

HOUSE BILL 108

Introduced by J. Rice

1/05	Introduced
1/05	Referred to Business & Economic Development
1/07	First Reading
1/10	Bill Withdrawn

1 HOUSE BILL NO. 108
 2 INTRODUCED BY J. RICE
 3 BY REQUEST OF THE GOVERNOR
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM
 6 THE IN-STATE DEVELOPMENT FUND FOR RESEARCH AND DEVELOPMENT
 7 PROJECT LOANS; INCREASING FUNDING OF TECHNOLOGY TRANSFER AND
 8 ASSISTANCE PROJECTS; REQUIRING AT LEAST THREE MEMBERS OF THE
 9 BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE
 10 KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES;
 11 INCREASING THE NUMBER OF EXEMPT POSITIONS; CHANGING MATCHING
 12 FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS;
 13 AMENDING SECTIONS 2-15-1818, 2-18-103, 17-6-308, 90-3-101,
 14 90-3-301, AND 90-3-524, MCA; AND PROVIDING AN IMMEDIATE
 15 EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 2-15-1818, MCA, is amended to read:
 19 "2-15-1818. Montana board of science and technology
 20 development -- allocation -- composition -- quasi-judicial
 21 powers. (1) There is a Montana board of science and
 22 technology development. The board is allocated to the
 23 department of commerce. The department shall select,
 24 prescribe the duties for, and supervise staff to administer
 25 board activities.

1 (2) The board consists of nine members appointed by the
 2 governor as prescribed in 2-15-124.

3 (3) In making appointments to the board, the governor
 4 shall consider people with extensive interest and experience
 5 in science and technology and the application of such
 6 interest and experience to economic development in Montana.

7 (4) The membership of the board must include:

8 (a) at least ~~two~~ three members with knowledge of early
 9 stage financing of private businesses;

10 (b) at least one member with expertise in applied
 11 technology development; and

12 (c) at least five members from the private sector.

13 (5) The board is designated a quasi-judicial board for
 14 purposes of 2-15-124."

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

16 "2-18-103. Officers and employees excepted. Parts 1 and
 17 2 do not apply to the following positions in state
 18 government:

- 19 (1) elected officials;
 20 (2) county assessors and their chief deputy;
 21 (3) officers and employees of the legislative branch;
 22 (4) judges and employees of the judicial branch;
 23 (5) members of boards and commissions appointed by the
 24 governor, the legislature, or other elected state officials;
 25 (6) officers or members of the militia;

- 1 (7) agency heads appointed by the governor;
- 2 (8) academic and professional administrative personnel
- 3 with individual contracts under the authority of the board
- 4 of regents of higher education;
- 5 (9) academic and professional administrative personnel
- 6 and live-in houseparents who have entered into individual
- 7 contracts with the state school for the deaf and blind under
- 8 the authority of the state board of public education;
- 9 (10) teachers under the authority of the department of
- 10 institutions or family services;
- 11 (11) investment officer, assistant investment officer,
- 12 executive director, and three professional staff positions
- 13 of the board of investments;
- 14 (12) four professional staff positions under the board
- 15 of oil and gas conservation;
- 16 (13) assistant director for security of the Montana
- 17 state lottery;
- 18 (14) executive director and two senior investment
- 19 ~~officer~~ officers of the Montana board of science and
- 20 technology development; and
- 21 (15) executive director and employees of the state
- 22 compensation mutual insurance fund."

Section 3. Section 17-6-308, MCA, is amended to read:

"17-6-308. **Authorized investments.** (1) Except as provided in subsection (4), the Montana in-state investment

1 fund must be invested as authorized by rules adopted by the
2 board. For purposes of this section, "investment" includes
3 the guaranty of loans or bonds in consideration for a fee,
4 in lieu of the actual acquisition of ~~such~~ the loans or
5 bonds.

6 (2) The board may use the in-state investment fund to
7 guarantee loans or bonds issued under the provisions of
8 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,
9 or Title 90, chapter 7. Each guaranty must be given in
10 consideration of a fee. The fees must be paid to the board.
11 The guaranty must provide directly or by separate agreement
12 that the board is fully subrogated to the rights of the
13 obligee under the loan or bond. The board shall by rule
14 establish the maximum ratio between guaranty funds available
15 and loans or bonds to be guaranteed. The board may covenant
16 in bond issues to maintain ~~such~~ the ratio. Unless bonds
17 issued to finance a project are secured by a common capital
18 reserve account and a common guaranty fund, the maximum
19 amount of the guaranty authorized by this section may not
20 exceed ~~\$3,000,000~~ \$3 million with respect to the bonds or
21 loans to finance the project.

22 (3) The board may make loans from the in-state
23 investment fund to the capital reserve account created
24 pursuant to 17-5-1515 and the guaranty fund created pursuant
25 to 17-5-1520 to establish balances or restore deficiencies

1 therein. The board may agree in connection with the issuance
 2 of bonds or notes secured by such account or fund to make
 3 such loans. Loans must be on such terms and conditions as
 4 the board determines and must be repaid from revenues of the
 5 board realized from the exercise of its powers under
 6 17-5-1501 through 17-5-1529, subject to the prior pledge of
 7 the revenues to the bonds and notes.

8 (4) The board shall allow the Montana board of science
 9 and technology development provided for in 2-15-1818 to
 10 administer \$7.5 million of the in-state investment fund for
 11 seed capital project loans and \$4.1 million of the in-state
 12 investment fund for research and development project loans
 13 pursuant only to the provisions of Title 90, chapter 3. This
 14 authority does not extend beyond June 30, 1994, for seed
 15 capital project loans and June 30, 1993, for research and
 16 development project loans. Until ~~such-time-as~~ the Montana
 17 board of science and technology development makes a loan
 18 pursuant to ~~those~~ the provisions of Title 90, chapter 3, the
 19 funds under its administration must be invested by the board
 20 of investments pursuant to the provisions of 17-6-201."

