) "Board" means the board of housing created in 2-15-1814.

9 (2) "Coal tax trust fund" means the trust fund created pursuant to Article IX, section 5, of the Montana
10 constitution.

11 (3) "Fund" means the housing Montana fund created in 90-6-133.

12 (4) "Housing development" has the meaning provided in 90-6-103.

13 (5) "Low-income" means households whose incomes do not exceed 80% of the median income in the
14 area, as determined by the United States department of housing and urban development, with adjustments for
15 smaller or larger families.

16 (6) "Moderate-income" means households whose incomes are between 81% and 95% of the median
17 income for the area, as determined by the United States department of housing and urban development, with
18 adjustments for smaller and larger families.

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

20

21 **Section 108.** Section 90-6-133, MCA, is amended to read:

22 **"90-6-133. Housing Montana fund -- administration.** (1) (a) There is a housing Montana fund in the
23 housing authority ~~enterprise fund~~ account provided for in 90-6-107. The money in the fund ~~is allocated to the~~
24 ~~board~~ must be used for the purpose of providing loans to eligible applicants.

25 (b) ~~Money~~ Of the money in the housing Montana fund, ~~must be disbursed as loans. Twenty percent of~~
26 ~~the money in the fund~~ 20% must be ~~disbursed~~ used for loans to rural areas based on population; and 50% must
27 be ~~disbursed~~ used for loans to assist people living on incomes of not more than 50% of the local median family
28 income.

1 (2) (a) Except as provided in subsection (2)(b), money deposited in the fund must be used for the
2 program authorized in 90-6-134 and may not be used to pay the expenses of any other program or service
3 administered by the board.

4 (b) Money transferred to the account pursuant to section 2, Chapter 502, Laws of 2001, may be used
5 only for the purposes authorized by the temporary assistance for needy families block grant pursuant to Title IV
6 of the Social Security Act, 42 U.S.C. 601, et seq.

7 (3) The ~~board~~ state bank, subject to certification of capitalization under [section 6(5)], may determine
8 the rate of interest to be charged for any loan made under the provisions of 90-6-131 through 90-6-136.

9 (4) The ~~board~~ state bank may accept contributions, gifts, and grants for deposit into the fund. The
10 money must be used in accordance with the provisions of 90-6-134.

11 ~~(5) The costs incurred by the board in administering the fund may be paid from the fund.~~

12 ~~(6)~~(5) Interest and principal on loans from the fund must be repaid to the fund.

13 ~~(7)~~(6) Interest income generated by investment of the principal of the fund is retained in the fund."
14

15 **Section 109.** Section 90-6-134, MCA, is amended to read:

16 **"90-6-134. Housing Montana fund -- loan capital restricted to interest on principal -- eligible**
17 **applicants.** (1) The money in the housing Montana fund must be used to provide financial assistance in the
18 form of direct loans by the ~~board to eligible applicants~~ state bank, subject to certification of capitalization under
19 [section 6(5)], to applicants determined as eligible by the board.

20 (2) After the initial principal is loaned to eligible applicants, the amount of loans made in a fiscal year
21 is contingent on the repayment of loan principal and on the amount of interest income generated by the
22 principal of the fund.

23 (3) Money from the fund must be used to provide:

24 (a) matching funds for public or private money available from other sources for the development of
25 low-income and moderate-income housing;

26 (b) bridge financing necessary to make a low-income housing development or a moderate-income
27 housing development financially feasible;

28 (c) acquisition of existing housing for the purpose of preservation of or conversion to low-income or

1 moderate-income housing;

2 (d) preconstruction technical assistance to eligible recipients in rural areas and small cities and towns;

3 or

4 (e) acquisition of land for housing developments, land banking and land trusts, and short-term site-
5 based housing vouchers for needy individuals.

6 (4) (a) Technical assistance under subsection (3)(d) may include but is not limited to:

7 (i) financial planning and packaging for housing developments and projects;

8 (ii) project design, architectural planning, and siting;

9 (iii) compliance with planning and permitting requirements; or

10 (iv) maximizing local government contributions to project development in the form of land donations,
11 infrastructure improvements, zoning variances, or creative local planning.

12 (b) The ~~board~~state bank may contract with a nonprofit organization to provide this technical
13 assistance.

14 (5) Money from the fund may not be used to replace existing or available sources of funding for
15 eligible activities.

16 (6) Organizations eligible for loans from the fund are state government or state agencies or programs,
17 local governments, tribal governments, local housing authorities, nonprofit ~~community~~ community-based or
18 neighborhood-based organizations, regional or statewide nonprofit housing assistance organizations, or for-
19 profit housing developers."

20

21 **Section 110.** Section 90-6-135, MCA, is amended to read:

22 **"90-6-135. Coordination with other programs.** The state bank, in conjunction with the board, shall
23 ensure that all housing assistance activities supported through the loan program are coordinated with other
24 housing assistance programs administered by the board, the federal government, state agencies, tribal
25 governments, local public housing authorities, and local governments."

26

27 **Section 111.** Section 90-6-136, MCA, is amended to read:

28 **"90-6-136. Administrative rules.** The state bank, in coordination with the board, shall adopt rules to

1 implement 90-6-131 through 90-6-137. The rules must address:

- 2 (1) the development of eligibility criteria for applicants;
- 3 (2) the development of an application process for requesting financial assistance;
- 4 (3) the establishment of a procedure for disbursing financial assistance;
- 5 (4) the establishment of the terms and conditions of a loan, including the method and schedule of
- 6 repayment and the applicable rate of interest;
- 7 (5) the development of a process for awarding technical assistance contracts; and
- 8 (6) other matters necessary for the administration of 90-6-131 through 90-6-137."

9

10 **Section 112.** Section 90-6-504, MCA, is amended to read:

11 **"90-6-504. Reverse annuity mortgage loan program.** ~~The board~~ last chance state bank established
12 in [section 1] may make reverse annuity mortgage loans that are secured by a single-family dwelling located in
13 this state. The loans must be made under terms and conditions adopted by the ~~board~~ last chance state bank
14 pursuant to its authority under 90-6-104."

15

16 **Section 113.** Section 90-6-701, MCA, is amended to read:

17 **"90-6-701. Montana coal endowment program created -- definitions.** (1) (a) There is a Montana
18 coal endowment program that consists of:

- 19 (i) the Montana coal endowment fund established in 17-5-703;
- 20 (ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).
- 21 (b) ~~The~~ Subject to certification of the state bank's capitalization under [section 6(5)], the Montana coal
22 endowment program may borrow from the ~~board of investments~~ state bank to provide additional financial
23 assistance for local government infrastructure projects under this part, ~~provided that no part of the loan may be~~
24 ~~made from retirement funds.~~

25 (2) Interest from the Montana coal endowment fund and from proceeds of the sale of bonds under 17-
26 5-701(2) may be used to provide financial assistance for local government infrastructure projects under this
27 part, to provide funding to the department of commerce for the administrative costs of the Montana coal
28 endowment program, and to repay loans from the ~~board of investments~~ state bank.

