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HOUSE BILL NO. 28
INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE SHORTFALL IN GENERAL FUND REVENUE BY ELIMINATING THE DEPARTMENT OF COMMERCE; ALLOCATING THE FUNCTIONS PERFORMED BY THE DEPARTMENT OF COMMERCE TO OTHER EXECUTIVE BRANCH ENTITIES; AMENDING SECTIONS 1-1-512, 1-1-516, 1-1-517, 1-1-518, 2-15-104, 2-15-149, 2-15-1808, 2-15-1814, 2-15-1815, 2-15-1816, 2-15-1819, 2-15-1821, 2-15-3015, 2-15-3308, 2-17-512, 2-17-1105, 5-5-223, 7-1-4121, 7-6-611, 7-6-1501, 15-1-121, 15-35-108, 15-53-201, 15-53-203, 15-65-121, 15-70-101, 16-4-420, 17-2-405, 17-5-1503, 17-5-1508, 17-5-1509, 17-5-1604, 17-6-302, 17-6-403, 17-6-406, 17-6-407, 17-6-408, 17-6-409, 17-6-411, 22-3-1002, 23-5-631, 30-16-303, 32-4-201, 50-60-313, 53-2-1203, 60-2-243, 90-1-101, 90-1-102, 90-1-103, 90-1-104, 90-1-105, 90-1-106, 90-1-107, 90-1-108, 90-1-109, 90-1-116, 90-1-131, 90-1-132, 90-1-144, 90-1-145, 90-1-146, 90-1-147, 90-5-113, 90-5-305, 90-6-103, 90-6-112, 90-6-204, 90-6-207, 90-6-303, 90-6-703, 90-6-710, 90-6-715, 90-7-203, 90-8-104, 90-8-105, 90-8-106, 90-8-201, 90-8-202, 90-8-204, 90-8-301, 90-8-311, 90-8-312, 90-8-313, 90-8-321, AND 90-9-201, MCA; REPEALING SECTION 2-15-1801, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 1-1-512, MCA, is amended to read:

"1-1-512. State Vietnam veterans' memorial. (1) The memorial located in Rose Park, Missoula, Montana, dedicated to the men and women who served the United States in the Republic of Vietnam, is the official state Vietnam veterans' memorial.

(2) The department of ~~commerce~~ transportation in the production of highway maps of the state of Montana is directed to reference the location of the official state Vietnam veterans' memorial in Rose Park, Missoula, Montana, on such maps."

Section 2. Section 1-1-516, MCA, is amended to read:

"1-1-516. State Korean veterans' memorial -- Butte. (1) The Korean veterans' memorial located in Stodden Park, Butte, Montana, dedicated to the men and women who served the United States in the Republic

1 of Korea, is an official state Korean veterans' memorial.

2 (2) The ~~department of commerce and the~~ department of transportation ~~are~~ is directed to reference the
3 location of a state Korean veterans' memorial on official state maps."

4

5 **Section 3.** Section 1-1-517, MCA, is amended to read:

6 **"1-1-517. State Korean war veterans' memorial -- Missoula.** (1) The Missoula memorial rose garden,
7 located in Missoula, Montana, is officially designated as a state Korean war veterans' memorial.

8 (2) The ~~department of commerce and the~~ department of transportation shall identify the Missoula
9 memorial rose garden on official state maps as a state Korean war veterans' memorial."

10

11 **Section 4.** Section 1-1-518, MCA, is amended to read:

12 **"1-1-518. State veterans' memorial rose garden.** (1) The Missoula memorial rose garden, located
13 in Missoula, Montana, is officially designated as a state veterans' memorial rose garden.

14 (2) In addition to the reference required under 1-1-512, ~~the department of commerce and the~~
15 department of transportation shall identify the Missoula memorial rose garden on official state maps as a state
16 veterans' memorial rose garden."

17

18 **Section 5.** Section 2-15-104, MCA, is amended to read:

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

- 23 (a) department of administration;
- 24 (b) department of military affairs;
- 25 (c) department of revenue;
- 26 (d) state board of education;
- 27 (e) department of labor and industry;
- 28 ~~(f) department of commerce;~~
- 29 ~~(g)~~(f) department of justice;
- 30 ~~(h)~~(g) department of public health and human services;

- 1 ~~(h)~~(h) department of corrections;
- 2 ~~(i)~~(i) department of transportation;
- 3 ~~(j)~~(j) department of public service regulation;
- 4 ~~(k)~~(k) department of agriculture;
- 5 ~~(l)~~(l) department of livestock;
- 6 ~~(m)~~(m) department of natural resources and conservation;
- 7 ~~(n)~~(n) department of fish, wildlife, and parks;
- 8 ~~(o)~~(o) department of environmental quality.

9 (2) For its internal structure, each department shall adhere to the following standard terms:

- 10 (a) The principal unit of a department is a division. Each division is headed by an administrator.
- 11 (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.
- 12 (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

13

14 **Section 6.** Section 2-15-149, MCA, is amended to read:

15 **"2-15-149. Naming of sites and geographic features -- replacement of word "squaw" -- advisory**

16 **group.** (1) The coordinator of Indian affairs shall appoint an advisory group that will serve on a volunteer basis
17 to consult with local agencies, organizations, and individuals in developing names to replace present site or
18 geographic names that contain the word "squaw".

19 (2) Each agency of state government that owns or manages public land in the state shall identify any
20 features or places under its jurisdiction that contain the word "squaw" and inform the advisory group of the
21 agency's identification of features or places containing that word. The agency shall ensure that whenever the
22 agency updates a map or replaces a sign, interpretive marker, or any other marker because of wear or
23 vandalism, the word "squaw" is removed and replaced with the name chosen by the advisory group.

24 (3) The advisory group shall:

25 (a) notify the U.S. forest service, the Montana ~~departments of commerce and~~ department of natural
26 resources and conservation, and any other entity that compiles information for and develops maps for the state
27 or for public use of the name change so that it may be reflected on subsequent editions of any maps or
28 informational literature produced by those entities; and

29 (b) place a formal request with the United States board on geographic names to render a decision on
30 the proposed name change so that the new name will be reflected on all United States board on geographic

1 names maps."

2

3 **Section 7.** Section 2-15-1808, MCA, is amended to read:

4 **"2-15-1808. Board of investments -- allocation -- composition -- quasi-judicial.** (1) There is a board
5 of investments within the department ~~of commerce~~ administration.

6 (2) Except as otherwise provided in this subsection, the board is allocated to the department for
7 administrative purposes as prescribed in 2-15-121. The board may employ a chief investment officer and an
8 executive director who have general responsibility for selection and management of the board's staff and for
9 direct investment and economic development activities. The board shall prescribe the duties and annual salaries
10 of the chief investment officer, executive director, and six professional staff positions. The chief investment
11 officer, executive director, and six professional staff serve at the pleasure of the board.

12 (3) The board is composed of nine members appointed by the governor as prescribed in 2-15-124. The
13 members are:

14 (a) one member from the public employees' retirement board, provided for in 2-15-1009, and one
15 member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member
16 of the retirement board, the position of that member on the board of investments is vacant, and the governor
17 shall fill the vacancy in accordance with 2-15-124.

18 (b) seven members who will provide a balance of professional expertise and public interest and
19 accountability, who are informed and experienced in the subject of investments, and who are representative of:

20 (i) the financial community;

21 (ii) small business;

22 (iii) agriculture; and

23 (iv) labor.

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

25

26 **Section 8.** Section 2-15-1814, MCA, is amended to read:

27 **"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial.** (1) There is a board of
28 housing.

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

1 (3) The board shall elect a ~~chairman~~ presiding officer and other necessary officers.

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

3 (5) The board is allocated to the department of ~~commerce~~ administration for administrative purposes
4 only as provided in 2-15-121.

5 (6) In compliance with the state pay plan, the department shall provide all staff and services to the board
6 as are determined by the board in conjunction with the department to be necessary for the purposes of carrying
7 out the board's programs. The department shall assess the board for reasonable costs.

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

11

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

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

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

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

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

23

24 **Section 10.** Section 2-15-1816, MCA, is amended to read:

25 **"2-15-1816. Tourism advisory council.** (1) There is created a tourism advisory council.

26 (2) The council is composed of not less than 12 members appointed by the governor from Montana's
27 private sector travel industry and includes at least one member from Indian tribal governments, with
28 representation from each tourism region initially established by executive order of the governor and as may be
29 modified by the council under subsection (5).

30 (3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion

1 of the governor. The governor shall designate four of the initial members to serve 1-year terms and four of the
2 initial members to serve 2-year terms.

3 (4) The council shall:

4 (a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion and
5 to nonprofit convention and visitors bureaus in accordance with Title 15, chapter 65, part 1, and this section;

6 (b) advise the department of ~~commerce~~ transportation relative to tourism promotion;

7 (c) advise the governor on significant matters relative to Montana's travel industry;

8 (d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used
9 by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;

10 (e) direct the university system regarding Montana travel research;

11 (f) approve all travel research programs prior to their being undertaken; and

12 (g) encourage regional nonprofit tourism corporations to promote tourist activities on Indian reservations
13 in their regions.

14 (5) The council may modify the tourism regions established by executive order of the governor.

15 (6) The department of ~~commerce~~ transportation shall adopt such rules ~~as may be necessary~~ to
16 implement and administer Title 15, chapter 65, part 1, and this section."

17

18 **Section 11.** Section 2-15-1819, MCA, is amended to read:

19 **"2-15-1819. Board of research and commercialization technology.** (1) There is a Montana board
20 of research and commercialization technology.

21 (2) The board consists of six members. One member must be appointed by the president of the senate,
22 one member must be appointed by the minority leader of the senate, one member must be appointed by the
23 speaker of the house, one member must be appointed by the minority leader of the house, and two members
24 must be appointed by the governor. One of the members appointed by the governor must be an enrolled
25 member of a Montana tribal government.

26 (3) A member who ceases to live in the state is disqualified from membership, and the position becomes
27 vacant. If a vacancy occurs, the position must be filled in the manner of the original appointment.

28 (4) The board shall hire an executive director and shall prescribe the executive director's salary and
29 duties.

30 (5) (a) The board is a quasi-judicial entity subject to the provisions of 2-15-124, except that none of the

1 members are required to be licensed to practice law in the state.

2 (b) The board shall elect a presiding officer from among its members at an annual election. The
3 presiding officer may be reelected.

4 (c) Except for the original appointments, members shall serve 2-year terms.

5 (6) The board is attached to the ~~department of commerce~~ office of the governor for administrative
6 purposes only."

7

8 **Section 12.** Section 2-15-1821, MCA, is amended to read:

9 **"2-15-1821. Coal board -- allocation -- composition.** (1) There is a coal board composed of seven
10 members.

11 (2) The coal board is allocated to the department of ~~commerce~~ administration for administrative
12 purposes only as prescribed in 2-15-121.

13 (3) The governor shall appoint a seven-member coal board, as provided under 2-15-124.

14 (4) (a) The members of the coal board are selected as follows:

15 (i) two from the impact areas;

16 (ii) two with expertise in education; and

17 (iii) at least one but not more than two from each district provided for in 5-1-102.

18 (b) The governor shall further, in making these appointments, consider people from these fields:

19 (i) business;

20 (ii) engineering;

21 (iii) public administration; and

22 (iv) planning."

23

24 **Section 13.** Section 2-15-3015, MCA, is amended to read:

25 **"2-15-3015. Montana agriculture development council.** (1) There is a Montana agriculture
26 development council. The council is allocated to the department of agriculture for administrative purposes only,
27 as provided in 2-15-121.

28 (2) The council is composed of ~~seven~~ six members appointed by the governor, including the director
29 of the department of agriculture, ~~the director of the department of commerce~~, and five members who are or have
30 been actively engaged in agriculture. Members shall serve staggered 3-year terms commencing on July 1 of

1 each year of appointment."

2

3 **Section 14.** Section 2-15-3308, MCA, is amended to read:

4 **"2-15-3308. Drought advisory committee.** (1) There is a drought advisory committee in the
5 department of natural resources and conservation.

6 (2) The drought advisory committee is chaired by a representative of the governor and consists of
7 representatives of the departments of natural resources and conservation; agriculture; ~~commerce~~; fish, wildlife,
8 and parks; military affairs; environmental quality; and livestock. The governor's representative must be appointed
9 by the governor, and the representative of each department must be appointed by the head of that department.
10 Additional, nonvoting members who represent drought-affected federal and local government agencies and
11 public and private interests may also be appointed by the governor.

12 (3) The drought advisory committee shall:

13 (a) with the approval of the governor, develop and implement a state drought plan;

14 (b) review and report drought monitoring information to the public;

15 (c) coordinate timely drought impact assessments;

16 (d) identify areas of the state with a high probability of drought and target reporting and assistance
17 efforts to those areas;

18 (e) upon request, assist in organizing local drought advisory committees for the areas identified under
19 subsection (3)(d);

20 (f) request state agency staff to provide technical assistance to local drought advisory committees; and

21 (g) promote ideas and activities for groups and individuals to consider that may reduce drought
22 vulnerability.

23 (4) The drought advisory committee shall meet, at a minimum, on or around October 15 and March 15
24 of each year to assess moisture conditions and, as appropriate, begin preparations for drought mitigation.

25 (5) By April 15 of each year, the drought advisory committee shall submit a report to the governor
26 describing the potential for drought in the coming year. If the potential for drought merits additional activity by
27 the drought advisory committee, the report must also describe:

28 (a) activities to be taken by the drought advisory committee for informing the public about the potential
29 for drought;

30 (b) a schedule for completing activities;

1 (c) geographic areas for which the creation of local drought advisory committees will be suggested to
2 local governments and citizens; and

3 (d) requests for the use of any available state resources that may be necessary to prevent or minimize
4 drought impacts.

5 (6) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the
6 governor or the division of disaster and emergency services for disaster coordination and emergency response,
7 as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought advisory committee
8 supplement and are consistent with those of the division of disaster and emergency services for drought
9 planning, preparation, coordination, and mitigation."

10

11 **Section 15.** Section 2-17-512, MCA, is amended to read:

12 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
13 planning and program responsibilities for information technology for state government. The department:

14 (a) shall encourage and foster the development of new and innovative information technology within
15 state government;

16 (b) shall promote, coordinate, and approve the development and sharing of shared information
17 technology application software, management systems, and information that provide similar functions for multiple
18 state agencies;

19 (c) shall cooperate with the ~~department of commerce~~ governor's office of economic development to
20 promote economic development initiatives based on information technology;

21 (d) shall establish and enforce a state strategic information technology plan as provided for in 2-17-521;

22 (e) shall establish and enforce statewide information technology policies and standards;

23 (f) shall review and approve state agency information technology plans provided for in 2-17-523;

24 (g) shall coordinate with the office of budget and program planning to evaluate budget requests that
25 include information technology resources. The department shall make recommendations to the office of budget
26 and program planning for the approval or disapproval of information technology budget requests. An unfavorable
27 recommendation must be based on a determination that the request is not provided for in the approved agency
28 information technology plan provided for in 2-17-523.

29 (h) shall staff the information technology board provided for in 2-15-1021;

30 (i) shall fund the administrative costs of the information technology board provided for in 2-15-1021;

- 1 (j) shall review the use of information technology resources for all state agencies;
- 2 (k) shall review and approve state agency specifications and procurement methods for the acquisition
3 of information technology resources;
- 4 (l) shall review, approve, and sign all state agency contracts and shall review and approve other formal
5 agreements for information technology resources provided by the private sector and other government entities;
- 6 (m) shall operate and maintain a central computer center for the use of state government, political
7 subdivisions, and other participating entities under terms and conditions established by the department;
- 8 (n) shall operate and maintain a statewide telecommunications network for the use of state government,
9 political subdivisions, and other participating entities under terms and conditions established by the department;
- 10 (o) shall ensure that the statewide telecommunications network is properly maintained. The department
11 may establish a centralized maintenance program for the statewide telecommunications network.
- 12 (p) shall coordinate public safety communications on behalf of all state agencies as provided for in
13 2-17-541 through 2-17-543;
- 14 (q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
- 15 (r) shall provide electronic access to information and services of the state as provided for in 2-17-532;
- 16 (s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative
17 to state and interstate information technology matters;
- 18 (t) shall establish rates and other charges for services provided by the department;
- 19 (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations
20 for any purpose of this section;
- 21 (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment
22 of the department, the disposal best promotes the purposes for which the department is established;
- 23 (w) shall implement this part and all other laws for the use of information technology in state
24 government;
- 25 (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided
26 in 5-11-210 on the information technology activities of the department; and
- 27 (y) shall represent the state with public and private entities on matters of information technology.
- 28 (2) If it is in the state's best interest, the department may contract with qualified private organizations,
29 foundations, or individuals to carry out the purposes of this section.
- 30 (3) The director of the department shall appoint the chief information officer to assist in carrying out the

1 department's information technology duties."

2

3 **Section 16.** Section 2-17-1105, MCA, is amended to read:

4 **"2-17-1105. Electronic government advisory council.** (1) There is an electronic government advisory
5 council. The council consists of the following members:

6 (a) the director of the department, who serves as presiding officer;

7 (b) the secretary of state or the secretary of state's designee;

8 (c) the attorney general or the attorney general's designee;

9 ~~(d) the director of the department of commerce or the director's designee;~~

10 ~~(e)~~(d) the director of the department of revenue or the director's designee;

11 ~~(f)~~(e) the state librarian or the state librarian's designee;

12 ~~(g)~~(f) a member of the house of representatives, appointed by the speaker of the house;

13 ~~(h)~~(g) a member of the senate, appointed by the president of the senate;

14 ~~(i)~~(h) an elected local government official, appointed by the governor;

15 ~~(j)~~(i) two representatives from state agencies that are not represented on the council, appointed by the
16 governor;

17 ~~(k)~~(j) two members of the public, appointed by the governor; and

18 ~~(l)~~(k) the administrator of the information services division of the department.