21 **Section 4.** Section 90-3-101, MCA, is amended to read:

22 "90-3-101. Short title -- findings -- purpose. (1) This
 23 chapter may be cited as the "Montana Science and Technology
 24 Financing Act".

25 (2) The legislature finds and declares that:

1 (a) it is the policy of the state of Montana to promote
 2 the health, safety, and general welfare of all the people of
 3 the state;

4 (b) this policy will be furthered through strengthening
 5 and diversifying the state's economy by facilitating a
 6 public sector-private sector partnership to encourage
 7 scientific and technological development within the state in
 8 order to keep pace with a changing economic structure and to
 9 create new jobs and expand business opportunities;

10 (c) this strengthening and diversification will be
 11 fostered by assisting in the acceleration of development of
 12 technology in the state through participation with the
 13 private sector in the financing of science and technology
 14 development projects that have significant potential for
 15 commercialization in Montana;

16 (d) the in-state investment fund created through
 17 adoption of Initiative Measure No. 95 by the voters of
 18 Montana in 1982 is the appropriate source for providing
 19 financing programs for the development of new and expanding
 20 businesses in Montana; and

21 ~~(e) the Science and Technology Development Board Seed~~
 22 ~~Capital Bond Act contained provisions that were found to be~~
 23 ~~unconstitutional by the Montana supreme court, and the 51st~~
 24 ~~legislature of the state of Montana must remedy those~~
 25 ~~defects through legislation; and~~

1 {f} the Montana science and technology development
2 board has demonstrated success in forging a partnership
3 among the private sector, the university community, and
4 government, and this success should be continued through an
5 ongoing legislative commitment to the board's programs.

6 (3) The purposes of this chapter are to:

7 (a) strengthen and diversify Montana's economy by
8 establishing a public-private sector partnership to
9 encourage scientific and technological development within
10 the state in order to keep pace with a transforming economic
11 structure and to create new jobs and expand small business
12 opportunities;

13 (b) provide a funding source for the board to make seed
14 capital project loans;

15 (c) provide a mechanism for the board to use in making
16 seed capital project loans; and

17 (d) provide a mechanism and a funding source for the
18 board to use in making research and development project
19 loans, ~~the funding source of which will be provided by~~
20 ~~separate legislation."~~

21 **Section 5.** Section 90-3-301, MCA, is amended to read:

22 "90-3-301. Appropriation authority and funding --
23 matching funds. (1) The board has authority to accept and
24 expend all funds received by it as grants, donations, or
25 other private or public income. These funds are statutorily

1 appropriated as provided in 17-7-502.

2 (2) The appropriations and loans made to and by the
3 board are in addition to and separate from general fund
4 appropriations to the university system and other state
5 agencies.

6 (3) A loan may not be made for a seed capital project
7 for which matching funds have not been received. Matching
8 funds are required prior to any expenditure of board funds
9 for ~~research--and--development-projects-or~~ all seed capital
10 projects. The board may accept as matching funds those
11 received by the loan recipient within 1 year prior to the
12 execution of the loan agreement. The board may require
13 additional matching funds, depending on the capital need and
14 the degree of risk encountered in the ~~science-and-technology~~
15 ~~development~~ seed capital project.

16 (4) A loan may not be made for a research and
17 development project for which matching funds have not been
18 received unless the matching fund requirements are waived by
19 the board pursuant to this section. Matching funds, when
20 required, must be received before expenditure of board funds
21 for a research and development project loan may be made. The
22 board may waive the required match for up to 25% of the
23 funding for research and development project loans if the
24 board determines that the capital need and potential
25 commercialization of the research and development project,

1 in addition to its potential to strengthen the partnership
 2 between the public sector and private sector, warrant the
 3 waiver. The board may accept as matching funds those
 4 received by the loan recipient within 1 year prior to the
 5 execution of the loan agreement. The board may require
 6 additional matching funds depending on the capital need in
 7 the research and development project."

8 **Section 6.** Section 90-3-524, MCA, is amended to read:

9 "90-3-524. Research and development project loan
 10 agreement -- specific requirements -- payback. In addition
 11 to the loan agreement provisions described in 90-3-522, a
 12 research and development project loan agreement must be
 13 structured as contracted debt with the following terms:

14 (1) The agreement must include provisions calling for a
 15 payback of two times the original loan amount paid as a
 16 percentage of the income stream derived from the sale or
 17 other commercialization of products or processes developed
 18 with the board's financing. This percentage rate may not
 19 exceed 5%.

20 (2) The payback on a research and development project
 21 loan for a technology transfer and assistance project may be
 22 made pursuant to subsection (1) or may be realized in terms
 23 of indirect benefits related to the goals and criteria of
 24 the program. No more than ~~10%~~ 25% of the board's annual
 25 allocation of research and development funds may be used for

1 technology transfer and assistance projects."

2 NEW SECTION. Section 7. Coordination instruction. If

3 Bill No. ____ [LC 15] is passed and approved, if it
 4 includes a section that amends 17-6-308, and if it includes
 5 amendments that replace references to the "in-state
 6 investment fund" with "permanent coal tax trust fund", then
 7 in [section 3 of this act, amending 17-6-308(4)], the code
 8 commissioner shall make a similar change.

9 NEW SECTION. Section 8. Severability. If a part of

10 [this act] is invalid, all valid parts that are severable
 11 from the invalid part remain in effect. If a part of [this
 12 act] is invalid in one or more of its applications, the part
 13 remains in effect in all valid applications that are
 14 severable from the invalid applications.

15 NEW SECTION. Section 9. Effective date. [This act] is
 16 effective on passage and approval.

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