

IN THE HOUSE

MARCH 25, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

FIRST READING.

APRIL 4, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 11, 1991

SECOND READING, CONCURRED IN.

APRIL 12, 1991

THIRD READING, CONCURRED IN.
AYES, 86; NOES, 11.

RETURNED TO SENATE.

IN THE SENATE

APRIL 13, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *212*
 2 INTRODUCED BY *Ciprin Dave Blum Larry Hal Griggs*
 3 *W. J. ...* BY REQUEST OF THE GOVERNOR *William*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM
 6 THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT
 7 PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND
 8 DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS
 9 OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE
 10 KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES;
 11 CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND
 12 DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO
 13 ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS
 14 2-15-1818, 17-6-308, 90-3-101, 90-3-102, AND 90-3-301, MCA;
 15 AND PROVIDING AN IMMEDIATE 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 17-6-308, MCA, is amended to read:

16 "17-6-308. Authorized investments. (1) Except as
 17 provided in subsection (4), the Montana in-state investment
 18 fund must be invested as authorized by rules adopted by the
 19 board. For purposes of this section, "investment" includes
 20 the guaranty of loans or bonds in consideration for a fee,
 21 in lieu of the actual acquisition of such ~~the~~ loans or
 22 bonds.

23 (2) The board may use the in-state investment fund to
 24 guarantee loans or bonds issued under the provisions of
 25 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,



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

14 (3) The board may make loans from the in-state
 15 investment fund to the capital reserve account created
 16 pursuant to 17-5-1515 and the guaranty fund created pursuant
 17 to 17-5-1520 to establish balances or restore deficiencies
 18 therein. The board may agree in connection with the issuance
 19 of bonds or notes secured by such account or fund to make
 20 such loans. Loans must be on such terms and conditions as
 21 the board determines and must be repaid from revenues of the
 22 board realized from the exercise of its powers under
 23 17-5-1501 through 17-5-1529, subject to the prior pledge of
 24 the revenues to the bonds and notes.

25 (4) The board shall allow the Montana board of science

1 and technology development provided for in 2-15-1818 to
 2 administer \$7.5 million of the in-state investment fund for
 3 seed capital project loans and \$5.1 million of the in-state
 4 investment fund for research and development project loans
 5 pursuant only to the provisions of Title 90, chapter 3. This
 6 authority does not extend beyond June 30, 1994, for seed
 7 capital project loans and June 30, 1993, for research and
 8 development project loans. Until ~~such time--as~~ the Montana
 9 board of science and technology development makes a loan
 10 pursuant to those the provisions of Title 90, chapter 3, the
 11 funds under its administration must be invested by the board
 12 of investments pursuant to the provisions of 17-6-201."

13 NEW SECTION. Section 3. Allocation of funds. The \$5.1
 14 million of the in-state investment fund to be used for
 15 research and development project loans is allocated as
 16 follows:

17 (1) \$600,000 to meet state matching fund requirements
 18 for the national science foundation awards to the center for
 19 interfacial microbial process engineering;

20 (2) \$3.5 million for loans relating to but not limited
 21 to the centers of excellence program and the Montana
 22 entrepreneurial center and to meet state matching fund
 23 requirements for the national science foundation's
 24 experimental program to stimulate competitive research; and

25 (3) \$1 million for medical facility research and

1 development project loans provided that:

2 (a) a loan may not be less than \$200,000 or more than
3 \$500,000; and

4 (b) a dollar-for-dollar matching requirement from
5 federal or private sources is required.

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

7 **"90-3-101. Short title -- findings -- purpose.** (1) This
8 chapter may be cited as the "Montana Science and Technology
9 Financing Act".

10 (2) The legislature finds and declares that:

11 (a) it is the policy of the state of Montana to promote
12 the health, safety, and general welfare of all the people of
13 the state;

14 (b) this policy will be furthered through strengthening
15 and diversifying the state's economy by facilitating a
16 public sector-private sector partnership to encourage
17 scientific and technological development within the state in
18 order to keep pace with a changing economic structure and to
19 create new jobs and expand business opportunities;

20 (c) this strengthening and diversification will be
21 fostered by assisting in the acceleration of development of
22 technology in the state through participation with the
23 private sector in the financing of science and technology
24 development projects that have significant potential for
25 commercialization in Montana;

1 (d) the in-state investment fund created through
2 adoption of Initiative Measure No. 95 by the voters of
3 Montana in 1982 is the appropriate source for providing
4 financing programs for the development of new and expanding
5 businesses in Montana; and

6 ~~(e) the Science and Technology Development Board Seed
7 Capital Bond Act contained provisions that were found to be
8 unconstitutional by the Montana supreme court, and the 51st
9 legislature of the state of Montana must remedy those
10 defects through legislation; and~~

11 {f} the Montana science and technology development
12 board has demonstrated success in forging a partnership
13 among the private sector, the university community, and
14 government, and this success should be continued through an
15 ongoing legislative commitment to the board's programs.