19 (2) The advisory council shall:

20 (a) advise the department with regard to the creation, management, and administration of electronic
21 government services and information on the internet;

22 (b) advise the department with regard to the administration of any electronic government services
23 contract;

24 (c) advise the department on the priority of government services to be provided electronically;

25 (d) advise the department on convenience fees, if needed, for any electronic government service;

26 (e) review and advise the department on financial reports, management reports, or other data as
27 requested by the department;

28 (f) prepare reports upon the request of the governor or the legislature regarding the growth,
29 performance, and use of electronic government services and other measurements that the advisory council
30 considers necessary to implement and enhance the functioning of electronic government services;

1 (g) assist in identifying, evaluating, and prioritizing potential departmental and interagency electronic
2 government services;

3 (h) serve as a central coordination point for electronic government services provided by the department
4 or other state agencies; and

5 (i) study, propose, develop, or coordinate any other activity in furtherance of electronic government
6 services as requested by the governor or the legislature.

7 (3) Each member of the advisory council shall serve a 2-year term and may be reappointed.

8 (4) Vacancies on the advisory council must be filled in the same manner as the original appointment,
9 and the person appointed to fill the vacancy is appointed for the remainder of the unexpired term.

10 (5) Members of the advisory council who are not state employees are reimbursed and compensated
11 as provided in 2-15-124. Members who are state employees are not entitled to compensation but are entitled
12 to be reimbursed for expenses as provided in Title 2, chapter 18, part 5. Legislative members of the advisory
13 council are reimbursed and compensated as provided in 5-2-302. The department shall provide support to and
14 pay the expenses of the advisory council."
15

16 **Section 17.** Section 5-5-223, MCA, is amended to read:

17 **"5-5-223. (Temporary) Economic affairs interim committee.** (1) The economic affairs interim
18 committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions
19 for the following executive branch agencies and the entities attached to agencies for administrative purposes:

20 (a) department of agriculture;

21 ~~(b) department of commerce;~~

22 ~~(e)(b)~~ department of labor and industry;

23 ~~(d)(c)~~ department of livestock;

24 ~~(e)(d)~~ department of public service regulation;

25 ~~(f)(e)~~ office of the state auditor and insurance commissioner; and

26 ~~(g)(f)~~ office of economic development.

27 (2) The committee shall review the implementation and administration of the full cost accounting pilot
28 program and make recommendations for implementing a full cost accounting model for all state agencies.
29 (Terminates December 31, 2002--sec. 10, Ch. 489, L. 2001.)

30 **5-5-223. (Effective January 1, 2003) Economic affairs interim committee.** The economic affairs

1 interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring
 2 functions for the following executive branch agencies and the entities attached to agencies for administrative
 3 purposes:

- 4 (1) department of agriculture;
 5 ~~(2) department of commerce;~~
 6 ~~(3)(2)~~ department of labor and industry;
 7 ~~(4)(3)~~ department of livestock;
 8 ~~(5)(4)~~ department of public service regulation;
 9 ~~(6)(5)~~ office of the state auditor and insurance commissioner; and
 10 ~~(7)(6)~~ office of economic development."

11

12 **Section 18.** Section 7-1-4121, MCA, is amended to read:

13 **"7-1-4121. General definitions.** As used in 7-1-4121 through 7-1-4127 and 7-1-4129 through 7-1-4149,
 14 unless otherwise provided, the following definitions apply:

15 (1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of
 16 the government and limitations on the government.

17 (2) "Chief executive" means the elected executive in a government adopting the commission-executive
 18 form, the manager in a government adopting the commission-manager form, the chairman in a government
 19 adopting the commission-chairman form, the town chairman in a government adopting the town meeting form,
 20 the commission acting as a body in a government adopting the commission form, or the officer or officers
 21 designated in the charter in a government adopting a charter.

22 (3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

23 (4) "Employee" means a person other than an officer who is employed by a municipality.

24 (5) "Executive branch" means that part of the municipality, including departments, offices, and boards,
 25 charged with implementing actions approved and administering policies adopted by the governing body of the
 26 local government or performing the duties required by law.

27 (6) "Governing body" means the commission or town meeting legislative body established in the
 28 alternative form of local government.

29 (7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of
 30 comparison and is not enforceable as a regulation.

1 (8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the
2 governor or a statute adopted by the people of Montana through statutory initiative procedures.

3 (9) "Municipality" means an entity that incorporates as a city or town.

4 (10) "Office of the municipality" means the permanent location of the seat of government from which the
5 records administrator, or the office of the clerk of the governing body where one is appointed, carries out the
6 duties of the records administrator.

7 (11) "Officer" means a person holding a position with a municipality which is ordinarily filled by election
8 or, in those municipalities with a manager, the manager.

9 (12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the
10 jurisdiction of the local government.

11 (13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or
12 other representative, association, or other organized group.

13 (14) "Plan of government" means a certificate submitted by a governing body that documents the basic
14 form of government selected, including all applicable suboptions. The plan must establish the terms of all officers
15 and the number of commissioners, if any, to be elected.

16 (15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

17 (16) "Population" means the number of inhabitants as determined by an official federal, state, or local
18 census or official population estimate approved by the department of ~~commerce~~ administration.

19 (17) "Printed" means the act of reproducing a design on a surface by any process as defined by
20 1-1-203(3).

21 (18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or
22 office, or the Dominion of Canada or any provincial department or office or political subdivision.

23 (19) "Public property" means any property owned by a municipality or held in the name of a municipality
24 by any of the departments, boards, or authorities of the local government.

25 (20) "Real property" means lands, structures, buildings, and interests in land, including lands under water
26 and riparian rights, and all things and rights usually included within the term "real property", including not only
27 fee simple absolute but also all lesser interests such as easements, rights-of-way, uses, leases, licenses, and
28 all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real
29 property.

30 (21) "Reproduced" means the act of reproducing a design on any surface by any process.

1 (22) "Resolution" means a statement of policy by the governing body or an order by the governing body
2 that a specific action be taken.

3 (23) "Service" means an authorized function or activity performed by local government.

4 (24) "Structure" means the entire governmental organization through which a local government carries
5 out its duties, functions, and responsibilities."
6

7 **Section 19.** Section 7-6-611, MCA, is amended to read:

8 **"7-6-611. Role of department of administration.** (1) The department of administration shall prescribe
9 for all local governments:

10 (a) general methods and details of accounting in accordance with generally accepted accounting
11 principles as provided in 2-7-504;

12 (b) uniform internal and interim reporting systems as part of the uniform reporting systems provided for
13 in 2-7-503;

14 (c) the form of the annual financial report as provided in 2-7-503; and

15 (d) general methods and details of accounting for the annual financial report as provided in 2-7-513.

16 (2) Local governments shall file with the department of administration:

17 (a) an annual financial report within 6 months of the fiscal yearend; and

18 (b) an audit report within 12 months of the end of the audited period.

19 (3) The governing body of each county or municipality shall notify the department of administration in
20 writing, on a form prescribed by the department of ~~commerce~~ administration, of the creation, dissolution,
21 combination, or other legal alteration of any special purpose district within the county or municipality.

22 (4) Each special purpose district shall obtain a permanent mailing address and notify the department
23 of administration of the address and of any subsequent changes of the district's address."
24

25 **Section 20.** Section 7-6-1501, MCA, is amended to read:

26 **"7-6-1501. Resort tax -- definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions
27 apply:

28 (1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient
29 visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical
30 supplies and services, appliances, hardware supplies and tools, or any necessities of life.

1 (2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
2 maintenance purposes, whether or not prescribed by a physician.

3 (3) "Medicine" means substances sold for curative or remedial properties, including both physician
4 prescribed and over-the-counter medications.

5 (4) "Resort area" means an area that:

6 (a) is an unincorporated area and is a defined contiguous geographic area;

7 (b) has a population of less than 2,500 according to the most recent federal census or federal estimate;

8 (c) derives the major portion of its economic well-being from businesses catering to the recreational and
9 personal needs of persons traveling to or through the area for purposes not related to their income production;

10 and

11 (d) has been designated by the department of ~~commerce~~ administration as a resort area prior to its
12 establishment by the county commissioners as provided in 7-6-1508.

13 (5) "Resort community" means a community that:

14 (a) is an incorporated municipality;

15 (b) has a population of less than 5,500 according to the most recent federal census or federal estimate;

16 (c) derives the primary portion of its economic well-being related to current employment from
17 businesses catering to the recreational and personal needs of persons traveling to or through the municipality
18 for purposes not related to their income production; and

19 (d) has been designated by the department of ~~commerce~~ administration as a resort community."
20

21 **Section 21.** Section 15-1-121, MCA, is amended to read:

22 **"15-1-121. Entitlement share payment -- appropriation.** (1) The amount calculated pursuant to this
23 subsection is each local government's base entitlement share. The department shall estimate the total amount
24 of revenue that each local government received from the following sources for the fiscal year ending June 30,
25 2001:

26 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
27 584, Laws of 1999;

28 (b) vehicle and boat taxes and fees pursuant to:

29 (i) Title 23, chapter 2, part 5;

30 (ii) Title 23, chapter 2, part 6;

- 1 (iii) Title 23, chapter 2, part 8;
2 (iv) 61-3-321;
3 (v) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
4 of 61-3-509 in 2001, and 61-3-537; and
5 (vi) Title 61, chapter 3, part 7;
6 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
7 (d) district court fees pursuant to:
8 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
9 (ii) 25-1-202;
10 (iii) 25-1-1103;
11 (iv) 25-9-506;
12 (v) 25-9-804; and
13 (vi) 27-9-103;
14 (e) certificate of ownership fees for manufactured homes pursuant to 15-1-116;
15 (f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
16 (g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
17 (h) all beer, liquor, and wine taxes pursuant to:
18 (i) 16-1-404;
19 (ii) 16-1-406; and
20 (iii) 16-1-411;
21 (i) late filing fees pursuant to 61-3-201;
22 (j) title and registration fees pursuant to 61-3-203;
23 (k) disabled veterans' flat license plate fees and purple heart license plate fees pursuant to 61-3-332;
24 (l) county personalized license plate fees pursuant to 61-3-406;
25 (m) special mobile equipment fees pursuant to 61-3-431;
26 (n) single movement permit fees pursuant to 61-4-310;
27 (o) state aeronautics fees pursuant to 67-3-101; and
28 (p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
29 chapter 1, part 5.
30 (2) (a) From the amounts estimated in subsection (1) for each county government, the department shall

1 deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court
2 expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by
3 the state in fiscal year 2002.

4 (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year
5 component. The sum of all local governments' base year components is the base year entitlement share pool.

6 (3) (a) Beginning with fiscal year 2002 and in each succeeding fiscal year, the base year entitlement
7 share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount
8 determined through the application of annual growth rates is the entitlement share pool for each fiscal year. For
9 fiscal years 2002 and 2003, the growth rate is 3%. Beginning with calendar year 2004, by October 1 of each
10 even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year
11 of the next biennium in the following manner:

12 (i) The department shall calculate the average annual growth rate of the Montana gross state product,
13 as published by the bureau of economic analysis of the United States department of commerce, for the following
14 periods:

15 (A) the last 4 calendar years for which the information has been published; and

16 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
17 subsection (3)(a)(i)(A).

18 (ii) The department shall calculate the average annual growth rate of Montana personal income, as
19 published by the bureau of economic analysis of the United States department of commerce, for the following
20 periods:

21 (A) the last 4 calendar years for which the information has been published; and

22 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
23 subsection (3)(a)(ii)(A).

24 (b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the
25 first year of the biennium must be the following percentage of the average of the growth rates calculated in
26 subsections (3)(a)(i)(B) and (3)(a)(ii)(B):

27 (A) for counties, 54%;

28 (B) for consolidated local governments, 62%; and

29 (C) for incorporated cities and towns, 70%.

30 (ii) The entitlement share pool growth rate for the second year of the biennium must be the following

1 percentage of the average of the growth rates calculated in subsections (3)(a)(i)(A) and (3)(a)(ii)(A):

2 (A) for counties, 54%;

3 (B) for consolidated local governments, 62%; and

4 (C) for incorporated cities and towns, 70%.

5 (4) As used in this section, "local government" means a county, a consolidated local government, an
6 incorporated city, and an incorporated town. A local government does not include a tax increment financing
7 district provided for in subsection (6). For purposes of calculating the base year component for a county or
8 consolidated local government, the department shall include the revenue listed in subsection (1) for all special
9 districts within the county or consolidated local government. The county or consolidated local government is
10 responsible for making an allocation from the county's or consolidated local government's share of the
11 entitlement share pool to each special district within the county or consolidated local government in a manner
12 that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

13 (5) (a) The entitlement share pools calculated in this section and the block grants provided for in
14 subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for
15 distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement
16 share pool based on the local government's base component in relation to the base year entitlement share pool.
17 The distributions must be made on a quarterly basis beginning September 15, 2001.

18 (b) (i) For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement
19 share pool and the base year entitlement share pool. For fiscal year 2003 and each succeeding fiscal year, the
20 growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement
21 share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately
22 for:

23 (A) counties;

24 (B) consolidated local governments; and

25 (C) incorporated cities and towns.

26 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

27 (A) 50% of the growth amount must be allocated based upon each county's percentage of the base year
28 entitlement share pool for all counties; and

29 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
30 population bears to the state population not residing within consolidated local governments as determined by

1 the latest interim year population estimates from the Montana department of ~~commerce~~ administration as
2 supplied by the United States bureau of the census.

3 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
4 follows:

5 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
6 percentage of the base year entitlement share pool for all consolidated local governments; and

7 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated
8 local government's population bears to the state's total population residing within consolidated local governments
9 as determined by the latest interim year population estimates from the Montana department of ~~commerce~~
10 administration as supplied by the United States bureau of the census.

11 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

12 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
13 percentage of the base year entitlement share pool for all incorporated cities and towns; and

14 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
15 population bears to the state's total population residing within incorporated cities and towns as determined by
16 the latest interim year population estimates from the Montana department of ~~commerce~~ administration as
17 supplied by the United States bureau of the census.

18 (v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount
19 is distributed to each local government in the same manner as the entitlement share pool was distributed in the
20 prior fiscal year.

21 (vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be
22 added to each county government's distribution from the entitlement share pool.

23 (6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30,
24 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing
25 district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b)
26 terminates.

27 (b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and
28 the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment
29 financing districts is as follows:

| | | |
|------------|------------------------|-----------|
| 30 Cascade | Great Falls - downtown | \$468,966 |
|------------|------------------------|-----------|

| | | | |
|----|-----------------|------------------------|-----------|
| 1 | Deer Lodge | TIF District | 3,148 |
| 2 | Deer Lodge | TIF District 2 | 3,126 |
| 3 | Flathead | Kalispell - District 1 | 758,359 |
| 4 | Flathead | Kalispell - District 2 | 5,153 |
| 5 | Flathead | Kalispell - District 3 | 41,368 |
| 6 | Flathead | Whitefish District | 164,660 |
| 7 | Gallatin | Bozeman - downtown | 34,620 |
| 8 | Lewis and Clark | Helena - # 2 | 731,614 |
| 9 | Missoula | Missoula - 1-1B & 1-1C | 1,100,507 |
| 10 | Missoula | Missoula - 4-1C | 33,343 |
| 11 | Silver Bow | Butte - uptown | 283,801 |
| 12 | Yellowstone | Billings | 436,815 |

13 (c) The entitlement share for industrial tax increment financing districts is as follows:

14 (i) for fiscal years 2002 and 2003:

| | | | |
|----|------------|---------------------------|----------|
| 15 | Missoula | County Airport Industrial | \$4,812 |
| 16 | Silver Bow | Ramsay Industrial | 597,594; |

17 (ii) for fiscal years 2004 and 2005:

| | | | |
|----|------------|---------------------------|--------------|
| 18 | Missoula | County Airport Industrial | \$2,406 |
| 19 | Silver Bow | Ramsay Industrial | 298,797; and |

20 (iii) \$0 for all succeeding fiscal years.

21 (d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c)
 22 may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a
 23 guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the
 24 tax increment financing industrial district.

25 (e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other
 26 half must be made in December of each year.

27 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local
 28 governments do not include revenue received from countywide transportation block grants or from countywide
 29 retirement block grants.

30 (8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if

1 the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.

2 (9) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly
3 reduced, except through legislative action, the department shall deduct the amount of revenue loss from the
4 entitlement share pool beginning in the succeeding fiscal year and the department shall work with local
5 governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of
6 revenue.

7 (b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of
8 revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

9 (10) A three-fifths vote of each house is required to reduce the amount of the entitlement share
10 calculated pursuant to subsections (1) through (3).

11 (11) When there has been an underpayment of a local government's share of the entitlement share pool,
12 the department shall distribute the difference between the underpayment and the correct amount of the
13 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
14 government shall remit the overpaid amount to the department.

15 (12) A local government may appeal the department's estimation of the base year component, the
16 entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according
17 to the uniform dispute review procedure in 15-1-211."

18

19 **Section 22.** Section 15-35-108, MCA, is amended to read:

20 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter
21 must, in accordance with the provisions of 15-1-501, be allocated as follows:

22 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
23 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
24 17-6-203(6) and invested by the board of investments as provided by law.

25 (2) Twelve percent of coal severance tax collections is allocated to the long-range building program
26 account established in 17-7-205.

27 (3) The amount of 8.36% must be credited to an account in the state special revenue fund to be
28 allocated by the legislature for local impacts, county land planning, provision of basic library services for the
29 residents of all counties through library federations and for payment of the costs of participating in regional and
30 national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of

1 the allocation may be made only from this account. Money may not be transferred from this account to another
 2 account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be
 3 deposited in the general fund.

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

8 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
 9 resource loan debt service fund.

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

14 (7) (a) Subject to subsections (7)(b) and (7)(c), all other revenue from severance taxes collected under
 15 the provisions of this chapter must be credited to the general fund of the state.

16 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited
 17 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

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

20 (iii) to the ~~department of commerce~~ office of economic development;

21 (A) \$125,000 for a small business development center;

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

23 (C) \$425,000 for certified communities;

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

25 ~~and~~

26 (E) \$300,000 for export trade enhancement; and

27 ~~(iv)(F)~~ \$350,000 to the office of economic development for business recruitment and retention; and

28 ~~(iv)~~ (iv) \$600,000 to the department of administration for the purpose of reimbursing tax increment

29 financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a
 30 proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by

1 the department of revenue. This documentation must be provided to the budget director and to the legislative
2 fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that
3 the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an
4 owner of property within the district.

5 (c) Beginning July 1, 2001, there is transferred annually from the interest income referred to in
6 subsection (7)(b) \$4.85 million to the research and commercialization state special revenue account created in
7 90-3-1002. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000.)