1 (3) As used in this part, the following definitions apply:

2 (a) "Infrastructure projects" means:

3 (i) drinking water systems;

4 (ii) wastewater treatment;

5 (iii) sanitary sewer or storm sewer systems;

6 (iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

7 or

8 (v) bridges.

9 (b) "Local government" means an incorporated city or town, a county, a consolidated local
10 government, a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as
11 defined in 75-6-304.

12 (c) "Montana coal endowment fund" means the coal severance tax infrastructure endowment fund
13 established in 17-5-703(1)(b).

14 (d) "Montana coal endowment program" means the local government infrastructure investment
15 program established in subsection (1).

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

17 (e) "Tribal government" means a federally recognized Indian tribe within the state of Montana."
18

19 **Section 114.** Section 90-6-715, MCA, is amended to read:

20 **"90-6-715. (Temporary) Special revenue account -- use.** (1) (a) The Montana coal endowment
21 regional water system special revenue account may be used to:

22 (i) provide matching funds to plan and construct regional drinking water systems in Montana;

23 (ii) pay the debt service for regional water system bond issues;

24 (iii) provide funding of administrative expenses for state and local entities associated with regional
25 drinking water systems; and

26 (iv) pay the costs of eligible projects on an interim basis pending the receipt of grant and loan funds by
27 those systems or entities.

28 (b) Except for the debt service administrative expenses and payment of the costs of eligible projects

1 on an interim basis provided for in subsection (1)(a), each state dollar must be matched equally by local funds.

2 Federal and state grants may not be used as a local match.

3 (2) Up to 25% of the local matching funds required under subsection (1) for the Montana coal
4 endowment regional water system may be in the form of debt that was incurred by local government entities
5 included in the regional water system to construct individual drinking water systems before the individual
6 systems were connected to the regional system. However, the amount of an individual entity's debt that may be
7 used for matching funds is limited to the amount necessary to allow the entity to maintain its water service
8 charges below the hardship standard established by the department through administrative rules adopted under
9 90-6-710.

10 (3) The funds in the account are further restricted to be used to finance regional drinking water
11 systems that supply water to large geographical areas and serve multiple local governments, such as projects
12 in north central Montana, from the waters of the Tiber reservoir, that will provide water for domestic use,
13 industrial use, and stock water for communities and rural residences that lie south of the Canadian border, west
14 of Havre, north of Dutton, and east of Cut Bank and in northeastern Montana, from the waters of the Missouri
15 River, that will provide water for domestic use, industrial use, and stock water for communities and rural
16 residences that lie south of the Canadian border, west of the North Dakota border, north of the Missouri River,
17 and east of range 39.

18 (4) The funds made available as grants must be administered by the department of natural resources
19 and conservation for eligible projects. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L. 2015.)"

20

21 **Section 115.** Section 90-7-102, MCA, is amended to read:

22 **"90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following
23 definitions apply:

24 (1) "Authority" means the Montana facility finance authority created in 2-15-1815.

25 (2) "Capital reserve account" means the account established in 90-7-317.

26 (3) "Costs" means costs allowed under 90-7-103.

27 (4) "Eligible facility" means any eligible facility as defined in 90-7-104.

28 (5) (a) "Institution" means any public or private:

1 (i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible
2 facility in this state;

3 (ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease
4 center in this state; or

5 (iii) for-profit or nonprofit corporation or other organization authorized to provide for or to operate a
6 project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue
7 Code, 26 U.S.C. 144(a).

8 (b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by
9 one or more nonprofit entities:

10 (i) a network of health care providers, regardless of how it is organized;

11 (ii) an integrated health care delivery system;

12 (iii) a joint venture or partnership between or among health care providers;

13 (iv) a purchasing alliance composed of health care providers;

14 (v) any health insurers and third-party administrators that are participants in a system, network, joint
15 venture, or partnership that provides health services through one or more health facilities.

16 (6) "Participating institution" means an institution that undertakes the financing, refunding, or
17 refinancing of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of
18 this chapter.

19 (7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal
20 repayments, and other income received or to be received by the authority from any source on account of the
21 eligible facilities.

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

23

24 **Section 116.** Section 90-7-112, MCA, is amended to read:

25 **"90-7-112. Exemption from taxation -- securities law.** (1) The authority performs a public function
26 for the benefit of the people of the state for the improvement of their health and living conditions and is a public
27 instrumentality of the state. Accordingly, the income or other revenue of the authority, ~~and all property owned by~~
28 ~~the authority, and any bonds, notes, or other obligations issued under this chapter, their transfer, and income~~

1 ~~therefrom, including any profit made on the sale thereof, of property owned by the authority~~ are exempt at all
2 times from all taxation in the state of Montana.

3 (2) Bonds, notes, or other obligations issued by the state bank on behalf of the authority are exempt
4 from the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with
5 the state securities commissioner for public inspection."
6

7 **Section 117.** Section 90-7-113, MCA, is amended to read:

8 **"90-7-113. Bonds as legal investment.** (1) Bonds issued by the state bank on behalf of the authority
9 under the provisions of this chapter are securities in which funds may be legally and properly invested,
10 including capital in the control of or belonging to:

11 (a) public officers and public bodies of the state and its political subdivisions;

12 (b) insurance companies;

13 (c) credit unions, building and loan associations, investment companies, savings banks, banking
14 associations, and trust companies;

15 (d) personal representatives, public administrators, trustees, and other fiduciaries; and

16 (e) pension, profit-sharing, and retirement funds.

17 (2) Bonds issued under this chapter are securities that may properly and legally be deposited with
18 and received by any state or municipal officer or any agency or municipality of the state for any purpose for
19 which the deposit of bonds or obligations of the state is authorized by law."
20

21 **Section 118.** Section 90-7-116, MCA, is amended to read:

22 **"90-7-116. Taxation of certain projects financed by authority.** (1) Regardless of whether the title to
23 a project is held by the authority, ~~or a trustee acting for the authority,~~ or the state bank, if the project is being
24 financed by the state bank as an authority project on behalf of a for-profit corporation or other organization, the
25 project is subject to taxation to the same extent, in the same manner, and under the same procedures as
26 privately owned property in similar circumstances if the project is leased to or held by private interests on both
27 the assessment date and the date the county commissioners set the mill levies in any year. The project is not
28 subject to taxation in any year during which it is not leased to or held by private interests on both the

1 assessment date and the date the county commissioners set the mill levy.