8 **15-35-108. (Effective July 1, 2005) Disposal of severance taxes.** Severance taxes collected under
9 this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

10 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
11 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
12 17-6-203(6) and invested by the board of investments as provided by law.

13 (2) Twelve percent of coal severance tax collections is allocated to the long-range building program
14 account established in 17-7-205.

15 (3) The amount of 8.36% must be credited to an account in the state special revenue fund to be
16 allocated by the legislature for local impacts, county land planning, provision of basic library services for the
17 residents of all counties through library federations and for payment of the costs of participating in regional and
18 national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of
19 the allocation may be made only from this account. Money may not be transferred from this account to another
20 account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be
21 deposited in the general fund.

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

26 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
27 resource loan debt service fund.

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

1 cultural and aesthetic projects.

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

4

5 **Section 23.** Section 15-53-201, MCA, is amended to read:

6 **"15-53-201. (Temporary) Advanced telecommunications infrastructure tax credit -- definitions.**

7 As used in this part, the following definitions apply:

8 (1) "Advanced telecommunications infrastructure" means high-speed, dedicated or switched, broadband
9 telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and
10 video telecommunications using any technology.

11 (2) "Department" means the department of ~~commerce~~ revenue.

12 (3) "Telecommunications services provider" means a provider of telecommunications services that is
13 registered with the state and owns or will construct advanced telecommunications infrastructure in this state.
14 (Terminates July 1, 2004--sec. 8, Ch. 534, L. 1999.)"

15

16 **Section 24.** Section 15-53-203, MCA, is amended to read:

17 **"15-53-203. (Temporary) Application to department -- competitive grants -- rulemaking.** (1) In order
18 to receive a credit against the tax imposed by part 1 of this chapter, a telecommunications services provider shall
19 apply to the department for consideration through a competitive grant program and certify that the proposed
20 advanced telecommunications infrastructure project provides for improved telecommunications services access
21 to a majority of customers in an unserved or underserved area and meets other requirements as established
22 by the department.

23 (2) The application to the department must include:

24 (a) a description of the advanced telecommunications infrastructure improvement project, including:

25 (i) expected costs and timelines for completing the project;

26 (ii) partnerships, consortiums, and interconnection agreements, if necessary, to complete the project;

27 and

28 (iii) the area in which the advanced telecommunications infrastructure improvements are to be installed
29 and the customers who will be served; and

30 (b) verification that the advanced telecommunications infrastructure improvements will contribute to

1 greater access to advanced telecommunications services and enhance existing telecommunications
2 infrastructure.

3 (3) The department shall adopt rules establishing a policy for granting telecommunications services
4 providers an infrastructure tax credit. The rules must consider whether the advanced telecommunications
5 infrastructure improvements:

6 (a) significantly enhance individual and business access to advanced telecommunications services at
7 an economically reasonable cost;

8 (b) promote the development and transition to a fully competitive telecommunications marketplace;

9 (c) improve public and private K-12, university, and library access to advanced telecommunications
10 services;

11 (d) are required to improve connections between communities in the state; and

12 (e) increase Montana health care systems' access to interactive telecommunications services.

13 ~~(4) When the department has determined which telecommunications services providers qualify under
14 the rules established in subsection (3), it shall notify the department of revenue of the telecommunications
15 services providers that are eligible to receive the tax credit pursuant to 15-53-202. (Terminates July 1, 2004--sec.
16 8, Ch. 534, L. 1999.)"~~

17

18 **Section 25.** Section 15-65-121, MCA, is amended to read:

19 **"15-65-121. (Temporary) Distribution of tax proceeds.** (1) The proceeds of the tax imposed by
20 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special
21 revenue fund to the credit of the department. The department may spend from that account in accordance with
22 an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing
23 the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of
24 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine
25 the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount
26 from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or
27 funds from which in-state lodging expenditures were paid by state agencies. The amount of \$400,000 each year
28 must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.
29 The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure
30 appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state

1 agencies, or deposited in the heritage preservation and development account is statutorily appropriated, as
2 provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of
3 the department of ~~commerce~~ transportation for tourism promotion and promotion of the state as a location for
4 the production of motion pictures and television commercials, to the Montana historical society, to the university
5 system, and to the department of fish, wildlife, and parks, as follows:

6 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
7 historical signs and historic sites;

8 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
9 program;

10 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
11 have both resident and nonresident use;

12 (d) 67.5% to be used directly by the department of ~~commerce~~ transportation; and

13 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
14 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
15 collected statewide; and

16 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort
17 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
18 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
19 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated
20 city-county, resort area, or resort area district.

21 (2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for
22 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
23 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
24 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district
25 is located.

26 (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing
27 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
28 may be used by the department of ~~commerce~~ transportation for tourism promotion and promotion of the state
29 as a location for the production of motion pictures and television commercials. (Terminates July 1, 2007--sec.
30 3, Ch. 469, L. 2001.)

1 **15-65-121. (Effective July 1, 2007) Distribution of tax proceeds.** (1) The proceeds of the tax imposed
2 by 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state
3 special revenue fund to the credit of the department. The department may spend from that account in
4 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting
5 and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the
6 provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall
7 determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of
8 that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in
9 the fund or funds from which in-state lodging expenditures were paid by state agencies. The balance of the tax
10 proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or
11 deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies is statutorily
12 appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund
13 to the credit of the department of ~~commerce~~ transportation for tourism promotion and promotion of the state as
14 a location for the production of motion pictures and television commercials, to the Montana historical society,
15 to the university system, and to the department of fish, wildlife, and parks, as follows:

16 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
17 historical signs and historic sites;

18 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
19 program;

20 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
21 have both resident and nonresident use;

22 (d) 67.5% to be used directly by the department of ~~commerce~~ transportation; and

23 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
24 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
25 collected statewide; and

26 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort
27 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
28 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
29 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated
30 city-county, resort area, or resort area district.

1 (2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for
2 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
3 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
4 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district
5 is located.

6 (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing
7 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
8 may be used by the department of ~~commerce~~ transportation for tourism promotion and promotion of the state
9 as a location for the production of motion pictures and television commercials."

10

11 **Section 26.** Section 15-70-101, MCA, is amended to read:

12 **"15-70-101. Disposition of funds.** (1) All taxes collected under this chapter must, in accordance with
13 the provisions of 15-1-501, be placed in a highway revenue account in the state special revenue fund to the
14 credit of the department of transportation. All interest and income earned on the account must be deposited to
15 the credit of the account and any unexpended balance in the account must remain in the account. Those funds
16 allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance
17 with the provisions of 15-1-501, be paid by the department of transportation from the state special revenue fund
18 to the cities, towns, counties, and consolidated city-county governments.

19 (2) The amount of \$16,766,000 of the taxes collected under this chapter is statutorily appropriated, as
20 provided in 17-7-502, to the department of transportation and must be allocated each fiscal year on a monthly
21 basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for
22 construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as
23 provided in subsections (2)(a) through (2)(c):

24 (a) The amount of \$100,000 must be designated for the purposes and functions of the Montana local
25 technical assistance transportation program in Bozeman.

26 (b) The amount of \$6,306,000 must be divided among the various counties in the following manner:

27 (i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system
28 and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway
29 system and the primary system;

30 (ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears

1 to the total rural population in the state outside incorporated cities and towns;

2 (iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

3 (c) The amount of \$10,360,000 must be divided among the incorporated cities and towns in the
4 following manner:

5 (i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears
6 to the total population within corporate limits of all the cities and towns in Montana;

7 (ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway
8 system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of
9 the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

10 (3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated
11 city-county government, each entity must be considered to have separate city and county boundaries. The city
12 limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on
13 the location of the urban area have been approved by the department of transportation and must be used to
14 determine city and county populations and road mileages in the following manner:

15 (i) Percentage factors must be calculated to determine separate populations for the city and rural county
16 by using the last official decennial federal census population figures that recognized an incorporated city and
17 the rural county. The factors must be based on the ratio of the city to the rural county population, considering
18 the total population in the county minus the population of any other incorporated city or town in the county.

19 (ii) The city and county populations must be calculated by multiplying the total county population, as
20 determined by the latest official decennial census or the latest interim year population estimates from the
21 Montana department of ~~commerce~~ administration as supplied by the United States bureau of the census, minus
22 the population of any other incorporated city or town in that county, by the factors established in subsection
23 (3)(a)(i).

24 (b) The amount allocated by this method for the city and the county must be combined, and single
25 monthly payments must be made to the consolidated city-county government.

26 (4) All funds allocated by this section to counties, cities, towns, and consolidated city-county
27 governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city
28 or town streets and alleys or for the share that the city, town, county, or consolidated city-county government
29 might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or
30 streets that are part of the primary or secondary highway system or urban extensions to those systems. The

1 governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25%
 2 of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be
 3 used for the maintenance and repair of town or third-class city streets and alleys.

4 (5) All funds allocated by this section to counties, cities, towns, and consolidated city-county
 5 governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures
 6 followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess
 7 of \$4,000.

8 (6) For the purposes of this section in which distribution of funds is made on a basis related to
 9 population, the population must be determined annually for counties and biennially for cities according to the
 10 latest official decennial census or the latest interim year population estimates from the Montana department of
 11 ~~commerce~~ administration as supplied by the United States bureau of the census.

12 (7) For the purposes of this section in which determination of mileage is necessary for distribution of
 13 funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to furnish
 14 to the department of transportation a yearly certified statement indicating the total mileage within their respective
 15 areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of
 16 transportation.

17 (8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this section
 18 may not be used for the purchase of capital equipment.

19 (9) Funds authorized by this section must be used for construction and maintenance programs."
 20

21 **Section 27.** Section 16-4-420, MCA, is amended to read:

22 **"16-4-420. Restaurant beer and wine license.** (1) The department shall issue a restaurant beer and
 23 wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the
 24 requirements of this section, meets the following qualifications and conditions:

25 (a) in the case of an individual applicant:

26 (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
 27 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
 28 with all applicable laws of the state and local governments; and

29 (ii) the applicant is not under 19 years of age;

30 (b) in the case of a corporate applicant:

1 (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board
2 of directors must meet the requirements of subsection (1)(a);

3 (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of
4 the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

5 (iii) the corporation is authorized to do business in Montana;

6 (c) in the case of any other business entity, including but not limited to partnerships, including limited
7 liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

8 (i) if the applicant consists of more than one individual, all individuals must meet the requirements of
9 subsection (1)(a); and

10 (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock
11 exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock
12 exchange must meet the requirements of subsection (1)(b)(ii);

13 (d) the applicant operates a restaurant at the location where the restaurant beer and wine license will
14 be used or satisfies the department that:

15 (i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and
16 intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of
17 operation is expected to be the result of the sale of food;

18 (ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the
19 restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be
20 stated on the food bill; and

21 (iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the
22 department by rule;

23 (e) the applicant understands and acknowledges in writing on the application that this license prohibits
24 the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines
25 and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine
26 license will be used, the activity must be discontinued or the machines must be removed before the restaurant
27 beer and wine license takes effect; and

28 (f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current
29 seating capacity if the restaurant is operating.

30 (2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic

1 beverage may not be considered for a restaurant beer and wine license at the same location.

2 (b) A restaurant that sells its existing retail license may not apply for a license under this section for a
3 period of 1 year from the date that license is transferred to a new purchaser.

4 (3) (a) A completed application for a license under this section and the appropriate application fee, as
5 provided in subsection (11), must be submitted to the department. The department shall request that the
6 department of justice make an investigation of all the items relating to the application as described in
7 subsections (3)(a)(i) through (3)(a)(iv). Based on the results of the investigation or in exercising its sound
8 discretion, the department shall determine whether:

9 (i) the applicant is qualified to receive a license;

10 (ii) the applicant's premises are suitable for the carrying on of the business;

11 (iii) the requirements of this code and the rules promulgated by the department are met and complied
12 with; and

13 (iv) the seating capacity as stated on the application is correct.

14 (b) The department may retain 20% of the application fee collected under subsection (11) to defray the
15 costs of the department and department of justice associated with investigating and processing applications.

16 (4) An application for a beer and wine license submitted under this section is subject to the provisions
17 of 16-4-203, 16-4-207, and 16-4-405.

18 (5) If a premises proposed for licensing under this section is a new or remodeled structure, then the
19 department may issue a conditional license prior to completion of the premises based on reasonable evidence,
20 including a statement from the applicant's architect or contractor confirming that the seating capacity stated on
21 the application is correct, that the premises will be suitable for the carrying on of business as a bona fide
22 restaurant, as defined in subsection (6).

23 (6) For purposes of this section, "restaurant" means a public eating place where individually priced
24 meals are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross
25 income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year
26 after a license is issued, the applicant shall file with the department a statement, in a form approved by the
27 department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from
28 the sale of food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees
29 necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space
30 is intended for use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening

1 dinner meal.

2 (7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be
3 transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if
4 there is no change of location, and the original owner may transfer location after the license is issued by the
5 department to a new location, upon approval by the department.

6 (ii) A new owner may not transfer the license to a new location for a period of 1 year following the
7 transfer of the license to the new owner.

8 (b) A license issued under this section may be jointly owned, and the license may pass to the surviving
9 joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person
10 or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property
11 upon the death of the owner in this state or in another state.

12 (c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of
13 the department, transfer a restaurant beer and wine license to a new owner.

14 (8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

15 (i) for a restaurant located in a quota area with a population of 20,000 persons or fewer, as the quota
16 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that
17 quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area
18 pursuant to 16-4-105;

19 (ii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota
20 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that
21 quota area is equal to or less than 50% of the number of beer licenses that may be issued in that quota area
22 pursuant to 16-4-105;

23 (iii) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota
24 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that
25 quota area is equal to or less than 40% of the number of beer licenses that may be issued in that quota area
26 pursuant to 16-4-105; and

27 (iv) for a restaurant located in a quota area that is also a resort community, as the resort community is
28 designated by the department of ~~commerce~~ administration under 7-6-1501(5), if the number of restaurant beer
29 and wine licenses issued in the quota area that is also a resort community is equal to or less than 100% of the
30 number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

1 (b) In determining the number of restaurant beer and wine licenses that may be issued under this
2 subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(iii), the
3 department shall round to the nearer whole number.

4 (c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota
5 area under subsections (8)(a)(i) through (8)(a)(iii), there must be a one-time adjustment of one additional license
6 for that quota area.

7 (d) If there are more applicants than licenses available in a quota area, then the license must be
8 awarded by lottery as provided in subsection (9).

9 (9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses
10 under this section or as the result of an increase in the population in the quota area, the nonrenewal of a
11 restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department
12 shall advertise the availability of the license in the quota area for which it is available. If there are more applicants
13 than number of licenses available, the license must be awarded to an applicant by a lottery.

14 (b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least
15 12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery
16 applicants from previous selections must also be given a preference. An applicant with both preferences must
17 be awarded a license before any applicant with only one preference.

18 (c) The department shall numerically rank all applicants in the lottery. Only the successful applicants
19 will be required to submit a completed application and a one-time required fee. An applicant's ranking may not
20 be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the
21 intended license advertised by the department or to the number of licenses determined under subsection (8)
22 when there are more applicants than licenses available. The applicant's qualifications for any other restaurant
23 beer and wine license awarded by lottery must be determined at the time of the lottery.

24 (10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises
25 consumption.

26 (11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20%
27 of the initial licensing fee. If the department does not make a decision either granting or denying the license
28 within 4 months of receipt of a complete application, the department shall pay interest on the application fee at
29 the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any
30 period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or

1 16-4-207. If the department denies issuing a license to an applicant, the application fee, plus any interest, less
2 a \$100 processing fee, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay
3 the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the
4 following schedule:

5 (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

6 (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

7 (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

8 (12) The annual fee for a restaurant beer and wine license is \$400.

9 (13) If a restaurant licensed under this part increases the stated seating capacity of the licensed
10 restaurant or if the department determines that a licensee has increased the stated seating capacity of the
11 licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the
12 time of filing the original application and issuance of a license and the applicable fees for the additional seating.

13 (14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101
14 persons or more may not exceed 25% of the total licenses issued.

15 (15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming
16 or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a
17 restaurant beer and wine license."

18

19 **Section 28.** Section 17-2-405, MCA, is amended to read:

20 **"17-2-405. (Temporary) Full cost accounting pilot program -- duties of divisions, bureaus, units,**
21 **and programs -- cost factors -- reporting requirements.** (1) Beginning July 1, 2001, each division, bureau,
22 unit, or program listed in subsection (2) shall establish a full cost accounting model to determine the total cost
23 of providing services in-house, using the cost factors provided for in subsection (3).

24 (2) The following divisions, bureaus, units, or programs shall establish a full cost accounting model:

25 (a) central stores program within the department of administration;

26 (b) marketing unit of the travel promotion and development division within the department of ~~commerce~~
27 transportation;

28 (c) nursery program of the forestry division within the department of natural resources and conservation;

29 (d) plan and specification review program of the public water supply section within the department of
30 environmental quality;

- 1 (e) chemical dependency bureau within the department of public health and human services;
- 2 (f) motor pool unit within the department of transportation;
- 3 (g) state hail program and state grain laboratory bureau within the department of agriculture; and
- 4 (h) capitol grounds maintenance program within the department of fish, wildlife, and parks.
- 5 (3) The full cost accounting model must contain the following cost factors:
- 6 (a) direct costs, including but not limited to:
- 7 (i) employee wages, benefits, and pensions;
- 8 (ii) supplies and materials;
- 9 (iii) travel;
- 10 (iv) printing;
- 11 (v) rent;
- 12 (vi) utilities;
- 13 (vii) interest on capital items;
- 14 (viii) facility and equipment costs;
- 15 (ix) communications; and
- 16 (x) other costs expended for the exclusive benefit of the program; and
- 17 (b) indirect costs.
- 18 (4) Each division, bureau, unit, or program shall prepare and deliver a final report of its findings to the
- 19 committee, the legislative finance committee, and the legislative auditor no later than September 1, 2002. Each
- 20 report must contain:
- 21 (a) the true cost of providing a service or program;
- 22 (b) issues associated with implementing and administering a full cost accounting model;
- 23 (c) recommendations for changing the full cost accounting model to ensure the effective collection and
- 24 use of information; and
- 25 (d) any recommendation to privatize functions within the departments, which must be submitted for
- 26 review according to the provisions of Title 2, chapter 8, part 3. (Terminates December 31, 2002--sec. 10, Ch.
- 27 489, L. 2001.)"
- 28
- 29 **Section 29.** Section 17-5-1503, MCA, is amended to read:
- 30 **"17-5-1503. Definitions.** As used in this part, unless the context requires otherwise, the following

1 definitions apply:

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

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

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

6 ~~(4)(3)~~ "Finance" means to supply capital and, in the case of agricultural enterprises, to refinance a
7 project and project costs.

8 ~~(5)(4)~~ "Financial institution" means any bank, savings and loan association, credit union, development
9 credit corporation, insurance company, investment company, trust company, savings institution, or other financial
10 institution approved by the board.

11 ~~(6)(5)~~ "Local government" means the city in which the project is located, if the project is located within
12 an incorporated municipality, or the county if the project is located within the county but outside the boundaries
13 of an incorporated municipality.

14 ~~(7)(6)~~ "Major project" means a project whose cost or appraised value exceeds \$800,000.

15 (7) "Office" means the office of economic development provided for in 2-15-218.

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

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

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

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

20 (c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance ~~such~~
21 an acquisition or improvement;

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

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

26 (f) working capital for agricultural enterprise projects for a period not to exceed 1 year."
27

28 **Section 30.** Section 17-5-1508, MCA, is amended to read:

29 **"17-5-1508. Provisions of bond resolutions.** A resolution authorizing notes or bonds or any issue
30 ~~thereof~~ of notes or bonds may contain provisions, which must be a part of the contract or contracts with the

1 holders ~~thereof of the notes or bonds~~, as to:

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

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

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

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

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

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

16 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
17 amended or abrogated, the amount of notes or bonds the holders of which shall consent ~~thereto to the~~
18 amendment or abrogation, and the manner in which ~~such~~ consent may be given;

19 (8) a commitment to:

20 (a) employ adequate and competent personnel at reasonable compensation;

21 (b) ~~to~~ set salaries, fees, and charges as may be determined by the board in conjunction with the
22 department office; and

23 (c) ~~to~~ maintain suitable facilities and services for the purpose of carrying out its programs;

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

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

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

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Section 31. Section 17-5-1509, MCA, is amended to read:

"17-5-1509. Personal liability. The board and employees of the ~~department~~ office are not personally liable or accountable by reason of the issuance of or on any bond or note issued by the board."

Section 32. Section 17-5-1604, MCA, is amended to read:

"17-5-1604. Definitions. As used in this part, the following definitions apply:

- (1) "Board" means the board of investments created in 2-15-1808.
- (2) "Department" means the department of ~~commerce~~ administration created in ~~2-15-1804~~ 2-15-1001.
- (3) "Eligible government unit" means:
 - (a) any municipal corporation or political subdivision of the state, including without limitation any city, town, county, school district, authority as defined in 75-6-304, or other special taxing district or assessment or service district authorized by law to borrow money; or
 - (b) the state, any board, agency, or department of the state, or the board of regents of the Montana university system when authorized by law to borrow money.
- (4) "Reserve fund" means the municipal finance consolidation act reserve fund created in 17-5-1630."

Section 33. Section 17-6-302, MCA, is amended to read:

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

- (1) "Board" means the board of investments created in 2-15-1808.
- (2) "Capital company" means a Montana capital company created pursuant to Title 90, chapter 8.
- (3) "Clean and healthful environment" means an environment that is relatively free from pollution that threatens human health, including as a minimum, compliance with federal and state environmental and health standards.
- ~~(4) "Department" means the department of commerce provided for in 2-15-1801.~~
- ~~(5)~~(4) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal occupation is as an employee, officer, or partner of the enterprise.
- ~~(6)~~(5) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings

1 and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.

2 ~~(7)(6)~~ "Loan participation" means loans or portions of loans bought from a financial institution and does
3 not include the purchase of debentures issued by a capital company.

4 ~~(8)(7)~~ "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or
5 other ownership interests is owned and controlled by residents of Montana.

6 ~~(9)(8)~~ "Long-term benefit to the Montana economy" means an activity that strengthens the Montana
7 economy and that has the potential to maintain and create jobs, increase per capita income, or increase
8 Montana tax revenue in the future to the people of Montana, either directly or indirectly.

9 ~~(10)(9)~~ "Montana economy" means any business activity in the state of Montana, including those that
10 continue existing jobs or create new jobs in Montana.

11 ~~(11)(10)~~ "Service fees" means the fees normally charged by a financial institution for servicing a loan,
12 including amounts charged for collecting payments and remitting amounts to the fund."

13

14 **Section 34.** Section 17-6-403, MCA, is amended to read:

15 **"17-6-403. Definitions.** As used in this part, the following definitions apply:

16 (1) "Certified community lead organization" means an organization that has sponsored community
17 certification under the certified communities program of the ~~department~~ office.

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

20 (3) "Council" means the microbusiness advisory council established in 17-6-411.

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

22 ~~(5)(4)~~ "Development loan" means money loaned to a certified microbusiness development corporation
23 by the ~~department~~ office for the purpose of making microbusiness loans under the provisions of this part.

24 ~~(6)(5)~~ "Microbusiness development corporation" means a nonprofit corporation organized and existing
25 under the laws of the state to provide training, technical assistance, and access to capital for the startup or
26 expansion of qualified microbusinesses.

27 ~~(7)(6)~~ "Microbusiness loan" means a loan made from or guaranteed by a revolving loan fund contributed
28 to by the microbusiness finance program.

29 (7) "Office" means the office of economic development provided for in 2-15-218.

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

- 1 (9) "Qualified microbusiness" means a business enterprise located in the state that:
- 2 (a) produces goods or provides services and has fewer than 10 full-time equivalent employees and
- 3 annual gross revenues of less than \$500,000; or
- 4 (b) produces energy using an alternative renewable energy source as defined in 90-4-102.
- 5 (10) "Revolving loan fund" means a fund required to be established by a certified microbusiness
- 6 development corporation that receives a development loan."

7

8 **Section 35.** Section 17-6-406, MCA, is amended to read:

9 **"17-6-406. Microbusiness finance program -- powers and duties of department office.** There is

10 a microbusiness finance program administered by the department office. The department office shall adopt rules

11 to implement the provisions of this part, including but not limited to:

- 12 (1) establishing criteria and procedures for certifying microbusiness development corporations;
- 13 (2) establishing criteria and procedures to select from competing development loan applications and
- 14 to award development loans to certified microbusiness development corporations;
- 15 (3) establishing criteria and procedures to be followed by certified microbusiness development
- 16 corporations that administer revolving loan funds supported by the program;
- 17 (4) determining the amount and method of computation and payment of interest rates charged to
- 18 recipients of development loans and specifying amortization schedules and other terms and conditions for
- 19 development loans as may be necessary;
- 20 (5) establishing criteria for determining nonperformance and declaring default in the administration of
- 21 development loans and requiring the refund of defaulted development loan funds to the microbusiness
- 22 development loan account;
- 23 (6) establishing criteria for satisfactory performance in development loan administration to determine
- 24 eligibility for renewal of development loans or for additional development loans;
- 25 (7) establishing guidelines for maximum and minimum interest rates that may be charged by certified
- 26 microbusiness development corporations on microbusiness loans; and
- 27 (8) dividing the state into not more than 12 multicounty service regions within each of which not more
- 28 than one microbusiness development corporation may be funded at any time. However, a corporation that is
- 29 funded as a statewide microbusiness development corporation under 17-6-408 may offer specialized services
- 30 to constituents within regions [or within an Indian reservation] having a funded regional microbusiness

1 development corporation. (Bracketed language terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

2

3 **Section 36.** Section 17-6-407, MCA, is amended to read:

4 **"17-6-407. Microbusiness development loan account and finance program administrative account**
5 **-- criteria -- limitations.** (1) There is in the state special revenue fund a microbusiness development loan
6 account into which the funds appropriated pursuant to section 11, Chapter 602, Laws of 1991, money
7 appropriated pursuant to section 3, Chapter 413, Laws of 1995, and money received in repayment of the
8 principal of development loans must be deposited. The ~~department~~ office may make development loans from
9 the account to a certified microbusiness development corporation.

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

12 (a) all interest received on development loans received directly from microbusiness development
13 corporations;

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

15 (c) grants, donations, and private or public income.

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

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

22 (5) To establish the criteria for making development loans, the ~~department~~ office shall consider:

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

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

25 (c) the geographic representation of all regions of the state, including urban, rural[, and tribal]
26 communities;

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

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

30 (f) the ability of the corporation, with its plan, to:

- 1 (i) monitor and provide financial oversight of recipients of microbusiness loans;
- 2 (ii) administer a revolving loan fund; and
- 3 (iii) investigate and qualify financing proposals and to service credit accounts;
- 4 (g) sources and sufficiency of operating funds for the certified microbusiness development corporation;
- 5 and
- 6 (h) the intent of the corporation, with its plan and written indications of local institutional support, to
- 7 provide services to a designated multicounty region of the state.
- 8 (6) Development loan funds may be used by a certified microbusiness development corporation to:
- 9 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is
- 10 intended and used for the purpose of providing or enhancing the certified microbusiness development
- 11 corporation's ability to provide and administer loans, technical assistance, or management training to
- 12 microbusinesses;
- 13 (b) establish a revolving loan fund from which the certified microbusiness development corporation may
- 14 make loans to qualified microbusinesses, provided that a single loan does not exceed \$35,000 and the
- 15 outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness
- 16 or to two or more microbusinesses in which any one person holds more than a 20% equity share does not
- 17 exceed \$35,000;
- 18 (c) establish a guarantee fund from which the certified microbusiness development corporation may
- 19 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may
- 20 not exceed \$35,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more
- 21 than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20%
- 22 equity share may not exceed \$35,000.
- 23 (7) Development loan funds may not be:
- 24 (a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended
- 25 for use in production by the recipient of the loan; or
- 26 (b) used to:
- 27 (i) refinance a nonperforming loan held by a financial institution; or
- 28 (ii) pay the operating costs of a certified microbusiness development corporation. However, interest
- 29 income earned from the proceeds of a development loan may be used to pay operating expenses.
- 30 (8) Certified microbusiness development corporations are required to contribute cash from other

1 sources to leverage and secure development loans from the program. Contributions provided by the corporation
2 must be on a ratio of at least \$1 from other sources for each \$6 from the program. These contributions may
3 come from a public or private source other than the program and may be in the form of equity capital, loans, or
4 grants.

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

9 (10) Each certified microbusiness development corporation that receives a development loan under this
10 part shall provide the department office with an annual audit from an independent certified public accountant.
11 The audit must cover all of the microbusiness development corporation's activities and must include verification
12 of compliance with requirements specific to the microbusiness program.

13 (11) A certified microbusiness development corporation that is in default for nonperformance under rules
14 established by the department office may be required to refund the outstanding balance of development loans
15 awarded prior to the default declaration. A development loan is secured by a first lien on all funds and all
16 receivables administered under the authority of the microbusiness development act by the corporation receiving
17 the loan. (Bracketed language terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

18

19 **Section 37.** Section 17-6-408, MCA, is amended to read:

20 **"17-6-408. Certification of microbusiness development corporations.** The department office may
21 certify:

22 (1) a microbusiness development corporation when it determines that the corporation:

23 (a) has developed a viable plan for providing training, access to financing, and technical assistance for
24 qualified microbusinesses;

25 (b) has broad-based community support in a designated multicounty region of the state, as reflected,
26 for example, by the membership of its board of directors; and

27 (c) has an adequate source of operating capital; or

28 (2) a statewide microbusiness development corporation when the department office determines that
29 the corporation meets the conditions under subsections (1)(a) and (1)(c) and, in addition:

30 (a) has a viable plan to provide specialized services to constituents throughout the state [or within at

1 least four Indian reservations in Montana]; and

2 (b) does not preempt or duplicate efforts of microbusiness development corporations within local
3 communities. (Bracketed language terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

4

5 **Section 38.** Section 17-6-409, MCA, is amended to read:

6 **"17-6-409. Authority to accept funds -- funding authorization.** (1) The ~~department office~~ may accept
7 grants, donations, and other private and public income, including payments of interest on loans made by the
8 ~~department office~~ under the provisions of this part and fees charged by the ~~department office~~. The ~~department~~
9 ~~office~~ shall deposit all money received under this section in the microbusiness finance program administrative
10 account established in 17-6-407.

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

13

14 **Section 39.** Section 17-6-411, MCA, is amended to read:

15 **"17-6-411. Microbusiness advisory council -- appointment of members -- organization --**
16 **nonvoting legislative consulting panel.** (1) Subject to the provisions of subsection (5), there is a
17 microbusiness advisory council composed of 13 members appointed by the governor from a list of candidates
18 submitted by the ~~director of the department~~ chief business development officer after the ~~department office~~
19 provides by rule for a process of requesting and receiving nominations from the public. No more than seven of
20 the council members may live in the same congressional district as the congressional districts existed on
21 December 31, 1990. At least three members must be representatives of certified community lead organizations.
22 At least two of the three community representatives shall reside in communities with a population of less than
23 15,000. At least three members must be owners of qualified microbusinesses as defined in 17-6-403. At least
24 two members must have expertise in administering loan funds. The membership must include representation
25 of minorities, women, and low-income persons.

26 (2) Members shall serve 4-year terms. A member appointed to fill an unexpired term shall serve until
27 the term expires.

28 (3) The members of the council shall elect a presiding officer and other officers as they determine
29 necessary.

30 (4) The council shall meet at least once each quarter and more often as the presiding officer or a

1 majority of the members determine necessary.

2 (5) (a) There is a legislative consulting panel of four members. The panel:

3 (i) shall meet with the council, participate in deliberations of the council, and advise the council in
4 performance of its functions under subsection (7) but may not vote on any motion before the council; and

5 (ii) consists of:

6 (A) two representatives, including one from each party, appointed by the speaker of the house of
7 representatives; and

8 (B) two senators, including one from each party, appointed by the committee on committees.

9 (b) The members:

10 (i) must be appointed on or before the 10th day of each regular session of the legislature and shall serve
11 until the convening of the next regular session of the legislature. If a vacancy on the panel occurs during a
12 legislative interim, that vacancy must be filled in the same manner as the original appointment.

13 (ii) are entitled to compensation in the same manner as members of the council, as provided in
14 subsection (6).

15 (6) Members of the council are not entitled to compensation for their services except for reimbursement
16 of expenses as provided in 2-18-501 through 2-18-503.

17 (7) The function of the council is to advise the department office regarding the creation, operation, and
18 maintenance of the program and the policies and operations affecting the certified microbusiness development
19 corporations."

20

21 **Section 40.** Section 22-3-1002, MCA, is amended to read:

22 **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana
23 heritage preservation and development commission. The commission is attached to the Montana historical
24 society for administrative purposes. The commission consists of 14 members. The members shall broadly
25 represent the state. Nine members must be appointed by the governor, one member must be appointed by the
26 president of the senate, and one member must be appointed by the speaker of the house. The director of the
27 Montana historical society, the director of the department of fish, wildlife, and parks, and the director of the
28 department of ~~commerce~~ transportation shall serve as members.

29 (2) Of the members appointed by the governor:

30 (a) one member must have extensive experience in managing facilities that cater to the needs of

1 tourists;

2 (b) one member must have experience in community planning;

3 (c) one member must have experience in historic preservation;

4 (d) two members must have broad experience in business;

5 (e) one member must be a member of the tourism advisory council established in 2-15-1816;

6 (f) one member must be a Montana historian; and

7 (g) two members must be from the public at large.

8 (3) Except for the initial appointments, members appointed by the governor shall serve 3-year terms.

9 Legislative appointees shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an
10 appointment for the unexpired portion of the term.

11 (4) (a) The commission may employ:

12 (i) an executive director who has general responsibility for the selection and management of commission
13 staff, developing recommendations for the purchase of property, and overseeing the management of acquired
14 property;

15 (ii) a curator who is responsible for the display and preservation of the acquired property; and

16 (iii) other staff that the commission and the executive director determine are necessary to manage and
17 operate commission properties.

18 (b) The commission shall prescribe the duties and annual salary of the executive director, the curator,
19 and other commission staff."

20

21 **Section 41.** Section 23-5-631, MCA, is amended to read:

22 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**

23 -- **fee.** (1) The department shall examine and may approve a new video gambling machine or associated
24 equipment or a modification to an approved machine or associated equipment that is manufactured, sold, or
25 distributed for use in the state before the video gambling machine or associated equipment is sold, played, or
26 used. A licensed manufacturer or distributor may bring a video gambling machine or associated equipment
27 authorized by this chapter into the state for research and development on behalf of a licensed manufacturer prior
28 to submission of the machine or equipment to the department for approval.

29 (2) A video gambling machine or associated equipment or a modification to an approved machine or
30 associated equipment may not be examined or approved by the department until the video gambling machine

1 manufacturer is licensed as required in 23-5-625.

2 (3) All video gambling machines or associated equipment approved by the ~~department of commerce~~
3 state prior to October 1, 1989, must be considered approved under this part.

4 (4) The department shall require the manufacturer seeking the examination and approval of a new video
5 gambling machine or associated equipment or a modification to an approved machine or associated equipment
6 to pay the anticipated actual costs of the examination in advance and, after the completion of the examination,
7 shall refund overpayments or charge and collect amounts sufficient to reimburse the department for
8 underpayments of actual costs.

9 (5) Payments received under subsection (4) are statutorily appropriated to the department, as provided
10 in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment
11 and modifications to approved machines and associated equipment and to issue refunds for overpayments.

12 (6) The department may inspect and test and approve, disapprove, or place a condition upon a video
13 gambling machine or associated equipment or a modification to an approved machine or associated equipment
14 prior to its distribution and placement for play by the public. A manufacturer, distributor, or route operator may
15 not supply a video gambling machine or associated equipment to a manufacturer, distributor, route operator,
16 or operator unless the machine or equipment has been approved by the department."
17

18 **Section 42.** Section 30-16-303, MCA, is amended to read:

19 **"30-16-303. Participation of state agencies.** (1) The legislature directs full participation in the
20 implementation of this chapter by:

21 (a) the departments of agriculture, ~~commerce~~, environmental quality, revenue, justice, labor and
22 industry, and public health and human services;

23 (b) the secretary of state;

24 (c) the public service commission; and

25 (d) other agencies as directed by the governor.