2 (2) When personal property owned by the authority or a trustee acting for the authority is taxed under
3 this section and the personal property taxes on the personal property are delinquent, a levy by warrant for
4 distraint for collection of the delinquent taxes may be made only on the personal property against which the
5 taxes were levied."

6

7 **Section 119.** Section 90-7-202, MCA, is amended to read:

8 **"90-7-202. Powers of authority.** The authority may:

9 (1) sue and be sued;

10 (2) have a seal;

11 (3) except as provided in 90-4-1303(2), adopt all procedural and substantive rules necessary for the
12 administration of this chapter;

13 ~~(4) except as provided in subsection (20), issue bonds or incur other debt as described in this~~
14 ~~chapter, including the issuance of notes or refunding bonds;~~

15 ~~(5) except as provided in 17-6-308, invest any funds that are not required for immediate use, subject~~
16 ~~to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except that all~~
17 ~~investment income from funds invested by the authority, less the cost for investment, must be deposited in an~~
18 ~~enterprise fund to the credit of the authority to be used to carry out the purposes of this chapter;~~

19 ~~(6) contract in its own name for the investment of funds, borrowing of funds, or any other purposes it~~
20 ~~considers appropriate to carry out the purposes of this chapter;~~

21 ~~(7) participate with any financial institution in the purchase or guarantee of any loan or obligation;~~

22 ~~(8) except as provided in subsection (20), issue bond anticipation notes or any other anticipatory~~
23 ~~financial obligations to secure funding of eligible facilities;~~

24 ~~(9) enter into agreements or make advance commitments to ensure repayments required by loan~~
25 ~~agreements made by a lender. These agreements are subject to terms and conditions established by the~~
26 ~~authority.~~

27 ~~(10) establish programs to make, sell, purchase, or insure loans to finance the costs of eligible facilities~~
28 ~~from any funds;~~

1 ~~(14)~~(4) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state, a
2 municipality, or any other source;

3 ~~(12)~~(5) enter into contracts, including guaranteed investment contracts, or other transactions with a
4 federal agency, an agency or instrumentality of the state, a municipality, a private organization, or any other
5 entity consistent with the exercise of any power under this chapter;

6 ~~(13)~~(6) with regard to property:

7 (a) except as provided in subsection ~~(20)~~ (11), acquire real or personal property or any right, interest,
8 or easement in real or personal property by gift, purchase, transfer, foreclosure, lease, or otherwise;

9 (b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of property;

10 (c) hold, sell, assign, or otherwise dispose of, through the state bank, any mortgage or loan owned by
11 it or in its control or custody;

12 (d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired,
13 including any equity or right of redemption;

14 (e) make any disposition by public or private sale, with or without public bidding;

15 (f) commence any action to protect or enforce any right conferred upon it by any law, mortgage,
16 contract, or other agreement;

17 (g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in
18 lieu of foreclosure; and

19 (h) operate, manage, lease, dispose of, and otherwise deal with property in any manner necessary or
20 desirable to protect its interests or the holders of its bonds or notes if that action is consistent with any
21 agreement with the holders;

22 ~~(14)~~(7) service, contract, and pay for the servicing of loans;

23 ~~(15)~~(8) provide general technical services in the analysis, planning, design, processing, construction,
24 rehabilitation, and management of eligible facilities whenever considered appropriate;

25 ~~(16)~~ consent, whenever it considers necessary or desirable in fulfilling its purposes, to the modification
26 of the rate of interest, time, or payment of any installment of principal, interest, or security or any other term of
27 any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage loan commitment,
28 construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and

1 noteholders;

2 (17)(9) collect reasonable interest, fees, and charges from participating institutions in connection with
3 making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and
4 other evidences of indebtedness. Except as provided in 17-6-308, the interest, fees, and charges must be
5 deposited to an enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the
6 amounts required to pay the costs of the authority, including operating and administrative expenses, reasonable
7 allowances for losses that may be incurred, and bond financing costs, and to provide funds to make loans to
8 finance the costs of eligible facilities or to make grants for the purposes described in 90-7-211(2)(e).

9 (18) make loans pursuant to 17-6-308 ;

10 (19)(10) establish program parameters for loan or grant recommendation or approval by authority staff;

11 (20)(11) perform its duties to administer commercial property-assessed capital enhancements
12 programs in accordance with Title 90, chapter 4, part 13. The authority's power is limited strictly to the
13 administration of the commercial property-assessed capital enhancements program in accordance with Title 90,
14 chapter 4, part 13, and the authority may not provide financing, acquire real property, or issue bonds, other than
15 as a conduit issuer of bonds with the underlying obligations to be assigned on issuance, in its administration of
16 the commercial property-assessed capital enhancements program. Nothing in this subsection may be
17 construed as limiting the ability of the authority to provide financial or other services otherwise allowed under
18 this section to property- assessed capital enhancements programs.

19 (24)(12) perform any other acts necessary and convenient to carry out the purposes of this chapter."
20

21 **Section 120.** Section 90-7-211, MCA, is amended to read:

22 **"90-7-211. Necessary expenses -- fees.** (1) Except as provided in 90-4-1305(3)(a), all expenses of
23 the authority incurred in carrying out the provisions of this chapter are payable solely from funds provided under
24 the authority of this chapter. Liability may not be incurred by the authority beyond the extent to which money
25 has been provided under this chapter, except for the purposes of meeting the necessary expenses of initial
26 organization and operation and until the date that the authority derives money from funds provided under this
27 chapter. The authority may borrow money from the state bank for necessary expenses of organization and
28 operation. The borrowed money must be repaid within a reasonable time after the authority receives funds

1 provided for under this chapter.

2 (2) When an application is made to the authority by any participating institution for financial assistance
3 to provide for its eligible facilities, the application may be accompanied by an initial planning service fee in an
4 amount determined by the authority. The initial planning service fee may be included in the cost of the eligible
5 facilities to be financed. In addition to the initial fee, an annual planning service fee may be paid to the authority
6 by each participating institution in an amount determined by the authority. The annual planning service fee may
7 be paid on the dates or in installments that are satisfactory to the authority. The fees must be deposited in the
8 state bank in an account to the credit of the authority to be used for:

9 (a) necessary expenses to determine the need for eligible facilities in the area concerned, and to that
10 end, the authority may use recognized voluntary and official health planning organizations and agencies at
11 local, regional, and state levels;

12 (b) necessary administrative, operating, and financing expenses;

13 (c) reserves held by the state bank for anticipated future expenses or loan losses;

14 (d) loans to finance the costs of eligible facilities; and

15 (e) grants made available through the authority to institutions to assist in determining eligibility for or
16 compliance with government programs.