26 (2) The board of review may include licenses not specified in 30-16-301 in a plan for streamlined
27 registration and licensing if:

28 (a) the agency administering the license requests that the license be included in the plan;

29 (b) the board of review approves including the license by a majority vote of a quorum of the board of
30 review; and

1 (c) licensees affected by the license's inclusion in the plan are given 60 days' notice of the plan's
2 implementation and the notice sets forth in detail the changes in the licensing procedures.

3 (3) If a license is included in a streamlined registration and licensing plan pursuant to subsection (2):

4 (a) the agency administering the license may provide for a variance in the timing of the payment of the
5 license fee and a variance in the application form, filing date, and penalty provisions in order to conform with the
6 plan's criteria;

7 (b) the board of review shall provide for the equitable proration to the agency administering the license
8 of any fees paid by a licensee prior to the plan's implementation; and

9 (c) the license must be processed and issued by the department of revenue as provided in this chapter.

10 (4) (a) In order to defray the costs associated with administering a streamlined registration and licensing
11 plan, the department may require a transfer of funds from the participating agencies in an amount equal to no
12 more than one-half of the total cost of processing and issuing a license.

13 (b) The amount remaining of the total cost of processing and issuing a license may be charged to the
14 license applicant.

15 (c) The amount of funds transferred by an agency must be based on the number of licenses processed
16 and issued on behalf of that agency versus the total number of licenses processed and issued under the
17 streamlined registration and licensing plan."

18

19 **Section 43.** Section 32-4-201, MCA, is amended to read:

20 **"32-4-201. Incorporators -- general powers -- capital stock -- articles of incorporation.** Nine or
21 more persons, a majority of whom must be residents of this state, who desire to create a development
22 corporation under the provisions of this chapter for the purpose of promoting, developing, and advancing the
23 prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges provided
24 in this part may be incorporated in the following manner:

25 (1) The persons shall, by articles of incorporation filed in the manner prescribed in Title 35, set forth:

26 (a) the name of the corporation, which must include the words "Development Corporation of Montana";

27 (b) the location of the principal office of the corporation, but the corporation may have offices in other
28 places within the state as fixed by the board of directors;

29 (c) the purposes for which the corporation is founded, which must include the following:

30 (i) to elect, appoint, and employ officers, agents, and employees;

1 (ii) to make contracts and incur liabilities for any of the purposes of the corporation, provided that the
2 corporation may not incur any secondary liability by way of guaranty or endorsement of obligations of any
3 person, firm, corporation, joint-stock company, association, or trust or in any other manner;

4 (iii) to borrow money from members, nonmember persons, firms, or corporations and state, federal,
5 county, or municipal agencies or authorities for any of the purposes of the corporation;

6 (iv) to issue for the purposes of the corporation its bonds, debentures, convertible debentures, notes,
7 or other evidences of indebtedness, whether secured or unsecured, and to secure the indebtedness by
8 mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and
9 nature or any part or interest in its property, franchises, rights, and privilege, without securing stockholder or
10 member approval. However, a loan to the corporation may not be secured in any manner unless all outstanding
11 loans to the corporation are secured equally and ratably in proportion to the unpaid balance of the loans and in
12 the same manner.

13 (v) to make loans to any person, firm, corporation, joint-stock company, association, or trust and
14 establish and regulate the terms and conditions with respect to any loans and the charges for interest and
15 service connected with the loans. However, the corporation may not approve any application for a loan unless
16 the person applying for the loan shows that the person has applied for the loan through ordinary banking
17 channels and that the loan has been refused by at least one bank or other financial institution.

18 (vi) to participate with any authorized private lending agency or city, county, state, or federal
19 governmental lending agencies in the making of loans;

20 (vii) to purchase, receive, hold, lease, or otherwise acquire, except by condemnation, and to sell, convey,
21 transfer, lease, or otherwise dispose of real and personal property, together with rights and privileges that may
22 be incidental and appurtenant to the property and the use of the property, including but not restricted to any real
23 or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement
24 of obligations;

25 (viii) to acquire the goodwill, business, rights, real and personal property, and other assets or any part
26 or interest in the assets of any persons, firms, corporations, joint-stock companies, associations, or trusts and
27 to assume, undertake, or pay the obligations, debts, and liabilities of any person, firm, corporation, joint-stock
28 company, association, or trust;

29 (ix) to acquire improved or unimproved real estate for the purpose of constructing industrial plants or
30 other business establishments or for the purpose of disposing of real estate to others for the construction of

1 industrial plants or other business establishments;

2 (x) to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or
3 otherwise dispose of industrial plants or business establishments;

4 (xi) to acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose
5 of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in or indebtedness
6 of any person, firm, corporation, joint-stock company, association, or trust and while the owner or holder of
7 interest for indebtedness to exercise all the rights, powers, and privileges of ownership, including the right to
8 vote;

9 (xii) to mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired pursuant
10 to the powers contained in subsections (1)(c)(vii) through (1)(c)(xi), as security for the payment of any part of
11 the purchase price of the property, right, or thing of value;

12 (xiii) to cooperate with and avail itself of the facilities of the ~~department of commerce~~ office of economic
13 development and any similar governmental agency and to cooperate with, assist, and otherwise encourage
14 organizations in the various communities of the state in the promotion, assistance, and development of the
15 business prosperity and economic welfare of the communities or of this state or of any part of the state;

16 (xiv) to accept gifts, donations, bequests, devises, or grants from any person, corporation, association,
17 or governmental agency or authority, whether state, federal, county, or municipal;

18 (xv) to do all acts and things necessary or convenient to carry out the powers expressly granted in this
19 chapter;

20 (d) the amount of total authorized capital stock and the number of shares in which it is divided, the par
21 value of each share, the amount of capital stock with which it will commence business and, if there is more than
22 one class of stock, a description of the different classes, and the names and post-office addresses of the
23 subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription must be
24 the amount of capital with which the corporation will commence business.

25 (2) The articles of incorporation may also contain any provision consistent with the laws of this state for
26 the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The
27 articles of incorporation must be in accordance with the provisions of Title 35, so far as they are consistent with
28 this chapter."

29

30 **Section 44.** Section 50-60-313, MCA, is amended to read:

1 **"50-60-313. Petition for designation of county jurisdictional area and adoption of building code.**

2 (1) A county jurisdictional area and a building code applicable to that area may be adopted by petition as
3 provided in this section.

4 (2) A petition may be circulated by the record owner of real property to which the county jurisdictional
5 area will be applied or extended for the purpose of gathering signatures on the petition. Only a record owner of
6 real estate within the proposed county jurisdictional area is qualified to sign a petition.

7 (3) A petition to designate a county jurisdictional area may also be circulated by the board of county
8 commissioners. A petition circulated by the board of county commissioners is not subject to the requirements
9 of 50-60-310.

10 (4) Before a petition may be circulated for signatures, the language of the proposed building code must
11 be approved by the department of labor and industry and the form of the petition must be approved by the
12 election administrator of the county in which the real property is located. A building code proposed pursuant to
13 this section must be approved by the department of ~~commerce~~ if it meets the criteria provided in 50-60-302 for
14 the approval of a code within a code enforcement program. The election administrator shall approve the form
15 of the petition if the petition meets, and the election administrator shall comply with, the requirements of 7-5-134,
16 7-5-135, and this section, except that:

17 (a) the number of valid signatures required for the creation or extension of the county jurisdictional area
18 is a majority of the record owners of real property located within the proposed jurisdictional area; and

19 (b) a petition containing the number of valid signatures required by this section is not submitted to a vote
20 by electors.

21 (5) An individual circulating a petition for signatures must make available to individuals who may sign
22 the petition a copy of the building code approved by the department of labor and industry and a map showing
23 the county jurisdictional area within which the code will apply. The petition must clearly indicate that the
24 individual signing the petition read and understood the provisions of the code and understood the geographic
25 area in which the code would be applied.

26 (6) The county jurisdictional area and the building code applicable to that area become effective 60 days
27 after the determination by the county election administrator that the petition has been signed by the number of
28 record owners of real property required by this section.

29 (7) (a) Except as provided in this subsection, once adopted by petition as provided in this section, a
30 county building code may not be amended except by petition in accordance with this section or by submitting

1 the modification to the electors as provided in 50-60-312.

2 (b) A county building code adopted by petition may be modified without petition or election if:

3 (i) the modification consists of a provision taken from a uniform or model building code; and

4 (ii) the provision does not regulate a wholly new component of a structure, such as wiring, plumbing, or
5 concrete foundation, that was previously unregulated."

6

7 **Section 45.** Section 53-2-1203, MCA, is amended to read:

8 **"53-2-1203. State workforce investment board -- membership -- duties.** (1) There is a state
9 workforce investment board.

10 (2) The state board consists of:

11 (a) the governor or a person designated by the governor to act on behalf of the governor;

12 (b) two members of the house of representatives, each from a different political party, and two members
13 of the senate, each from a different political party, appointed by the presiding officer of each respective chamber;
14 and

15 (c) individuals appointed by the governor, including:

16 (i) representatives of businesses located in Montana who:

17 (A) are owners of businesses, chief executive or operating officers, and other business executives or
18 employers with optimum policymaking or hiring authority, including business members of local boards; and

19 (B) represent businesses with employment opportunities that reflect the employment opportunities in
20 Montana;

21 (ii) chief elected officials of local government;

22 (iii) representatives of labor organizations;

23 (iv) representatives of individuals and organizations who have experience with respect to youth activities;

24 (v) representatives of individuals and organizations who have experience and expertise in the delivery
25 of workforce investment activities;

26 (vi) representatives of the state agencies who are responsible for the programs and activities that are
27 carried out by the one-stop centers, including but not limited to:

28 ~~(A) the department of commerce;~~

29 ~~(B)~~(A) the department of labor and industry;

30 ~~(C)~~(B) the department of public health and human services;

1 ~~(D)~~(C) the office of the commissioner of higher education; and

2 ~~(E)~~(D) the office of public instruction; and

3 (vii) other representatives that the governor may designate.

4 (3) The selection and appointment of members of the state board must follow the nominating provisions
5 of section 111 of the Act (29 U.S.C. 2821).

6 (4) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons
7 compose a majority of the membership of the state board.

8 (5) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the
9 state's relationship with tribal governments when making appointments to the state board.

10 (6) The state board shall perform the functions described in section 111 of the Act (29 U.S.C. 2821)."

11

12 **Section 46.** Section 60-2-243, MCA, is amended to read:

13 "**60-2-243. Visitor information centers -- signs.** (1) Subject to the provisions of federal law, ~~the~~
14 ~~department of commerce shall design and~~ the department of transportation shall design and erect signs
15 identifying the Montana visitor information centers established and maintained by the department of ~~commerce~~
16 ~~and in existence on October 1, 1999~~ transportation.

17 (2) (a) Each visitor information center must have two signs identifying it to the traveling public.

18 (b) The first sign must be erected at the nearest practical location to the border of the state along the
19 highway leading to the visitor information center and must indicate the number of miles to the visitor information
20 center.

21 (c) The second sign must be erected along the highway at the exit leading to the visitor information
22 center or at the nearest practical location to the visitor information center where the sign may be easily seen and
23 read by the traveling public. This sign must contain directions to the center and the information that is provided
24 at the center."

25

26 **Section 47.** Section 90-1-101, MCA, is amended to read:

27 "**90-1-101. Declaration of necessity and public policy.** (1) It is ~~hereby~~ declared to be a necessity and
28 the public policy of the state to promote, stimulate, and encourage the planning and development of the
29 economy of the state in order to provide for the social and economic prosperity of its citizens. ~~Such~~ The
30 promotion and development of the industry, commerce, agriculture, labor, and natural resources of the state

1 require that cognizance be taken of the continuing migration of people to the urban areas in search of job
 2 opportunities and the fact that Montana is making a needed transition to a diversified economy. Community
 3 planning, greater diversification of industry and attraction of additional industry, accelerated development of
 4 natural resources, expansion of existing industry, creation of new uses for agricultural products, greater
 5 emphasis on scientific research, development of new markets for the products of the state, and the attainment
 6 of a proper balance in the overall economic base are all necessary in order to create additional employment
 7 opportunities, increase personal income, and promote the general welfare of the people of this state.

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

17 (3) ~~The department of commerce shall be regarded as~~ office of economic development is performing
 18 a governmental function in carrying out the provisions of 90-1-102 through 90-1-109."

19

20 **Section 48.** Section 90-1-102, MCA, is amended to read:

21 **"90-1-102. Functions of ~~department of commerce~~ office of economic development -- state**
 22 **planning.** ~~The department of commerce~~ office of economic development shall:

23 (1) make economic and social studies needed to accomplish the purposes of this part;

24 (2) coordinate and assist regional development groups in the comprehensive development of the
 25 resources of the region to the betterment of Montana;

26 (3) assemble and correlate information for the purpose of making long-range plans for economic and
 27 resource development of the state and its subdivisions relating to all of the factors that influence the
 28 development of new and existing economic enterprises, including taxes and the regulation of industry;

29 (4) provide advice and assistance to Montana business and labor in the field of economic development
 30 and bring to the attention of the governor those significant problems adversely affecting economic development

1 that may be relieved by state action;

2 (5) locate and maintain information on prime sites for industrial, agricultural, mineral, forestry,
3 commercial, and residential development and on sites of historical importance and make recommendations for
4 protecting and preserving those sites;

5 (6) apply for, accept, and administer grants from the federal government or other public or private
6 sources to accomplish the objectives of this part and enter into contracts, including agreements with adjoining
7 states, with respect to planning involving adjoining states;

8 (7) serve as the consultative, coordinating, and advisory agency for state departments, officials, and
9 agencies in state planning and for encouraging and aiding local planning bodies, either directly or by securing
10 planning assistance, consulting services, and technical aid, which may include land use, demographic, and
11 economic studies and surveys and comprehensive plans."

12

13 **Section 49.** Section 90-1-103, MCA, is amended to read:

14 **"90-1-103. Functions of ~~department of commerce~~ office of economic development -- community**
15 **development.** (1) The ~~department of commerce~~ office of economic development shall:

16 (a) cooperate with and provide technical assistance to county, municipal, state, and regional planning
17 commissions, zoning commissions, parks or recreation boards, community development groups, community
18 action agencies, and similar agencies created for the purposes of aiding and encouraging orderly, productive,
19 and coordinated development of the communities of the state;

20 (b) assist the governor in coordinating the activities of state agencies that have an impact on solution
21 of community development problems and implementation of community plans;

22 (c) serve as a clearinghouse for information, data, and other materials that may be helpful or necessary
23 to local governments to discharge their responsibilities and provide information on available federal and state
24 financial and technical assistance;

25 (d) carry out continuing studies and analyses of the problems faced by communities within the state and
26 develop those recommendations for administrative or legislative action as appear necessary. In carrying out the
27 studies and analyses and in providing technical assistance to communities, the ~~department~~ office of economic
28 development shall pay particular attention to the planning and financing of public facilities and to the problems
29 of metropolitan, suburban, and other areas in which economic and population factors are rapidly changing.

30 (e) administer the federal community development block grant program and adopt rules to implement

1 the program.

2 (2) In partial fulfillment of its duties under subsection (1), by January 1, 2003, the ~~department~~ office of
3 economic development shall have developed and published examples of subdivision regulations that provide
4 incentives for and remove disincentives to cluster development. The examples need not be limited to the local
5 option cluster development regulations authorized in 76-3-509 and may include any cluster development
6 regulations that are authorized under Title 76, chapter 3. In developing the examples of regulations, the
7 ~~department~~ office of economic development shall seek the advice of interested parties. The ~~department~~ office
8 of economic development shall provide technical assistance to local governments that are developing cluster
9 development regulations, as provided in subsection (1)(a)."

10

11 **Section 50.** Section 90-1-104, MCA, is amended to read:

12 **"90-1-104. Functions of ~~department of commerce~~ office of economic development -- recreational**
13 **development.** The ~~department of commerce~~ office of economic development shall:

14 (1) exercise state responsibility for ~~that~~ the part of recreational planning and development ~~which~~ that
15 is directly related to private investment in recreational facilities;

16 (2) assemble and correlate information ~~which~~ that may influence the development of recreational
17 enterprises and disseminate it to persons, firms, or corporations interested in constructing or maintaining
18 recreational facilities open to the public;

19 (3) serve as an ombudsman for the tourism industry and recreationists in all matters concerning the
20 management and regulation of the level of Flathead Lake; and

21 (4) coordinate the promotion of Indian tourism activities in the state in cooperation with the seven tribal
22 governments and the coordinator of Indian affairs."

23

24 **Section 51.** Section 90-1-105, MCA, is amended to read:

25 **"90-1-105. Functions of ~~department of commerce~~ office of economic development -- economic**
26 **development.** The ~~department of commerce~~ office of economic development shall:

27 (1) provide coordinating services to aid state and local groups and Indian tribal governments in the
28 promotion of new economic enterprises and conduct publicity and promotional activities in connection with new
29 economic enterprises;

30 (2) collect and disseminate information regarding the advantages of developing agricultural,

1 recreational, commercial, and industrial enterprises within this state;

2 (3) serve as the state's official liaison between persons interested in locating new economic enterprises
3 in Montana and state and local groups and Indian tribal governments seeking new enterprises;

4 (4) aid communities and Indian tribal governments interested in obtaining new business or expanding
5 existing business;

6 (5) study and promote means of expanding markets for Montana products;

7 (6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and
8 attractions of the state;

9 (7) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the
10 promotion and enhancement of economic opportunities on the state's Indian reservations; and

11 (8) assist the state-tribal economic development commission established in 90-1-131 in:

12 (a) identifying federal government and private sector funding sources for economic development on
13 Indian reservations in Montana; and

14 (b) fostering and providing assistance to prepare, develop, and implement cooperative agreements,
15 in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana. (Subsection (8)
16 terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

17

18 **Section 52.** Section 90-1-106, MCA, is amended to read:

19 **"90-1-106. Functions of ~~department of commerce~~ office of economic development -- housing.**

20 The ~~department~~ office of economic development may:

21 (1) survey and investigate housing needs throughout the state and publish the results and make
22 recommendations to the governor and the legislature as to legislation and other measures necessary, desirable,
23 or advisable to alleviate housing problems;

24 (2) maintain and disseminate information on available governmental housing assistance programs,
25 eligibility and development requirements, and other similar information; and

26 (3) promote research and development in housing planning design, production, conservation,
27 rehabilitation, and other matters relating to; or affecting the provision of decent, safe, and sanitary housing in
28 a suitable living environment."

29

30 **Section 53.** Section 90-1-107, MCA, is amended to read:

1 **"90-1-107. Contracts and agreements for projects and programs -- cooperation with other**
2 **agencies.** (1) The ~~department of commerce~~ office of economic development may contract for consulting
3 services for the purpose of undertaking and conducting planning and study projects. It may make agreements
4 with other state agencies in order to accomplish its own research programs. It may perform research, but when
5 possible shall make full use of and strengthen the research resources of other state agencies, including the
6 university system. Other state agencies shall provide the ~~department~~ office of economic development with
7 information which will assist it in carrying out this part.

8 (2) The ~~department~~ office of economic development shall assist and cooperate with other state
9 agencies and officials, with official organizations of elected officials in the state, with local governments and
10 officials, and with federal agencies and officials in carrying out the functions and duties of the ~~department~~ office
11 of economic development.

12 (3) ~~† The office of economic development~~ may consult with private groups and individuals; and, if ~~the~~
13 ~~department~~ the office considers it desirable, hold public hearings to obtain information for the purposes of
14 carrying out this part."

15

16 **Section 54.** Section 90-1-108, MCA, is amended to read:

17 **"90-1-108. County land planning assistance.** (1) The department of ~~commerce~~ administration shall
18 annually distribute the funds appropriated to it for county land planning. Each county must be allotted an equal
19 percentage of the funds, up to \$3,000. After this disbursement has been made, 40% of the balance of the funds
20 must be apportioned among the counties according to the ratio of each county's land area to the total land area
21 of the state and 60% of the balance of the funds must be apportioned among the counties according to each
22 county's portion of the total population of the state. If a multijurisdictional planning board has been established
23 in the county, it may receive and expend part or all of the funds allocated to that county.

24 (2) Counties, cities, or joint planning boards receiving funds under this section shall use the funds for
25 land planning purposes, which include but are not limited to comprehensive planning, economic development
26 planning, and capital improvements planning.

27 (3) At the end of each fiscal year, each local governing body and planning agency receiving funds under
28 this section shall provide an accounting of how the money was spent, in a form acceptable to the department
29 of ~~commerce~~ administration."

30

1 **Section 55.** Section 90-1-109, MCA, is amended to read:

2 **"90-1-109. State census and economic information center.** The department of ~~commerce~~
3 administration shall, in cooperation with other state, federal, and local agencies, establish and maintain a central
4 depository of information, including computer-retrievable files, concerning the significant characteristics of the
5 state, its people, economy, land, and physical characteristics. The department shall analyze and disseminate
6 ~~such the~~ information to state, federal, and local agencies and to the general public."

7

8 **Section 56.** Section 90-1-116, MCA, is amended to read:

9 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**
10 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the following
11 definitions apply:

12 (a) "Certified community lead organization" means the entity that has been endorsed by resolution of
13 a local governing body or a tribal government, as defined in 90-6-701(3)(e), and that meets and maintains
14 requirements for certification established by the department office.

15 (b) ~~"Department" means the department of commerce provided for in 2-15-1804~~ "Office" means the
16 office of economic development provided for in 2-15-218.

17 (2) The department office shall create a program to provide state funds to match local economic
18 development funds and to fund the certified communities program. The provision of state matching funds is
19 contingent upon specific appropriations to the department office for that purpose. The department office shall
20 distribute the funds in the following manner:

21 (a) 91% to certified community lead organizations, in the form of assistance grants;

22 (b) 8% to the department office for administration of the certified communities program; and

23 (c) 1% to the department office for certification assistance for noncertified communities. If there are no
24 requests for certification assistance, the 1% allocation may be used by the department office for administration
25 of the certified communities program.

26 (3) An assistance grant to a certified community lead organization is based on an annual per capita
27 payment for the area served by the organization, according to its population in the last completed federal census.
28 The grant may not exceed \$75,000 and may not be less than \$3,000 a year.

29 (4) To be eligible to receive a grant, a certified community lead organization:

30 (a) must be designated as the lead organization by the local governing body;

- 1 (b) shall maintain ~~department~~ office requirements for certification;
- 2 (c) shall match each \$1 of the grant with \$1 raised from public or private sources; and
- 3 (d) shall participate in regional meetings of certified communities.
- 4 (5) Grants under this section must be used to conduct economic development programs consistent with
- 5 strategic plans that are adopted by the certified communities and that are filed with the ~~department~~ office.
- 6 (6) The ~~department~~ office shall use its portion of the proceeds to:
- 7 (a) administer the certified communities program;
- 8 (b) assist noncertified communities in seeking certification; and
- 9 (c) organize and conduct regional meetings of certified communities."

10

11 **Section 57.** Section 90-1-131, MCA, is amended to read:

12 **"90-1-131. (Temporary) State-tribal economic development commission -- composition --**

13 **compensation for members.** (1) There is a state-tribal economic development commission administratively
14 attached to the office of the governor as prescribed in 2-15-121.

15 (2) The commission is composed of 10 members, each appointed by the governor to 3-year staggered
16 terms commencing on July 1 of each year of appointment, and must include:

- 17 (a) the state coordinator of Indian affairs;
- 18 (b) one member from the ~~department of commerce~~ office of economic development;
- 19 (c) one member from each of the seven federally recognized tribes in Montana and one member from
20 the Little Shell band of Chippewa Indians. A tribal government may advertise for individuals interested in serving
21 on the commission and develop a list of applicants from which it may choose its nominee to recommend to the
22 governor. In place of choosing from a list of applicants, a tribal government may select an elected tribal official
23 to recommend for membership on the commission. If a tribal government nominates or otherwise recommends
24 more than one person for membership on the commission, the governor shall select one individual from among
25 those recommended persons.

26 (3) The members of the commission shall elect a presiding officer from among the members.

27 (4) Seven members of the commission constitute a quorum and the affirmative vote of the majority of
28 the members present is sufficient for any action taken by the commission.

29 (5) Any vacancy on the commission must be filled in the same manner as the original appointment.

30 (6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501

1 through 2-18-503. (Terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

2

3 **Section 58.** Section 90-1-132, MCA, is amended to read:

4 **"90-1-132. (Temporary) Commission purposes -- duties and responsibilities.** (1) The general
5 purposes of the state-tribal economic development commission include:

6 (a) assisting, promoting, encouraging, developing, and advancing economic prosperity and employment
7 on Indian reservations in Montana by fostering the expansion of business, manufacturing, tourism, agriculture,
8 and community development programs;

9 (b) cooperating and acting in conjunction with other organizations, public and private, to benefit tribal
10 communities;

11 (c) recruiting business enterprises to locate on or invest in enterprises on the reservations; and

12 (d) identifying, obtaining, and coordinating federal, state, and private sector gifts, grants, loans, and
13 donations to further economic development on the Indian reservations in Montana.

14 (2) The state-tribal economic development commission shall:

15 (a) determine, with assistance from the tribal business center coordinator and the federal grants
16 coordinator in the office of the Indian affairs coordinator, the availability of federal, state, and private sector gifts,
17 grants, loans, and donations to tribal governments, Indian business enterprises, and communities located on
18 Indian reservations in Montana;

19 (b) apply for grants listed in the Catalog of Federal Domestic Assistance for which the commission is
20 eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations
21 in Montana;

22 (c) in cooperation with a tribal government, and when allowed by federal law and regulation, assist the
23 tribe in applying for grants listed in the Catalog of Federal Domestic Assistance for which an appropriate tribal
24 entity is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian
25 reservations in Montana;

26 (d) evaluate the apportionment of current spending of federal funds by state agencies in areas including
27 but not limited to economic development, housing, community infrastructure, business finance, tourism
28 promotion, transportation, and agriculture;

29 (e) conduct or commission and oversee a comprehensive assessment of the economic development
30 needs and priorities of each Indian reservation in the state;

1 (f) notify tribal governments, the governor, the Indian affairs coordinator, the chief business
 2 development officer, and the directors of the departments of ~~commerce~~, agriculture; and transportation; of the
 3 availability of specific federal, state, or private sector funding programs or opportunities that would directly benefit
 4 Indian communities in Montana;

5 (g) assist tribal governments and other tribal entities that are eligible for federal assistance programs
 6 as provided in the most recent published edition in the Catalog of Federal Domestic Assistance in applying for
 7 funds that would contribute to the respective tribes' economic development;

8 (h) work cooperatively with tribal government officials, the state coordinator of Indian affairs, and other
 9 appropriate state officials to help foster state-tribal cooperative agreements pursuant to Title 18, chapter 11, part
 10 1, that will:

11 (i) enhance economic development on the Indian reservations in Montana; and

12 (ii) help the ~~department of commerce~~ office of economic development to fully implement and comply with
 13 the provisions of 90-1-105; and

14 (i) provide to the governor, the legislative council, the legislative auditor, and to each of the presiding
 15 officers of the tribal governments in Montana a biennial report that summarizes the activities of the commission.
 16 (Terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

17

18 **Section 59.** Section 90-1-144, MCA, is amended to read:

19 **"90-1-144. Financial assistance center -- ~~department responsibilities of office of economic~~**
 20 **development.** (1) There is a financial assistance center within the ~~department of commerce~~ office of economic
 21 development.

22 (2) The center shall:

23 (a) compile and include a comprehensive list of all state financial assistance programs, including but
 24 not limited to:

25 (i) eligible recipients;

26 (ii) conditions required for an award of a loan or grant;

27 (iii) limits on the amount of funds available;

28 (iv) application information; and

29 (v) lending or granting cycles;

30 (b) maintain and provide information related to nonstate loan and grant programs by cooperating and

1 coordinating with federal loan and grant programs, commercial lenders, and nonprofit economic development
2 lending organizations; and

3 (c) provide regular opportunities for financial institutions, loan and grant applicants, local economic
4 development organizations, business enterprises, and other federal, state, and local governmental entities to
5 review the center and provide advice and recommendations regarding the expansion or modification of the
6 center.

7 (3) The ~~department~~ office of economic development shall:

8 (a) develop an internet website specifically designed to assist loan and grant applicants in gathering
9 information. The website must, at a minimum, contain the following features:

10 (i) a prominently placed world wide web link representing the financial assistance programs that allows
11 for multiple methods for website navigation;

12 (ii) a comprehensive list of the types of loans and grants available from the state, outlined by agency,
13 subject, area, or speciality; and

14 (iii) an agency-specific loan and grant list with appropriate links to personnel responsible for
15 administering the program;

16 (b) cooperate with the office of the secretary of state to ensure that rules governing electronic
17 transactions, digital signatures, and digital notary can be applied to electronic loan and grant applications;

18 (c) provide direct and individual service to interested applicants to ensure that:

19 (i) adequate information regarding eligibility requirements for financial assistance is received and
20 understood;

21 (ii) contacts and appointments are made with the various state agencies administering financial
22 assistance programs;

23 (iii) technical and professional assistance is provided to facilitate the accurate and timely completion of
24 business feasibility plans and financial assistance applications; and

25 (iv) periodic updates are provided to applicants regarding the status of financial assistance applications
26 and new or emerging financial assistance opportunities;

27 (d) develop a marketing plan to provide information about the center to individuals, commercial financial
28 institutions, local economic development organizations, business enterprises, and local governments;

29 (e) coordinate with the department of revenue to provide:

30 (i) information related to applicable business licensing and registration requirements; and

1 (ii) relevant information related to tax credits and tax incentive programs for economic development
2 activities;

3 (f) collect and maintain a supply of loan and grant application forms and information for all state loans
4 and grants and actively assist interested applicants in answering application questions;

5 (g) collect and maintain a master list of state loan opportunities by type of loan, eligibility requirements,
6 lending cycles, and availability; and

7 (h) review rules, application forms and processes, and lending cycles of loan and grant programs
8 administered by other state agencies and make recommendations to those agencies related to the development
9 of uniform loan and grant requirements.

10 (4) The ~~department~~ office of economic development may gather and disseminate information related
11 to nonstate loan sources and perform other administrative tasks delegated to the ~~department~~ office of economic
12 development to improve state lending processes and loan and grant program administration."
13

14 **Section 60.** Section 90-1-145, MCA, is amended to read:

15 **"90-1-145. Cooperation between state agencies and department office of economic development**
16 **-- dissemination of information.** (1) State agencies administering financial assistance programs shall
17 cooperate with the ~~department of commerce~~ office of economic development in providing information for the
18 center.

19 (2) The ~~department~~ office of economic development shall include all of the information received from
20 other agencies in the center."
21

22 **Section 61.** Section 90-1-146, MCA, is amended to read:

23 **"90-1-146. Information coordination.** (1) The ~~department~~ office of economic development shall
24 encourage and invite the federal government, local governments, other political subdivisions, local economic
25 development corporations, and private financial institutions to make lending information available to the
26 ~~department of commerce~~ office of economic development.

27 (2) The ~~department~~ office of economic development may, when practical, provide persons with
28 information from other lenders when requested."
29

30 **Section 62.** Section 90-1-147, MCA, is amended to read:

1 **"90-1-147. Rulemaking.** The ~~department of commerce~~ office of economic development may adopt
2 rules to:

3 (1) provide for uniform loan and grant applications, when appropriate;

4 (2) coordinate the announcement and marketing of available financial assistance programs that are
5 administered by other state agencies;

6 (3) provide for the specific requirements necessary to develop useful and logical navigation pathways
7 and cross-references for a financial assistance program internet website and a standard form of internet links
8 and access, consistent with the financial assistance program website, for individual agency websites that
9 administer financial assistance programs; and

10 (4) develop processes and procedures necessary to effectively implement the provisions of 90-1-141
11 through 90-1-147."

12

13 **Section 63.** Section 90-5-113, MCA, is amended to read:

14 **"90-5-113. Advice and information by ~~department of commerce~~ office of economic development.**

15 The ~~department of commerce~~ office of economic development shall furnish advice and information in connection
16 with a project when requested to do so by a county or municipality."

17

18 **Section 64.** Section 90-5-305, MCA, is amended to read:

19 **"90-5-305. ~~Department~~ Office of economic development to offer employee ownership
20 development assistance and counseling.** Upon request by an employee group or organization, the
21 ~~department of commerce~~ office of economic development shall provide technical assistance and counseling on
22 the establishment and management of employee-owned enterprises."

23

24 **Section 65.** Section 90-6-103, MCA, is amended to read:

25 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
26 definitions apply:

27 (1) "Board" means the board of housing created in 2-15-1814.

28 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
29 indebtedness issued by the board pursuant to this part, including those on which interest payments are taxable
30 and those on which interest payments are tax exempt.

1 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

2 (4) "Department" means the department of ~~commerce~~ administration provided for in Title 2, chapter 15,
3 part ~~48~~ 10.

4 (5) "Federally insured mortgage" means a mortgage loan for land development or residential housing
5 insured or guaranteed by the United States or a governmental agency or instrumentality of the United States
6 or a commitment by the United States or a governmental agency or instrumentalities of the United States to
7 insure a mortgage.

8 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
9 repayment of principal and interest by the United States or an instrumentality of the United States.

10 (7) "Governmental agency" means any department, division, public corporation, public agency, political
11 subdivision, or other public instrumentality of the state, the federal government, any other state or public agency,
12 or any two or more of the entities listed in this subsection.

13 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
14 projects, nursing home projects, personal-care projects, and any work or undertaking financed in whole or in part
15 under this part for the primary purpose of acquiring, constructing, or rehabilitating accommodations for persons
16 or families of lower income in need of housing. An undertaking may include any buildings, land, equipment,
17 facilities, or other real or personal properties that are necessary, convenient, or desirable in connection with a
18 development, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other
19 nonhousing facilities that the board determines to be necessary, convenient, or desirable.

20 (9) "Housing development costs" means the sum total of all costs incurred in a housing development
21 approved by the board as reasonable and necessary, including but not limited to:

22 (a) cost of land acquisition and any buildings on the land, including payments for options, deposits, or
23 contracts to purchase properties on the proposed housing development site or payments for the purchase of
24 properties;

25 (b) cost of site preparation, demolition, and clearing;

26 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
27 connection with the planning, execution, and financing of the housing development and the finding of an eligible
28 mortgagee or mortgagees for the housing development;

29 (d) cost of necessary studies, surveys, plans, and permits;

30 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs

1 during construction;

2 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
3 apparatus, and similar facilities related to the real property;

4 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the costs
5 have been paid in cash or in a form other than cash;

6 (h) necessary expenses in connection with initial occupancy of the housing development;

7 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable,
8 a limited-profit housing sponsor;

9 (j) an allowance established by the board for working capital and contingency reserves and reserves
10 for any anticipated operating deficits during construction and initial occupancy;

11 (k) cost of other items, including tenant relocation, that the board determines to be reasonable and
12 necessary for the housing development, less any net rents and other net revenue received from the operation
13 of the real and personal property on the development site during the construction.

14 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts, firms,
15 associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit corporations, or
16 other legal entities or any combination of the entities listed in this subsection that are:

17 (a) approved by the board;

18 (b) qualified to either own, construct, acquire, rehabilitate, operate, manage, or maintain a housing
19 development;

20 (c) subject to the rules of the board and other terms and conditions set forth in this part.

21 (11) "Lending institution" means any public or private entity or governmental agency approved by the
22 board maintaining an office in this state and authorized by law to make or participate in making residential
23 mortgages in the state.

24 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other entity,
25 or an individual restricted as to distribution of income and regulated as to rents, charges, rate of return, and
26 methods of operation as the board determines necessary to carry out this part.

27 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument that constitutes a valid lien
28 on real property in fee simple or on a leasehold under a lease having a remaining term at the time that the
29 mortgage is acquired that does not expire for at least that number of years beyond the maturity date of the
30 obligation secured by the mortgage established by the board as necessary to protect its interest as mortgagee.

1 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
2 improvements in the state.