17 (3) The authority may, for a negotiated fee, retain the services of any other public or private person,
18 firm, partnership, association, or corporation for the furnishing of services and data for use by the authority in
19 determining the need for and location of any eligible facility for which application is being made or for other
20 services or surveys that the authority considers necessary to carry out the purposes of this chapter."

21

22 **Section 121.** Section 90-7-212, MCA, is amended to read:

23 "**90-7-212. Purchase of bonds by authority.** The ~~authority-state bank~~ may purchase its bonds or
24 notes that were sold on behalf of the authority. The ~~authority-state bank~~ may hold, pledge, cancel, or resell ~~such~~
25 the bonds or notes, subject to and in accordance with agreements with bondholders or noteholders."

26

27 **Section 122.** Section 90-7-225, MCA, is amended to read:

28 "**90-7-225. Procedure prior to financing qualified small bond issue projects.** (1) In addition to

1 meeting the other requirements contained in this chapter or in state or federal law, the requirements of
2 subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

3 (2) The authority shall find that the financing is in the public interest. In order to determine whether or
4 not the financing is in the public interest, a public hearing must be conducted in the following manner:

5 (a) the city or county in which the project will be located must be notified, and the city and county
6 shall, within 14 days after receipt of the notice, notify the ~~board~~authority if it elects to conduct the hearing; or

7 (b) if a request for a local hearing is not received by the authority within 14 days after the notification
8 in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

9 (3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for
10 the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be
11 held and the project will be located. The notice must include the time and place of the hearing, a general
12 description of the nature and location of the project, the name of the lessee, borrower, or user of the project and
13 the maximum principal amount of the financing to be ~~provided by the authority~~ requested of the state bank.

14 (4) If the hearing required by subsection (2) is conducted by a local government, the governing body
15 of the local government shall notify the authority of its determination of whether the financing is in the public
16 interest within 14 days after the completion of the public hearing.

17 (5) The authority shall provide to the state bank a summary of the hearing and the determination of
18 whether the financing is in the public interest along with a recommended amount of financing."

19

20 **Section 123.** Section 90-7-228, MCA, is amended to read:

21 **"90-7-228. Additional reserves, funds, and accounts.** The ~~authority~~state bank may in its discretion
22 establish additional reserves or other funds or accounts necessary, desirable, or convenient to further the
23 accomplishment of the purposes of this chapter or to comply with the provisions of its resolution or
24 agreements."

25

26 **Section 124.** Section 90-7-229, MCA, is amended to read:

27 **"90-7-229. Procedure prior to financing certain projects.** (1) In addition to meeting the other
28 requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4)

1 must be met before financing is provided for a project described in 90-7-104(1)(I).

2 (2) The authority shall find that the financing is in the public interest. In order to determine whether or
3 not the financing is in the public interest, a public hearing must be conducted in the following manner:

4 (a) the city or county in which the project will be located must be notified, and the city and county
5 shall, within 14 days after receipt of the notice, notify the ~~board~~authority if it elects to conduct the hearing; or

6 (b) if a request for a local hearing is not received by the authority within 14 days after the notification
7 in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

8 (3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for
9 the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be
10 held and the project will be located. The notice must include the time and place of the hearing, a general
11 description of the nature and location of the project, the name of the lessee, borrower, or user of the project,
12 and the maximum principal amount of the financing to be ~~provided by the authority~~ requested of the state bank.

13 (4) If the hearing required by subsection (2) is conducted by a local government, the governing body
14 of the local government shall notify the authority of its determination of whether the financing is in the public
15 interest within 14 days after the completion of the public hearing.

16 (5) The authority shall provide to the state bank a summary of the hearing and the determination of
17 whether the financing is in the public interest along with a recommended amount of financing."

18

19 **Section 125.** Section 90-7-230, MCA, is amended to read:

20 **"90-7-230. Taxation of projects.** (1) Regardless of whether the title to a project is held by the
21 authority or a trustee acting for the authority, if the project is being financed by the ~~authority~~state bank on
22 behalf of a for-profit corporation or other organization, the project is subject to taxation to the same extent, in
23 the same manner, and under the same procedures as privately owned property in similar circumstances if the
24 project is leased to or held by private interests on both the assessment date and the date the county
25 commissioners set the mill levies in any year. The project is not subject to taxation in any year during which it is
26 not leased to or held by private interests on both the assessment date and the date the county commissioners
27 set the mill levy.

28 (2) When personal property owned by the authority or a trustee acting for the authority is taxed under

1 this section and the personal property taxes on the personal property are delinquent, levy by warrant for
2 distraint for collection of the delinquent taxes may be made only on the personal property against which the
3 taxes were levied."
4

5 **Section 126.** Section 90-7-301, MCA, is amended to read:

6 **"90-7-301. Notes.** The state bank, on behalf of the authority, is authorized from time to time to issue
7 its-negotiable notes for any corporate purpose designated by the authority, including the payment of all or any
8 part of the cost of any eligible facility, and to renew from time to time any notes by the issuance of new notes,
9 whether the notes to be renewed have or have not matured. The state bank, on behalf of the authority, may
10 issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other
11 purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any
12 resolution by the state bank authorizing notes on behalf of the authority or any issue of notes may contain any
13 provisions that the ~~authority-state bank~~ is authorized to include in any resolution authorizing bonds ~~of the~~
14 ~~authority~~. The ~~authority-state bank~~ may include in its notes any terms, covenants, or conditions that it is
15 authorized to include in any bonds. All notes must be payable from the proceeds of bonds, renewal notes, the
16 revenue of the authority, or other available money not otherwise pledged, subject only to any contractual rights
17 of the holders of any of its notes or other obligations then outstanding."
18

19 **Section 127.** Section 90-7-302, MCA, is amended to read:

20 **"90-7-302. Bonds and notes of authority.** (1) The state bank, on behalf of the authority, may in each
21 biennium borrow money and issue bonds and notes in an aggregate principal amount not to exceed \$500
22 million, exclusive of bonds or notes issued to refund outstanding bonds or notes.

23 (2) Bonds must be authorized. The ~~authority-state bank~~ may specify that the bonds must be dated
24 and must mature, except that a bond may not mature more than 40 years from the date of its issue. Bonds
25 must bear interest at a rate or rates, be in denominations, be in the proper registered or bearer form, be
26 executed in a manner, be payable in a medium of payment and at a place or places, and be subject to terms of
27 redemption that the ~~authority-state bank~~ may provide.

28 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the

1 Uniform Commercial Code, subject to requirements as to registration.

2 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the
3 time or times that the ~~authority~~ state bank may determine.