3 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15, or
4 a nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and regulated as
5 to rents, charges, rate of return, and methods of operation as the board determines necessary, and whose
6 articles of incorporation provide in addition that:

7 (a) the organization has been organized exclusively to provide housing developments for persons and
8 families of lower income;

9 (b) all the income and earnings of the organization must be used exclusively for housing development
10 purposes and part of the net income or net earnings of the organization may not inure to the benefit or profit of
11 any private individual, firm, corporation, partnership, or association;

12 (c) the organization is in no manner controlled or under the direction or acting in the substantial interest
13 of any private individual, firm, partnership, or association seeking to derive profit or gain from the organization
14 or seeking to eliminate or minimize losses in any transactions with the organization, except that the limitations
15 apply to members of a cooperative only to the extent provided by rules of the board;

16 (d) the operations of the organization may be supervised by the board and the organization will enter
17 into agreements with the board to regulate planning, development, and management of any housing
18 development undertaken by the organization and the disposition of the property or other interests of the
19 organization.

20 (16) "Persons and families of lower income" means persons and families with insufficient personal or
21 family income or other financial resources who require assistance under this part, as determined by the board,
22 taking into consideration:

23 (a) the amount of the total personal and family income, assets, and other financial resources available
24 for housing needs;

25 (b) the size of the family;

26 (c) the eligibility of persons and families under federal housing assistance of any type based on lower
27 income or a functional or physical disability;

28 (d) the ability of persons and families to compete successfully in the normal housing market and to pay
29 the amount at which private enterprise is providing decent, safe, and sanitary housing;

30 (e) the availability and cost of housing in particular areas; and

1 (f) needs of particular persons or families because of age or physical disabilities.

2 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to provide
3 decent, safe, and sanitary housing or to conform housing with state or local health, building, fire prevention, and
4 safety codes as determined by the board."

5

6 **Section 66.** Section 90-6-112, MCA, is amended to read:

7 **"90-6-112. Provision of bond resolutions.** A resolution authorizing any notes or bonds; or any issue
8 ~~thereof of notes or bonds;~~ may contain provisions, which ~~shall~~ must be a part of the contract or contracts with
9 the holders ~~thereof of the notes or bonds,~~ as to:

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

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

16 (3) the use and disposition of the gross income from mortgages owned by the board and payment of
17 principal of mortgages owned by the board;

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

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

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

25 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
26 amended or abrogated, the amount of notes or bonds the holders of which must consent ~~thereto to the~~
27 amendment or abrogation, and the manner in which ~~such~~ consent may be given;

28 (8) a commitment to:

29 (a) employ adequate and competent personnel at ~~such~~ reasonable compensation;:

30 (b) set salaries, fees, and charges as may be determined by the board in conjunction with the

1 department of ~~commerce~~; and

2 (c) ~~to~~ maintain suitable facilities and services for the purpose of carrying out its programs;

3 (9) vesting in a trustee property, rights, powers, and duties in trust as the board determines to be
4 necessary;

5 (10) defining the acts or omissions to act ~~which shall~~ that constitute a default in the obligations and
6 duties of the board to the holders of the notes or bonds and providing for the rights and remedies of the holders
7 of the notes or bonds in the event of ~~such~~ default, including as a matter of right the appointment of a receiver.
8 Rights and remedies ~~shall~~ may not be inconsistent with the laws of the state and the other provisions of this part;
9 and.

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

12

13 **Section 67.** Section 90-6-204, MCA, is amended to read:

14 **"90-6-204. Chairman Presiding officer, meetings, compensation, and facilities.** (1) The board shall
15 elect a ~~chairman~~ presiding officer from among its members.

16 (2) The board shall meet quarterly and may meet at other times as called by the ~~chairman~~ presiding
17 officer or a majority of the members.

18 (3) Members are entitled to compensation as provided for in 2-15-124(7).

19 (4) The department of ~~commerce~~ will administration shall provide suitable office facilities and the
20 necessary staff for the coal board."

21

22 **Section 68.** Section 90-6-207, MCA, is amended to read:

23 **"90-6-207. Priorities for impact grants.** (1) The department of ~~commerce~~ administration shall
24 biennially designate:

25 (a) each county, incorporated city and town, school district, and other governmental unit that has had
26 or expects to have as a result of the impact of coal development a net increase or decrease in estimated
27 population of at least 10% over one of the 3-year periods specified in subsection (4);

28 (b) each county and all local governmental units within each county in which:

29 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has
30 been granted by the department of environmental quality for a project within the county that will establish a new

1 coal mine to produce at least 300,000 tons a year and that the department of ~~commerce~~ administration
2 determines will commence production within 2 years;

3 (ii) the department of ~~commerce~~ administration has determined that the production of an existing mine
4 will increase or decrease by at least 1 million tons a year and that the new, expanded, or reduced production
5 will commence within 2 years of the designation;

6 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

7 (iv) a certificate of environmental compatibility and public need in accordance with the Montana Major
8 Facility Siting Act has been granted by the board of environmental review for a new steam-generating or other
9 new coal-burning facility that will consume at least 1 million tons a year of Montana-mined coal and for which
10 the department of ~~commerce~~ administration determines the construction or operation will commence within 2
11 years of the designation;

12 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather public
13 road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

14 (d) each local governmental unit in which:

15 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or
16 is scheduled to cease within 1 year; or

17 (ii) a steam-generating or other coal-burning facility that has operated under a certificate of
18 environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and that
19 has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close within
20 1 year.

21 (2) Designation under subsection (1) of:

22 (a) any local governmental unit extends to and includes as a designated unit the county in which it is
23 located; and

24 (b) a county extends to and includes as a designated unit any local governmental unit in the county that
25 contains at least 10% of the total population of the county.

26 (3) Except as provided in 90-6-205(4)(b), the board may not award more than 50% of the funds
27 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused
28 by an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex
29 to local governmental units other than those governmental units designated under subsection (1).

30 (4) For the purposes of subsection (1), the department of ~~commerce~~ administration shall use five 3-year

1 periods as follows:

2 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

3 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

4 (c) one consecutive 3-year period ending with the current calendar year;

5 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

6 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

7 (5) Attention should be given by the board to the need for community planning before the full impact
8 is realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly
9 management of the existing or contemplated growth or decline problems.

10 (6) All funds appropriated under this part are for use related to local impact.

11 (7) All designations based on an increase in coal development or in the consumption of coal by a
12 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may
13 not continue after the department of ~~commerce~~ administration determines that the mine, railroad, or facility that
14 provided the basis for a designation is contributing sufficient tax revenue to the designated governmental unit
15 to meet the increased costs of providing the services necessitated by the development of the mine, railroad, or
16 facility. However, nondesignated local governmental units continue to be eligible for coal impact grants of not
17 more than 50% of the funds appropriated to the board for grants in circumstances in which an impact exists in
18 a community or area directly affected by:

19 (a) the operation of a coal mine or a coal-using energy complex; or

20 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

21

22 **Section 69.** Section 90-6-303, MCA, is amended to read:

23 **"90-6-303. Chairman Presiding officer -- meetings -- facilities -- funding.** (1) The board shall elect
24 a chairman presiding officer from among its members.

25 (2) The board shall meet as necessary or as called by the chairman presiding officer or a majority of
26 the members.

27 (3) The board is allocated to the department of ~~commerce~~ administration for administrative purposes
28 only as provided in 2-15-121.

29 (4) The administrative and operating expenses of the board ~~shall~~ must be paid from revenue deposited
30 to the credit of the hard-rock mining impact trust account from the license tax on metal mines imposed under

1 Title 15, chapter 37."

2

3 **Section 70.** Section 90-6-703, MCA, is amended to read:

4 **"90-6-703. Types of financial assistance available.** (1) The legislature shall provide for and make
5 available to local governments the following types of financial assistance under this part:

6 (a) matching grants for local infrastructure projects;

7 (b) annual debt service subsidies on local infrastructure projects; and

8 (c) loans from the proceeds of coal severance tax bonds at a subsidized interest rate.

9 (2) The department of natural resources and conservation and the ~~department of commerce~~ office of
10 economic development:

11 (a) may adopt rules to commit to interest rate subsidies for local infrastructure projects and may allow
12 the subsidies to be paid over the life of the loan or bonding period; and

13 (b) may make deferred loans to local governments for preliminary engineering study costs. The
14 applicant shall repay the loans whether or not the applicant succeeds in obtaining financing for the full project.
15 Repayment may be postponed until the overall construction financing is arranged."

16

17 **Section 71.** Section 90-6-710, MCA, is amended to read:

18 **"90-6-710. (Temporary) Priorities for projects -- procedure -- rulemaking.** (1) The amount of
19 \$425,000 is statutorily appropriated, as provided in 17-7-502, to the ~~department of commerce~~ office of economic
20 development for each biennium for the period beginning July 1, 2001, and ending June 30, 2005, from the
21 treasure state endowment special revenue account for the purpose of providing communities with grants for
22 engineering work for projects provided for in subsection (3).

23 (2) The ~~department of commerce~~ office of economic development must receive proposals for projects
24 from local governments as defined in 90-6-701(3)(b). The ~~department~~ office of economic development shall work
25 with a local government in preparing cost estimates for a project. In reviewing project proposals, the ~~department~~
26 office of economic development may consult with other state agencies with expertise pertinent to the proposal.
27 The ~~department~~ office of economic development shall prepare and submit a list containing the recommended
28 projects and the recommended form and amount of financial assistance for each project to the governor,
29 prioritized pursuant to subsection (3). The governor shall review the projects recommended by the ~~department~~
30 office of economic development and shall submit a list of recommended projects and the recommended financial

1 assistance to the legislature.

2 (3) In preparing recommendations under subsection (2), preference must be given to infrastructure
3 projects based on the following order of priority:

4 (a) projects that solve urgent and serious public health or safety problems or that enable local
5 governments to meet state or federal health or safety standards;

6 (b) projects that reflect greater need for financial assistance than other projects;

7 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,
8 long-term solutions to community public facility needs;

9 (d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and
10 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

11 (e) projects that enable local governments to obtain funds from sources other than the funds provided
12 under this part;

13 (f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities
14 necessary for the expansion of a business that has a high potential for financial success, or that maintain the
15 tax base or that encourage expansion of the tax base; and

16 (g) projects that are high local priorities and have strong community support.

17 (4) After the review required by subsection (2), the projects must be approved by the legislature.

18 (5) The ~~department~~ office of economic development shall adopt rules necessary to implement the
19 treasure state endowment program. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000.)

20 **90-6-710. (Effective July 1, 2005) Priorities for projects -- procedure -- rulemaking.** (1) The
21 ~~department of commerce~~ office of economic development must receive proposals for projects from local
22 governments as defined in 90-6-701(3)(b). The ~~department~~ office of economic development shall work with a
23 local government in preparing cost estimates for a project. In reviewing project proposals, the ~~department~~ office
24 of economic development may consult with other state agencies with expertise pertinent to the proposal. The
25 ~~department~~ office of economic development shall prepare and submit a list containing the recommended
26 projects and the recommended form and amount of financial assistance for each project to the governor,
27 prioritized pursuant to subsection (2). The governor shall review the projects recommended by the ~~department~~
28 office of economic development and shall submit a list of recommended projects and the recommended financial
29 assistance to the legislature.

30 (2) In preparing recommendations under subsection (1), preference must be given to infrastructure

1 projects based on the following order of priority:

2 (a) projects that solve urgent and serious public health or safety problems or that enable local
3 governments to meet state or federal health or safety standards;

4 (b) projects that reflect greater need for financial assistance than other projects;

5 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,
6 long-term solutions to community public facility needs;

7 (d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and
8 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

9 (e) projects that enable local governments to obtain funds from sources other than the funds provided
10 under this part;

11 (f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities
12 necessary for the expansion of a business that has a high potential for financial success, or that maintain the
13 tax base or that encourage expansion of the tax base; and

14 (g) projects that are high local priorities and have strong community support.

15 (3) After the review required by subsection (1), the projects must be approved by the legislature.

16 (4) The ~~department~~ office of economic development shall adopt rules necessary to implement the
17 treasure state endowment program."

18

19 **Section 72.** Section 90-6-715, MCA, is amended to read:

20 **"90-6-715. (Temporary) Special revenue account -- use.** (1) The treasure state endowment regional
21 water system special revenue account may be used to provide matching funds to plan and construct regional
22 drinking water systems in Montana. Each state dollar must be matched equally by local funds. Federal and state
23 grants may not be used as a local match.

24 (2) Up to 25% of the local matching funds required under subsection (1) for the treasure state
25 endowment regional water system may be in the form of debt that was incurred by local government entities
26 included in the regional water system to construct individual drinking water systems before the individual
27 systems were connected to the regional system. However, the amount of an individual entity's debt that may be
28 used for matching funds is limited to the amount necessary to allow the entity to maintain its water service
29 charges below the hardship standard established by the ~~department~~ office of economic development through
30 administrative rules adopted under 90-6-710(4).

1 (3) The funds in the account are further restricted to be used to finance regional drinking water systems
 2 that supply water to large geographical areas and serve multiple local governments, such as projects in north
 3 central Montana, from the waters of the Tiber reservoir, that will provide water for domestic use, industrial use,
 4 and stockwater for communities and rural residences that lie south of the Canadian border, west of Havre, north
 5 of Dutton, and east of Cut Bank and in northeastern Montana, from the waters of the Missouri River, that will
 6 provide water for domestic use, industrial use, and stockwater for communities and rural residences that lie
 7 south of the Canadian border, west of the North Dakota border, north of the Missouri River, and east of range
 8 39.

9 (4) The funds must be administered by the ~~department of commerce~~ office of economic development
 10 for eligible projects. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)"

11

12 **Section 73.** Section 90-7-203, MCA, is amended to read:

13 **"90-7-203. Staff of authority.** The authority may employ or contract for any professional staff or
 14 consultants necessary. ~~Such~~ The employment and contracting must be done in consultation with the department
 15 of ~~commerce~~ administration."

16

17 **Section 74.** Section 90-8-104, MCA, is amended to read:

18 **"90-8-104. Definitions.** As used in this chapter, unless the context requires otherwise, the following
 19 definitions apply:

20 (1) "Capital base" means equity capital raised by a certified Montana capital company or by a certified
 21 Montana small business investment capital company for which tax credits were claimed under this chapter.

22 (2) "Certified Montana capital company" or "certified Montana small business investment capital
 23 company" means:

24 (a) a development credit corporation created pursuant to Title 32, chapter 4; or

25 (b) a profit or nonprofit entity organized and existing under the laws of Montana, created for the purpose
 26 of making venture or risk capital available for qualified investments and that has been certified by the ~~department~~
 27 office.

28 ~~(3) "Department" means the department of commerce.~~

29 ~~(4)~~(3) "Montana business" means a business that is located or principally based within Montana.

30 (4) "Office" means the office of economic development provided for in 2-15-218.

1 (5) "Qualified investment" means an investment that does not violate any of the provisions of this
2 chapter, that does not displace other sources of equity or debt financing that are available to the project unless
3 the ~~department~~ office determines that the investment furthers the purposes of this chapter, and that is:

4 (a) a debt or equity financing of a Montana business that meets both of the following criteria:

5 (i) the business is engaged in one or more of the following activities:

6 (A) manufacturing;

7 (B) agricultural, fishery, or forestry production and processing;

8 (C) mineral production and processing, except for conventional oil and gas exploration;

9 (D) recognized nonfossil forms of energy generation or the manufacture of low emission wood or
10 biomass combustion devices as defined in 15-32-102;

11 (E) transportation;

12 (F) research and development of products or processes associated with any of the activities
13 enumerated in subsections (5)(a)(i)(A) through (5)(a)(i)(E);

14 (G) wholesale or retail distribution activities for which products produced in Montana comprise 50% or
15 more of the gross sales receipts;

16 (H) any activity conducted in the state for which 50% or more of the gross receipts are derived from the
17 sale of products or services outside Montana;

18 (I) tourism; and

19 (J) the production of energy using an alternative renewable energy source as defined in 90-4-102; and

20 (ii) the business is a small business as defined in rules adopted by the ~~department~~ office and is a small
21 business pursuant to the regulations promulgated by the United States small business administration at 13 CFR
22 121, et seq.;

23 (b) a debt or equity financing of a business outside Montana if the investment is likely to produce a
24 qualified investment in Montana, as long as the investment does not exceed 25% of the capital base of the
25 capital company; or

26 (c) a debt or equity financing of an acquisition of a non-Montana business that will be relocated in
27 Montana.

28 (6) "Qualified Montana capital company" means a certified Montana capital company that has been
29 designated a qualified capital company under the provisions of 90-8-202 so that investors in the company may
30 receive the tax credits authorized in 90-8-202.

1 (7) "Qualified Montana small business investment capital company" means a certified Montana small
2 business investment capital company that has been designated as a qualified small business investment capital
3 company under the provisions of 90-8-202 so that investors in the company may receive the tax credits
4 authorized in 90-8-202."

5

6 **Section 75.** Section 90-8-105, MCA, is amended to read:

7 **"90-8-105. Rulemaking.** The department office may adopt rules to implement the provisions of this
8 chapter."

9

10 **Section 76.** Section 90-8-106, MCA, is amended to read:

11 **"90-8-106. Fees.** The department office may charge fees commensurate with costs for the
12 administration of this chapter. Fees for the administration of this chapter must be assessed to each qualified
13 Montana capital company that is not a small business investment company that is licensed and regulated by the
14 United States small business administration, in a ratio proportionate to the tax credits allocated to the capital
15 company divided by the total tax credits allocated to all qualified Montana capital companies."

16

17 **Section 77.** Section 90-8-201, MCA, is amended to read:

18 **"90-8-201. Certification of Montana capital companies and small business investment capital**
19 **companies.** (1) The department office shall certify Montana small business investment capital companies, and
20 from time to time, the department office shall certify Montana capital companies. A company seeking to be
21 certified as a Montana capital company or as a Montana small business investment capital company shall make
22 written application to the department office on forms provided by the department office. The application must
23 contain the information required by 90-8-204 and other information that the department office requires.

24 (2) The application must show that the applicant's purpose is to increase the general economic welfare
25 of the state of Montana by:

26 (a) making investment capital available to businesses in Montana; and

27 (b) allowing for investment of up to 25% of its capital base in businesses outside Montana if there is a
28 substantial likelihood that the investment will produce a qualified investment in Montana.

29 (3) Certifiable applicants include but are not limited to local and community development corporations,
30 small business administration certified development companies, and small business investment companies.

1 (4) Certification is a prerequisite to and must be completed before seeking designation as a qualified
2 capital company or as a qualified Montana small business investment capital company.

3 (5) To be eligible for certification under this section as a Montana small business investment capital
4 company, the applicant shall commit to:

5 (a) accumulating private capital with the intention of being licensed as a small business investment
6 corporation by the United States small business administration as provided in Title III of the Small Business
7 Investment Act of 1958, as amended, and as implemented under 13 CFR 107;

8 (b) targeting its investments as a small business investment capital company toward commercialization
9 projects emerging from centers of excellence and entrepreneurship, federal laboratories, the federal small
10 business innovative research program, the federal cooperative research and development agreement program,
11 Montana university system research and development, small business incubators, community development
12 block grant programs, and projects emerging from economic development programs of Montana certified
13 communities, with the objective of providing significant investment opportunities in an area where economic
14 development capital is limited;

15 (c) considering investment opportunities originating in any Montana county; and

16 (d) adopting investment guidelines that ensure that not less than 10% of its available capital is invested
17 in counties with populations of 20,000 or less."

18

19 **Section 78.** Section 90-8-202, MCA, is amended to read:

20 **"90-8-202. Designation of qualified Montana capital companies -- designation of qualified**
21 **Montana small business investment capital company -- tax credit.** (1) The ~~department~~ office shall designate
22 as:

23 (a) qualified Montana capital companies those certified companies that have been privately capitalized
24 at a minimum level of \$200,000; or

25 (b) a qualified Montana small business investment capital company a certified Montana small business
26 investment capital company once it has been privately capitalized at a minimum level of \$500,000.

27 (2) A certified company seeking designation as a qualified Montana capital company or as a qualified
28 Montana small business investment capital company shall make written application to the ~~department~~ office on
29 forms provided by the ~~department~~ office. The application must contain the information required by 90-8-204 and
30 other information that the ~~department~~ office requires.

1 (3) (a) The total amount of tax credits authorized for a single qualified capital company or a qualified
2 Montana small business investment capital company may not exceed \$1,500,000, except that a qualified
3 Montana small business investment capital company must receive all remaining tax credits under this section
4 available as of January 1, 1991. In the event the capitalization of a qualified capital company is later increased,
5 the company may apply for authorization of additional tax credits within the foregoing limitation.

6 (b) The total credits authorized for all companies may not exceed a total of \$1 million prior to June 30,
7 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may not exceed
8 \$1 million plus any portion of the \$1 million available for authorization before June 30, 1985, that is allocated to
9 qualified companies. The total credits authorized for all companies between July 1, 1987, and June 30, 1989,
10 may not exceed \$3 million plus any portion of the credits available for authorization before June 30, 1987, that
11 is allocated to qualified companies. The total credits authorized for all companies between July 1, 1989, and
12 June 30, 1991, may not exceed \$3 million plus any portion of the credits available for authorization before June
13 30, 1989, that is allocated to qualified companies.

14 (4) (a) Before January 1, 1991, credits must be allocated to qualified companies in the order that
15 completed applications for designation as qualified capital companies are received by the department office, and
16 the department office shall certify to each company its appropriate allocation.

17 (b) All tax credits allowed under subsection (3) that are not allocated as of January 1, 1991, must be
18 allocated to a qualified Montana small business investment capital company, and the department office shall
19 certify the allocation to the company.

20 (c) If the legislature provides additional tax credits under this chapter after June 30, 1991, or if tax
21 credits become available by reversion to the department office by a capital company or by a qualified Montana
22 small business investment capital company, those additional or reverted tax credits must be allocated by the
23 department office to qualified capital companies or to a qualified Montana small business investment capital
24 company in accordance with this chapter and the rules of the department office.

25 (5) Investors in a qualified Montana capital company or in a qualified Montana small business
26 investment capital company are entitled to the tax credits provided for in subsection (6). Funds invested in a
27 certified company prior to designation as a qualified Montana capital company or as a qualified Montana small
28 business investment capital company may, at the discretion of the investor, be placed in an escrow account in
29 a Montana financial institution pending designation of the company as a qualified Montana capital company or
30 as a qualified Montana small business investment capital company.

1 (6) Subject to the provisions of subsections (3) and (9), an individual, small business corporation,
2 partnership, trust, decedent's estate, or corporate taxpayer that makes a capital investment in a qualified
3 Montana capital company or a qualified Montana small business investment capital company is entitled to a tax
4 credit equal to 50% of the investment, up to a maximum credit for investments in all qualified Montana capital
5 companies of \$150,000 per taxpayer, except that, as applied to a qualified small business investment capital
6 company, the maximum tax credit is \$250,000 per taxpayer and the tax credit limitation relating to a capital
7 investment in a qualified Montana small business investment capital company must be in addition to any other
8 tax credit limitation in this section. The credit may be taken against the tax liability imposed on the investor
9 pursuant to Title 15, chapter 30, 31, or 35. The credit for investments by a small business corporation defined
10 in 15-30-1101 or a partnership may be claimed by the small business corporation shareholders or the partners.

11 (7) The tax credit allowed under subsection (6) is to be credited against the taxpayer's income tax
12 liability or coal severance tax liability for the taxable year in which the investment in a qualified Montana capital
13 company or a qualified Montana small business investment capital company is made. If the amount of the tax
14 credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax
15 liability may be carried back or carried forward in the following manner:

16 (a) If the sum of the amount of credit for the current taxable year plus the amount of credit, if any, carried
17 forward from a previous taxable year exceeds the taxpayer's tax liability for the current taxable year, the excess
18 must be carried back as a credit to the 3 preceding taxable years and, if the full credit remains unused, carried
19 forward as a credit to the 15 succeeding taxable years.

20 (b) The amount of unused credit must be used to offset the entire tax liability of each of the 18 taxable
21 years, beginning with the earliest and commencing to the next succeeding year until the credit is exhausted.

22 (8) The tax credit provided for in this section is available only to those taxpayers who invest in a
23 qualified Montana capital company within 4 years of July 1, 1987, or in a qualified Montana small business
24 investment capital company within 4 years of July 1, 1991.

25 (9) (a) An individual, small business corporation, partnership, or corporate taxpayer who obtains the tax
26 credit allowed under subsection (6) may not obtain credits in excess of the limits contained in subsection (6) by
27 making investments as more than one entity.

28 (b) A partner or shareholder in a small business corporation may not obtain more than \$150,000, or not
29 more than \$250,000 in the case of a qualified Montana small business investment capital company, in credits
30 as an individual and as the partnership or small business corporation. A corporate taxpayer that obtains the

1 maximum credits allowed under this subsection (9)(b) may not obtain additional credits through investments by
2 wholly owned subsidiaries or affiliates. An individual, small business corporation, partnership, or corporate
3 taxpayer who obtains the tax credit allowed under subsection (6) may not claim deduction under the provisions
4 of Title 15, chapter 30 or 31, for donation of stock in a qualified Montana small business investment capital
5 company."

6

7 **Section 79.** Section 90-8-204, MCA, is amended to read:

8 **"90-8-204. Application requirements.** A company applying to become either a certified or qualified
9 Montana capital company or a certified or qualified Montana small business investment capital company shall
10 include in its application evidence that it has disclosed or will disclose to all investors the following:

11 (1) the condition that a tax credit is not available for investment in a company until the company has
12 been designated a qualified Montana capital company or a qualified Montana small business investment capital
13 company and the investor has received a certificate approving the credit from the department office;

14 (2) the condition that a tax credit will not be made available until a qualified capital company raises at
15 least \$200,000 in capital and has been designated a qualified capital company or a qualified Montana small
16 business investment capital company raises at least \$500,000 in capital before July 1, 1995, and has been
17 designated a qualified Montana small business investment capital company and the limits on tax credits that may
18 be authorized; and

19 (3) the fact that the state of Montana is not liable for damages in accordance with 90-8-205."

20

21 **Section 80.** Section 90-8-301, MCA, is amended to read:

22 **"90-8-301. Qualified investments -- penalty -- extension permissible.** (1) A qualified Montana capital
23 company receiving investments for which a taxpayer has applied and received a tax credit must use its capital
24 base to make qualified investments according to the following schedule:

25 (a) at least 30% of its capital base raised through investments for which tax credits were taken within
26 3 years of the date on which the certified company was designated as a qualified capital company by the
27 department office and, in the case of capital raised by a qualified Montana capital company under an amended
28 application for additional tax credits filed after its initial designation as a qualified Montana capital company, at
29 least 30% of its capital base raised through investments for which tax credits were taken within 3 years of the
30 date on which the department office approves the amended application;

1 (b) at least 50% of its capital base raised through investments for which tax credits were taken within
2 4 years of the date on which the certified company was designated as a qualified capital company by the
3 ~~department~~ office and, in the case of capital raised by a qualified Montana capital company under an amended
4 application for additional tax credits filed after its initial designation as a qualified Montana capital company, at
5 least 50% of its capital base raised through investments for which tax credits were taken within 4 years of the
6 date on which the ~~department~~ office approves the amended application; and

7 (c) at least 70% of its capital base raised through investments for which tax credits were taken within
8 5 years of the date on which the certified company was designated as a qualified capital company by the
9 ~~department~~ office and, in the case of capital raised by a qualified Montana capital company under an amended
10 application for additional tax credits filed after its initial designation as a qualified Montana capital company, at
11 least 70% of its capital base raised through investments for which tax credits were taken within 5 years of the
12 date on which the ~~department~~ office approves the amended application.

13 (2) A qualified Montana small business investment capital company receiving investments for which
14 a taxpayer has applied and received a tax credit must use its capital base to make qualified investments
15 according to the following schedule:

16 (a) of its capital base raised through investments for which tax credits were taken:

17 (i) 30% within 3 years of the date on which the certified company was designated as a qualified Montana
18 small business investment capital company by the ~~department~~ office or within 3 years of its designation as a
19 small business investment corporation by the small business administration, whichever is later;

20 (ii) 50% within 4 years of the date on which the certified company was designated as a qualified Montana
21 small business investment capital company by the ~~department~~ office or within 4 years after its designation as
22 a small business investment corporation by the small business administration, whichever is later; and

23 (iii) 70% within 5 years of the date on which the certified company was designated as a qualified
24 Montana small business investment capital company by the ~~department~~ office or within 5 years after its
25 designation as a small business investment corporation by the small business administration, whichever is later;

26 or

27 (b) of its capital base, in the case of capital raised through a loan from the small business administration
28 pursuant to 13 CFR 107, as provided under this chapter except as provided in subsection (2)(a).

29 (3) Following each annual examination, the ~~department~~ office shall notify the department of revenue
30 of any companies that are not in compliance with this section.

1 (4) (a) Except as provided in subsection (4)(b), a qualified Montana capital company that fails to make
2 qualified investments pursuant to subsection (1) or a qualified Montana small business investment capital
3 company that fails to make qualified investments pursuant to subsection (2) shall pay to the department of
4 revenue a penalty equal to all of the tax credits allowed to the investors investing in that company during that
5 time period, with interest at 1% a month from the date the tax credits were certified as allocated to a qualified
6 Montana capital company or to a qualified Montana small business investment capital company. The department
7 of revenue may abate the penalty if a capital company or a Montana small business investment capital company
8 establishes reasonable cause for the failure to make qualified investments pursuant to subsection (1) or (2) and
9 if the failure was not due to neglect on the part of the company.

10 (b) A company that has been licensed as a small business investment company whose securities are
11 guaranteed by the United States small business administration pursuant to Title III of the Small Business
12 Investment Act of 1958 may not be required to pay the penalty until all amounts due under the terms of the
13 guarantee of the securities are paid in full.

14 (5) The department of revenue may grant an extension of time in which to make qualified investments
15 pursuant to subsection (1) or (2) upon application by a capital company or a Montana small business investment
16 capital company showing reasonable cause for an extension.

17 (6) The department of revenue shall deposit any amount received under this section to the credit of the
18 state general fund.

19 (7) A capital company may invest tax credit funds in an existing profitable business only if a substantial
20 portion of the investment is to be used for expansion of the business. The ~~department~~ office may limit the
21 amount of the investment to be counted toward the investment percentage criteria set forth in this section to the
22 amount to be used for the expansion of the business."

23

24 **Section 81.** Section 90-8-311, MCA, is amended to read:

25 **"90-8-311. Legislative review and oversight.** The ~~department~~ office shall report on an annual basis
26 to the appropriate legislative interim committee concerning Montana capital companies and Montana small
27 business investment capital companies."

28

29 **Section 82.** Section 90-8-312, MCA, is amended to read:

30 **"90-8-312. Investment reporting and recordkeeping.** (1) Each qualified Montana capital company

1 and each qualified Montana small business investment capital company shall report to the department office on
2 a quarterly basis:

3 (a) the name of each investor in the qualified Montana capital company or in the qualified Montana small
4 business investment capital company who has applied for a tax credit;

5 (b) the amount of each investor's investment;

6 (c) the amount of the tax credit allowed to the investor and the date on which the investment was made;

7 and

8 (d) any other information determined by the department office.

9 (2) The department office shall provide the information contained in subsection (1) to the department
10 of revenue on a quarterly basis.

11 (3) The department office shall provide each investor in a qualified Montana capital company and each
12 investor in a qualified Montana small business investment capital company with a certificate authorizing the tax
13 credit, and the certificate must be submitted with each tax return requesting a credit under 90-8-202.

14 (4) Each qualified Montana capital company and each qualified Montana small business investment
15 capital company shall report to the department office on a quarterly basis all qualified investments that the
16 company has made. The department office shall share the information with the department of revenue, in order
17 that the provisions of 90-8-301 may be complied with.

18 (5) Each qualified Montana capital company shall report to the department office all proposed
19 investments to be made from its capital base. The capital company may not make the proposed investment
20 unless the department office determines, within 10 days of submission of a report satisfactory to the department
21 office, that the proposed investment is qualified under this chapter."

22

23 **Section 83.** Section 90-8-313, MCA, is amended to read:

24 **"90-8-313. Examination.** (1) At least once a year the department office shall examine the books and
25 affairs of each Montana capital company and of each qualified Montana small business investment capital
26 company. The examination must address the methods of operation and conduct of the business of the Montana
27 capital company or of the Montana small business investment capital company to determine if the company is
28 abiding by the purposes of this chapter and that the funds received by the company have been invested within
29 the time limits required for a qualified Montana capital company or for a qualified Montana small business
30 investment capital company in 90-8-301.

1 (2) The ~~department~~ office may examine under oath any of the officers, directors, agents, employees,
2 or investors of a Montana capital company regarding the affairs and business of the company. The ~~department~~
3 office may issue subpoenas and administer oaths. Refusal to obey ~~such~~ a subpoena may at once be reported
4 to the district court of the district in which the company is located, and the court shall enforce obedience to the
5 subpoena in the manner provided by law.

6 (3) The cost of the annual review must be paid by each Montana capital company or by each Montana
7 small business investment capital company in accordance with reasonable fees assessed by the ~~department~~
8 office."

9

10 **Section 84.** Section 90-8-321, MCA, is amended to read:

11 **"90-8-321. Decertification.** (1) (a) If the examination conducted pursuant to 90-8-313 discloses that
12 a Montana capital company or a Montana small business investment capital company is not in compliance with
13 the provisions of this chapter, the ~~department~~ office may exercise any of the powers with regard to banks
14 granted in Title 32, chapter 1, part 5, and may seize the assets of the company and liquidate it. In the event of
15 liquidation of the assets, any penalty imposed pursuant to 90-8-301 must be included in the claims to be paid.

16 (b) If a company has any fixed or contingent obligations to the United States small business
17 administration or its designee:

18 (i) the ~~department~~ office may not exercise the powers granted in Title 32, chapter 1, part 5, without the
19 prior written consent of the United States small business administration; and

20 (ii) the proceeds from any liquidation, including the collection of any unfunded commitments, must be
21 applied first toward the payment of all sums that may be due the United States small business administration
22 as holder or guarantor of any security issued by the company.

23 (2) If in the discretion of the ~~department~~ office the action allowed under subsection (1) is not required
24 to protect the company's investors, the ~~department~~ office may place the company on notice that it will lose its
25 certification as a Montana capital company or as a Montana small business investment capital company within
26 a specified period of time if the company does not come into compliance with the provisions of this chapter. The
27 ~~department~~ office shall automatically decertify a Montana capital company or a Montana small business
28 investment capital company that is assessed a penalty under 90-8-301(4).

29 (3) As long as the ~~department~~ office acts in good faith, the ~~department~~ office and its employees and
30 agents may not be held civilly or criminally liable or liable upon their official bonds for action taken under this

1 section or for any failure to act under it.

2 (4) A Montana capital company or a Montana small business investment capital company may apply
3 to the ~~department~~ office for decertification.

4 (5) The ~~department~~ office has the power to decertify any capital company not in compliance with this
5 chapter.

6 (6) The ~~department~~ office shall decertify a capital company once the capital company has met the
7 investment schedule outlined in 90-8-301 and over 70% of the capital base of the capital company has been
8 invested in qualified investments and after at least 5 years have elapsed since the date the capital company was
9 qualified."

10

11 **Section 85.** Section 90-9-201, MCA, is amended to read:

12 **"90-9-201. Council organization -- meetings.** (1) The members of the council shall select a member
13 as presiding officer. The council may establish other offices and select council members to fill these offices.

14 (2) The council shall meet quarterly and at other times as determined by the presiding officer or a
15 majority of the council.

16 (3) Each committee member, except the director of the department ~~and the director of the department~~
17 ~~of commerce~~, is entitled to:

18 (a) \$50 compensation for each day that the member is engaged in the transaction of official business,
19 including travel to and from official business; and

20 (b) necessary travel expenses as provided for in 2-18-501 through 2-18-503."

21

22 NEW SECTION. **Section 86. Repealer.** Section 2-15-1801, MCA, is repealed.

23

24 NEW SECTION. **Section 87. Transition.** The provisions of 2-15-125 and 2-15-131 through 2-15-137
25 apply to [sections 1 through 85].

26

27 NEW SECTION. **Section 88. Instructions to code commissioner.** The code commissioner shall
28 renumber:

29 (1) sections 2-15-1808, 2-15-1814, 2-15-1815, 2-15-1821, and 2-15-1822 as part of Title 2, chapter 15,
30 part 10;

1 (2) section 2-15-1816 as part of Title 2, chapter 15, part 25; and

2 (3) section 2-15-1819 as part of Title 2, chapter 15, part 2.

3

4 NEW SECTION. **Section 89. Saving clause.** [This act] does not affect rights and duties that matured,
5 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

6

7 NEW SECTION. **Section 90. Effective date.** [This act] is effective September 1, 2002.

8

- END -