4 (5) Before the issuance of any bonds, the state bank shall confer with the authority ~~shall and~~ make
5 provisions, by lease or other agreement, regarding the eligible facility or facilities being financed by the issue of
6 the bonds, for rentals or other considerations sufficient, in the judgment of the ~~authority~~ state bank, to:

7 (a) pay the principal of and interest on the bonds as they become due;

8 (b) create and maintain the reserves for payment of the principal and interest;

9 (c) meet all obligations in connection with the lease or other agreement; and

10 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
11 obligations are to be met or costs are to be paid by a party other than the authority.

12 (6) ~~The authority, before issuing~~ Before the state bank, on behalf of the authority, issues any bonds,
13 the authority shall certify that an applicant has submitted a statement that indicates that any contract let for a
14 public project costing more than \$25,000 and financed from the proceeds of bonds issued under this part will
15 contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to
16 the district in which the work is being performed unless the contractor performing the work has entered into a
17 collective bargaining agreement covering the work to be performed.

18 (7) The state bank, on behalf of the authority, may combine, for the purposes of a single offering,
19 bonds financing more than one eligible facility under this chapter."

20

21 **Section 128.** Section 90-7-303, MCA, is amended to read:

22 **"90-7-303. Procedure for issuance of bonds.** (1) The ~~authority~~ state bank may not finance any
23 eligible facility unless, prior to the issuance of any bonds or notes, the ~~members find~~ authority finds that the
24 facility is an eligible facility and will be operated by an institution for the purpose of providing services
25 contemplated by this chapter.

26 (2) The authority may not allow the proceeds of any bonds or notes to be expended for any eligible
27 facility that is a health care facility unless the facility has been reviewed and approved by the appropriate
28 regional and state health planning boards and has received any approval required by Title 50, chapter 5, part 3.

1 (3) The authority may not allow the proceeds of any bonds or notes to be expended for any eligible
2 facility unless the institution provides evidence that the eligible facility is financially feasible and that the
3 institution reasonably expects that it will generate sufficient revenue to pay principal and interest payments
4 when they become due."

5

6 **Section 129.** Section 90-7-304, MCA, is amended to read:

7 **"90-7-304. Security of bondholders.** (1) The payment of the principal of and interest on any bonds
8 issued under this chapter must be secured by a pledge of the revenue out of which the bonds are made
9 payable.

10 (2) The state bank may determine the extent to which the principal of and interest on any bonds
11 issued under the authority of this part may be secured by:

- 12 (a) a mortgage covering all or any part of the property of the participating institution;
- 13 (b) a pledge of the lease or loan agreement relating to the eligible facility; or
- 14 (c) another security device that is considered most advantageous by the ~~authority~~ state bank.

15 (3) The proceedings under which the bonds are authorized to be issued under the provisions of this
16 chapter and any mortgage given to secure the bonds, including a mortgage given by the borrower or lessee,
17 may contain any agreements and provisions customarily contained in instruments securing bonds, as ~~the~~
18 ~~authority considers~~ considered advisable by the state bank. The provisions may not be in conflict with the
19 provisions of this chapter, including without limitation provisions relating to:

- 20 (a) fixing and collection of rents or payments under any lease or loan agreement concerning the
21 eligible facility covered by the proceedings or mortgage;
- 22 (b) terms to be incorporated in the lease or loan agreement;
- 23 (c) maintenance and insurance of the eligible facility;
- 24 (d) creation and maintenance of special funds from the revenue of the eligible facility; and
- 25 (e) rights and remedies available in the event of a default to the bondholders or to the trustee under a
26 mortgage.

27 (4) The proceedings authorizing any bonds under the provisions of this chapter and any mortgage,
28 including a mortgage given by the lessee or borrower, securing bonds may provide that in the event of a default

1 in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained
 2 in the proceedings or mortgage, the payment and performance may be enforced by mandamus or by the
 3 appointment of a receiver in equity with power to charge and collect rents and to apply the revenue from the
 4 project in accordance with the proceedings or the provisions of the mortgage.

5 (5) Any mortgage made by the ~~authority~~ state bank, lessee, or borrower to secure these bonds may
 6 provide that, in the event of a default in the payment of the bonds or the violation of any agreement contained in
 7 the mortgage, the mortgage may be foreclosed and the project sold under proceedings in equity or in any other
 8 manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of
 9 any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the trustee is
 10 the highest bidder. A breach of an agreement may not impose any pecuniary liability upon the ~~authority~~ state
 11 bank.

12 (6) The state bank may, whenever it considers necessary or desirable in fulfilling its purposes and
 13 subject to any agreement with bondholders and noteholders, consent to the modification of the rate of interest,
 14 time, or payment of any installment of principal, interest, or security or any other term of any contract, lease
 15 agreement, loan agreement, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance
 16 contract, or agreement of any kind. "

17

18 **Section 130.** Section 90-7-305, MCA, is amended to read:

19 **"90-7-305. Trust agreement to secure bonds.** In the discretion of the ~~authority~~ state bank, any
 20 bonds issued under this chapter may be secured by a trust agreement between the ~~authority~~ state bank and a
 21 corporate trustee, which may be any trust company or other bank having the powers of a trust company in
 22 Montana or outside of Montana, if it is determined by the ~~authority~~ state bank to be in the best interest of
 23 financing the bonds. The trust agreement or the resolution providing for the issuance of the bonds may pledge
 24 or assign the revenue to be received or the proceeds of any contract or contracts pledged and may convey or
 25 mortgage the project or any portion of the project. The trust agreement or resolution providing for the issuance
 26 of the bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as
 27 may be reasonable and proper and not in violation of law, including particularly any provisions that have been
 28 specifically authorized to be included in a state bank resolution of the ~~authority~~ state bank authorizing the bonds. A bank or

1 trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or
2 of revenue or other money may furnish indemnifying bonds or pledge securities that may be required by the
3 ~~authority~~ state bank. A trust agreement may set forth the rights and remedies of the bondholders and of the
4 trustee or trustees and may restrict the individual right of action by bondholders. In addition, a trust agreement
5 or resolution may contain other provisions that the ~~authority~~-state bank may consider reasonable and proper for
6 the security of the bondholders. All expenses incurred in carrying out the trust agreement or resolution may be
7 treated as a part of the cost of the operation of an eligible facility."

8

9 **Section 131.** Section 90-7-307, MCA, is amended to read:

10 **"90-7-307. Conveyance of title.** When the principal and interest on bonds issued by the state bank
11 on behalf of the authority to finance the cost of eligible facilities or to refinance outstanding indebtedness of one
12 or more participating institutions, including any refunding bonds issued to refund and refinance bonds, have
13 been fully paid and retired or when adequate provision has been made to fully pay and retire the bonds and all
14 other conditions of the resolution, lease, trust indenture, and mortgage or deed of trust or any other form of
15 security arrangement, if any, authorizing and securing the bonds have been satisfied and the lien of the
16 mortgage or deed of trust or any other form of security arrangement has been released in accordance with the
17 provisions of the security arrangement, the state bank and the authority shall promptly convey ~~its~~-any interest in
18 the facilities and any other facilities mortgaged or subject to deed of trust or any other form of security
19 arrangement to secure the bonds to the participating institution or institutions."

20

21 **Section 132.** Section 90-7-311, MCA, is amended to read:

22 **"90-7-311. Pledge of state not to impair -- to administer.** In accordance with the constitutions of the
23 United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any
24 agreement between the ~~authority~~-state bank and the holders of notes and bonds issued by the ~~authority~~ state
25 bank, including but not limited to an agreement to administer a loan program financed by the issuance of
26 bonds; and to employ a staff sufficient and competent for this purpose."

27

28 **Section 133.** Section 90-7-312, MCA, is amended to read:

1 **"90-7-312. Pledge of revenue, money, or property -- validity.** Any pledge made by the authority
 2 and the state bank as its succeeding lender is valid and binding from the time the pledge is made. The revenue,
 3 money, or property pledged and received by the authority or by the state bank on its behalf is immediately
 4 subject to the lien of the pledge without any physical delivery or further act. The lien of any pledge is valid and
 5 binding against all parties having claims of any kind, whether in tort, contract, or otherwise, against the authority
 6 or the state bank as its successor, irrespective of whether ~~such~~the parties have notice thereof. Neither the
 7 resolution nor any other instrument by which a pledge is created is required to be recorded."

8

9 **Section 134.** Section 90-7-317, MCA, is amended to read:

10 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 11 provided for in 90-7-202(47) (9).

12 (2) ~~The authority shall deposit into~~ state bank shall use the capital reserve account as provided in 90-
 13 7-318 to fulfill obligations of the authority undertaken prior to [the effective date of this section] or of the state
 14 bank on or after [the effective date of this section]:

15 ~~(a) funds from state appropriations received for deposit into the account, as provided in 90-7-319, for~~
 16 ~~bonds issued to finance capital projects for community health facilities that contract with the state to provide~~
 17 ~~health care services, bonds issued to finance the facilities described in 90-7-220 and 90-7-221, or bonds used~~
 18 ~~to finance prerelease centers that contract with the state; and~~

19 ~~(b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures of~~
 20 ~~the authority authorizing their issuance.~~

21 ~~(3) The authority may also deposit into the capital reserve account:~~

22 ~~(a) revenue from fees and charges imposed by the authority;~~

23 ~~(b) income from the investment of funds belonging to the authority; and~~

24 ~~(c) any other funds that may be available to the authority for the purpose of the account from any~~
 25 ~~other source, including loans authorized under 90-7-320."~~

26

27 **Section 135.** Section 90-7-318, MCA, is amended to read:

28 **"90-7-318. Administration of capital reserve account.** (1) ~~The authority may pledge funds from the~~

1 capital reserve account or a subaccount created in the capital reserve account may be used by the state bank
 2 as security for the payment of bonds and notes issued by the ~~authority,~~ state bank as it ~~may determine~~
 3 determined in the resolutions or indentures providing for their issuance.

4 (2) All funds held in the capital reserve account must be used solely for the payment of the principal
 5 and interest on bonds secured in whole or in part by the account or the debt service payments with respect to
 6 the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of
 7 any redemption premium required to be paid when the bonds are redeemed prior to maturity.

8 (3) ~~Funds-~~The state bank shall manage the funds in the capital reserve account ~~may not, at any time,~~
 9 ~~be withdrawn in an amount that reduces~~ to prevent the account to ~~from being reduced below~~ an amount less
 10 than the sum of minimum capital reserve requirements established for the account except, with respect to
 11 bonds secured in whole or in part by the account, for the purpose of making payments, when due, of principal,
 12 interest, redemption premiums, and debt service fund payments for the payment of which other funds pledged
 13 are not available.

14 (4) ~~Income or interest earned by or incremental to the capital reserve account due to its investment~~
 15 ~~may be transferred to other accounts of the authority to the extent it does not reduce the amount of the capital~~
 16 ~~reserve account below the sum of minimum capital reserve requirements for the account."~~

17

18 **Section 136.** Section 90-9-103, MCA, is amended to read:

19 **"90-9-103. (Temporary) Definitions.** As used in this chapter, the following definitions apply:

20 (1) "Act" means the Montana Growth Through Agriculture Act.

21 (2) "Agricultural business" means an enterprise engaged in the production, processing, marketing,
 22 distribution, or exporting of agricultural products. The term includes any related business the primary function of
 23 which is providing goods or services to an agricultural enterprise.

24 (3) "Company" means a natural person, firm, partnership, corporation, association, or other entity
 25 authorized to conduct business in the state.

26 (4) "Council" means the Montana agriculture development council established in 2-15-3015.

27 (5) "Department" means the department of agriculture established in 2-15-3001.

28 (6) "Educational loan" means a loan made pursuant to a federal loan program, except for a federal

1 parent loan for undergraduate students (PLUS) loan, as provided in 20 U.S.C. 1078-2, or a loan made by a
2 private lender expressly for the payment of the borrower's college expenses. A portion of a consolidated loan
3 may be considered if the qualifying amount can be determined fairly.

4 (7) "Educational loan servicer" means an entity that engages for compensation or gain from another
5 or on its own behalf, in the business of:

6 (a) receiving any scheduled periodic payments from a borrower pursuant to the terms of an
7 educational loan;

8 (b) applying the payments of principal and interest and other payments with respect to the amounts
9 received from a borrower, as may be required pursuant to the terms of an educational loan; and

10 (c) performing other administrative services with respect to an educational loan.

11 (8) "Farmer" means a person who:

12 (a) is engaged in agricultural activities, including ranching, at a farm;

13 (b) participates in the day-to-day operations of a farm; and

14 (c) is the primary owner of an agricultural operation, including an heir, a successor, or an assignee of
15 the operation.

16 (9) "Federal loan program" has the meaning provided in 20-4-502.

17 (10) (a) "Matching funds" means the funds received by the ~~loan or grant~~ recipient from private, federal,
18 state, or commodity checkoff funds and contributed by the recipient in support of ~~a loan or a~~ grant application in
19 an amount that is at least equal to the funds disbursed to the recipient by the council.

20 (b) Matching funds may not include other state grants.

21 (11) "State" means the state of Montana.

22 (12) "State bank" means the last chance state bank established under [section 1]. (Terminates June
23 30, 2029--sec. 16, Ch. 439, L. 2019.)

24 **90-9-103. (Effective July 1, 2029) Definitions.** As used in this chapter, the following definitions
25 apply:

26 (1) "Act" means the Montana Growth Through Agriculture Act.

27 (2) "Agricultural business" means an enterprise engaged in the production, processing, marketing,
28 distribution, or exporting of agricultural products. The term includes any related business the primary function of

1 which is providing goods or services to an agricultural enterprise.

2 (3) "Company" means a natural person, firm, partnership, corporation, association, or other entity
3 authorized to conduct business in the state.

4 (4) "Council" means the Montana agriculture development council established in 2-15-3015.

5 (5) "Department" means the department of agriculture established in 2-15-3001.

6 (6) (a) "Matching funds" means the funds received by the ~~loan or grant~~ recipient from private, federal,
7 state, or commodity checkoff funds and contributed by the recipient in support of a loan or grant application in
8 an amount that is at least equal to the funds disbursed to the recipient by the council.

9 (b) Matching funds may not include other state grants.

10 (7) "State" means the state of Montana.

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

12

13 **Section 137.** Section 90-9-202, MCA, is amended to read:

14 **"90-9-202. (Temporary) Powers and duties of council.** (1) The council shall:

15 (a) establish policies and priorities to enhance the future development of agriculture in Montana,
16 including the Indian reservations in the state;

17 (b) make ~~loans or grants~~, pursuant to the provisions of Title 90, chapter 9, part 3, that have a short-
18 term or long-term ability to stimulate agriculture development and diversification in rural, urban, and tribal
19 settings in Montana;

20 (c) provide loan repayment assistance for farmers pursuant to Title 90, chapter 9, part 5;

21 (d) consult with the cooperative extension service to administer the Montana farmer loan repayment
22 assistance program as required by 90-9-501;

23 (e) accept grants or receive devises of money or property for use in making the ~~loans or grants~~ and
24 providing the loan repayment assistance authorized by this chapter; and

25 (f) distribute food and agricultural development center funding pursuant to Title 80, chapter 11, part 9,
26 subject to biannual review.

27 (2) The council may:

28 ~~(a) defer or forgive any loan in whole or in part; and~~

1 ~~(b) forgive any accrued interest in whole or in part~~ shall forward to the state bank all records related to
2 loans outstanding as of [the effective date of this section]. (Terminates June 30, 2029--sec. 16, Ch. 439, L.
3 2019.)

4 **90-9-202. (Effective July 1, 2029) Powers and duties of council.** (1) The council shall:

5 (a) establish policies and priorities to enhance the future development of agriculture in Montana,
6 including the Indian reservations in the state;

7 (b) ~~make loans or grants,~~ pursuant to the provisions of Title 90, chapter 9, part 3, that have a short-
8 term or long-term ability to stimulate agriculture development and diversification in rural, urban, and tribal
9 settings in Montana;

10 (c) accept grants or receive devises of money or property for use in making the ~~loans or grants~~
11 authorized by this chapter; and

12 (d) distribute food and agricultural development center funding pursuant to Title 80, chapter 11, part 9,
13 subject to biannual review.

14 (2) The council ~~may:~~

15 ~~(a) defer or forgive any loan in whole or in part; and~~

16 ~~(b) forgive any accrued interest in whole or in part~~ shall forward to the state bank all records related to
17 loans outstanding as of [the effective date of this section]."

18

19 **Section 138.** Section 90-9-203, MCA, is amended to read:

20 **"90-9-203. (Temporary) Rulemaking.** The council shall adopt rules necessary to implement the
21 provisions of this chapter, including rules:

22 (1) governing the conduct of council business;

23 (2) establishing application procedures for ~~loans and~~ grants authorized in 90-9-202;

24 (3) establishing application procedures and required documentation for the Montana farmer loan
25 repayment assistance program pursuant to 90-9-504;

26 (4) establishing procedures to be followed by the council in its review process prior to making a ~~loan~~
27 ~~or grant~~ or providing loan repayment assistance;

28 (5) establishing postdisbursement activities to monitor the use of a ~~loan or grant~~ by its recipient,

1 including:

2 (a) any reporting requirements; and

3 (b) procedures for repayment of a ~~loan or grant~~ upon failure of a recipient to meet the terms and

4 conditions of that ~~loan or grant~~;

5 ~~(6) establishing interest rates for loans in accordance with market factors and the purposes of this~~

6 ~~chapter;~~

7 ~~(7)~~(6) limiting the amount of loans or grants that any company may receive or apply for over a given

8 period of time; and

9 ~~(8) governing the deferral or forgiveness of loans and any accrued interest; and~~

10 ~~(9)~~(7) establishing other terms and conditions of ~~loans and grants~~ and loan repayment assistance, as

11 necessary, within the requirements and purposes of this chapter. (Terminates June 30, 2029--sec. 16, Ch. 439,

12 L. 2019.)

13 **90-9-203. (Effective July 1, 2029) Rulemaking.** The council shall adopt rules necessary to

14 implement the provisions of this chapter, including rules:

15 (1) governing the conduct of council business;

16 (2) establishing application procedures for ~~loans and grants~~ authorized in 90-9-202;

17 (3) establishing procedures to be followed by the council in its review process prior to making a ~~loan~~

18 ~~or grant~~;

19 (4) establishing postdisbursement activities to monitor the use of a ~~loan or grant~~ by its recipient,

20 including:

21 (a) any reporting requirements; and

22 (b) procedures for repayment of a ~~loan or grant~~ upon failure of a recipient to meet the terms and

23 conditions of that ~~loan or grant~~;

24 ~~(5) establishing interest rates for loans in accordance with market factors and the purposes of this~~

25 ~~chapter;~~

26 ~~(6)~~(5) limiting the amount of ~~loans or grants~~ that any company may receive or apply for over a given

27 period of time;

28 ~~(7) governing the deferral or forgiveness of loans and any accrued interest; and~~

1 ~~(8)(6)~~ establishing other terms and conditions of ~~loans and grants~~, as necessary, within the
2 requirements and purposes of this chapter."

3

4 **Section 139.** Section 90-9-301, MCA, is amended to read:

5 **"90-9-301. Agriculture seed capital account -- matching funds.** (1) There is an agriculture seed
6 capital account administered by the council. Money received by the council under 90-9-306 must be deposited
7 in this account.

8 (2) The council may ~~loan or grant~~ money from the agriculture seed capital account, pursuant to the
9 provisions of 90-9-308 through 90-9-311."

10

11 **Section 140.** Section 90-9-306, MCA, is amended to read:

12 **"90-9-306. (Temporary) Appropriation authority and funding -- prohibitions.** (1) The council may
13 accept and expend the funds that it receives from grants, donations, or other private or public income, including
14 amounts repaid as principal and interest on loans made by the council prior to [the effective date of this
15 section]. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of
16 this chapter, except that expenditures for actual and necessary expenses required for the efficient
17 administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2),
18 made for that purpose.

19 (2) No more than \$100,000 of the funds expended by the council in the biennium beginning July 1,
20 2019, may be expended for the purposes of the Montana farmer loan repayment assistance program provided
21 for in Title 90, chapter 9, part 5. The council may use the unspent funds for grants, loans, or other program
22 costs pursuant to this chapter.

23 (3) Council members may not personally apply for or receive council funds. If an organization with
24 which a member is affiliated applies for council funds, the member shall disclose the nature of the affiliation
25 and, if the council member is a board member or officer of the organization, may not participate in the decision
26 of the council regarding the application. (Terminates June 30, 2029--sec. 16, Ch. 439, L. 2019.)

27 **90-9-306. (Effective July 1, 2029) Appropriation authority and funding -- prohibitions.** (1) The
28 council may accept and expend the funds that it receives from grants, donations, or other private or public

1 income, including amounts repaid as principal and interest on loans made by the council prior to [the effective
2 date of this section]. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the
3 purposes of this chapter, except that expenditures for actual and necessary expenses required for the efficient
4 administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2),
5 made for that purpose.

6 (2) Council members may not personally apply for or receive council funds. If an organization with
7 which a member is affiliated applies for council funds, the member shall disclose the nature of the affiliation
8 and, if the council member is a board member or officer of the organization, may not participate in the decision
9 of the council regarding the application."

10

11 **Section 141.** Section 90-9-307, MCA, is amended to read:

12 **"90-9-307. Accountability.** The council shall develop independent review and audit procedures to
13 ensure that ~~loans and grants~~ made by it are used for the specified purposes."

14

15 **Section 142.** Section 90-9-308, MCA, is amended to read:

16 **"90-9-308. Application for ~~loans and grants~~ -- additional criteria.** (1) All applicants shall complete
17 an application and provide financial information as established by rule.

18 (2) The council may not make a ~~loan or grant~~ unless the recipient provides matching funds prior to the
19 expenditure of any state funds. The council may accept as matching funds those funds expended by the
20 recipient within 1 year prior to the execution of the ~~loan or grant~~.

21 (3) The department may provide assistance to applicants during the application process."

22

23 **Section 143.** Section 90-9-309, MCA, is amended to read:

24 **"90-9-309. Terms and conditions of loans -- rulemaking.** (1) The term of any ~~loan~~ loans made
25 under this section by the state bank, which are subject to the certification of capitalization requirement in
26 [section 6(5)], may not exceed 8 years.

27 (2) The amount of any loan may not exceed \$100,000 in any 9-month period.

28 (3) Repayment of a loan is due in full upon dissolution or liquidation of the recipient company.

1 (4) The ~~council-state bank~~, subject to the certification of capitalization requirement in [section 6(5)],
2 may make a low-interest loan, at a rate established by rule, only if it determines that the applicant meets the
3 criteria set forth in 90-9-308 and 90-9-311 and the applicant:

- 4 (a) has unencumbered collateral to secure the full amount of the loan; or
- 5 (b) meets other requirements established by rule.

6 (5) The ~~council-state bank~~, subject to the certification of capitalization requirement in [section 6(5)],
7 may make a high-interest loan, at a rate established by rule, only if it determines that the applicant meets the
8 criteria set forth in 90-9-308 and 90-9-311.

9 (6) The ~~council-state bank~~ may establish other terms and conditions by rule."
10

10

11 **Section 144.** Section 90-9-311, MCA, is amended to read:

12 "**90-9-311. General criteria underlying loans and grants.** The ~~council~~ Subject to the certification of
13 capitalization requirement in [section 6(5)], the state bank may make a loan ~~or grant~~ only if the ~~council-state~~
14 bank determines that:

15 (1) the loan ~~or grant~~ is consistent with the findings and purposes of this chapter because it primarily
16 adds value to Montana's agricultural products;

17 (2) the project for which the loan ~~or grant~~ is made has prospects for achieving commercial success
18 given the current personnel, experience, and resources of the applicant;

19 (3) the project for which the loan ~~or grant~~ is made is anticipated to create new jobs or retain existing
20 jobs in the state;

21 (4) the loan ~~or grant~~ is primarily intended to be used for processing or adding value to agricultural
22 products produced or potentially produced in the state; and

23 (5) the applicant has a management structure that allows the ~~council-state bank~~ to reasonably
24 conclude that the applicant will comply with ongoing reporting requirements and postdisbursement monitoring
25 activities established by the council."
26

26

27 NEW SECTION. **Section 145. Revenue bonds.** The board of examiners shall, prior to July 1, 2024,
28 issue revenue bonds in the amount of \$15 million to establish initial reserves for the last chance state bank. The

1 revenue bonds must be issued pursuant to the Municipal Finance Consolidation Act of 1983 provided for in Title
2 17, chapter 5, part 16. The repayment term established for the revenue bonds may not exceed 10 years.
3 Pursuant to 17-5-720, repayment of the revenue bonds must be based on the last chance state bank's loan
4 programs and projects for which funds have not otherwise been encumbered.

5
6 **NEW SECTION. Section 146. Repealer.** The following sections of the Montana Code Annotated are
7 repealed:

8 17-6-409. Authority to accept funds -- funding authorization.

9 90-1-104. Functions of department of commerce -- recreational development.

10 90-6-120. Maintenance of capital reserve account.

11 90-7-319. Maintenance of capital reserve account.

12
13 **NEW SECTION. Section 147. 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
18 and program planning under the timeframe required for agency budget submissions in 2013. The board of
19 examiners shall recommend to the 69th legislature, through the governor's office, the drafting of legislation
20 necessary for a transition of loan and bonding authority to the last chance state bank from these programs and
21 any other legislation required to implement [sections 2 through 7].

22
23 **NEW SECTION. Section 148. Codification instruction.** (1) [Section 1] is intended to be codified
24 as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [section 1].

25 (2) [Sections 2 through 7] are intended to be codified as an integral part of Title 17, and the provisions
26 of Title 17 apply to [sections 2 through 7].

27
28 **NEW SECTION. Section 149. Saving clause.** [This act] does not affect bonds, notes, or other

1 financial obligations that were incurred, rights and duties that matured, penalties that were incurred, or
2 proceedings that were begun before July 1, 2023.

3
4 NEW SECTION. Section 150. Severability. If a part of [this act] is invalid, all valid parts that are
5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
6 the part remains in effect in all valid applications that are severable from the invalid applications.

7
8 NEW SECTION. Section 151. Two-thirds vote required. Because [section 3] authorizes the
9 creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the
10 members of each house of the legislature for passage.

11
12 NEW SECTION. Section 152. Effective dates. (1) Except as provided in subsection (2), [this act] is
13 effective July 1, 2025.

14 (2) [Sections 142 and 144 through 149] and this section are effective July 1, 2023.

15 - END -