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

17 (a) strengthen and diversify Montana's economy by
18 establishing a public-private sector partnership to
19 encourage scientific and technological development within
20 the state in order to keep pace with a transforming economic
21 structure and to create new jobs and expand small business
22 opportunities;

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

25 (c) provide a mechanism for the board to use in making

1 seed capital project loans; and

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

6 **Section 5.** Section 90-3-102, MCA, is amended to read:

7 "90-3-102. Definitions. As used in this chapter the
8 following definitions apply:

9 (1) "Act" means the Montana science and technology
10 financing act.

11 (2) "Board" means the Montana board of science and
12 technology development provided for in 2-15-1818.

13 (3) "Company" means a firm, partnership, corporation,
14 association, or any other entity authorized to conduct
15 business in Montana.

16 (4) "Convertible debenture" means a debenture
17 convertible into stock under certain conditions by any
18 individual or company. The debenture may not be converted by
19 the board.

20 (5) "Debenture" or "note" means a writing or
21 certificate issued as evidence of debt.

22 (6) "Department" means the department of commerce
23 created in 2-15-1801.

24 (7) "Expansion capital project" means a science and
25 technology development project undertaken to enable a

1 company to expand its manufacturing and marketing activities
2 in order to move its products or services into new markets
3 or to expand existing markets.

4 (8) "Innovative technology" means the involvement of a
5 product or process that embodies the use of implements,
6 machinery, equipment, chemical formulations, resources,
7 materials, methods, or other items in a manner that departs
8 from previous commercial developments, practices, or
9 applications.

10 (9) "Matching funds" means the funds received in cash
11 by the science and technology development project loan
12 recipient from nonstate-appropriated sources and committed
13 by the loan recipient to the project in an amount that is at
14 least equal to the funds loaned to the recipient by the
15 board for use in the science and technology development
16 project.

17 (10) "Medical facility research and development project"
18 means a research and development project designed to advance
19 the development and operation of facilities that concentrate
20 on fields of medical research involving advanced technology
21 applied to national medical concerns through the financing
22 of personnel, equipment, and operating costs with the goal
23 of establishing the facilities as enduring research
24 organizations in Montana.

25 ~~(10)~~(11) "Portfolio company" means a startup or

1 expansion stage company that has received a seed capital
2 project loan from the board.

3 †11†(12) "Private sector" means any entity or
4 individual, not principally a part of or associated with a
5 governmental unit, that is associated with or involved in
6 commercial activity.

7 †12†(13) "Research and development project" means a
8 science and technology development project that falls into
9 the category of research capability development, applied
10 technology research, or technology transfer and assistance.

11 †13†(14) "Research and development project loan" means a
12 science and technology development project loan entered into
13 between the board and a loan recipient for a research and
14 development project.

15 †14†(15) "Science and technology development project"
16 means either a seed capital project or research and
17 development project designed to discover, develop, transfer,
18 utilize, or commercialize existing or new, innovative
19 technology in order to strengthen and enhance economic
20 development in Montana.

21 †15†(16) "Science and technology development project
22 loan agreement" or "loan" means an agreement entered into
23 between the board and the loan recipient of a seed capital
24 project loan or a research and development project loan
25 that:

1 (a) creates a debt relationship between the parties;

2 (b) provides for a financial return to the board;

3 (c) provides economic development potential to the
4 state; and

5 (d) contains the applicable provisions and terms
6 required by this chapter.

7 †16†(17) "Seed capital project" means a startup capital
8 project or expansion capital project.

9 †17†(18) "Seed capital project loan" means a science and
10 technology development project loan entered into between the
11 board and a loan recipient for a seed capital project.

12 †18†(19) "Startup capital project" means a science and
13 technology development project that assists a company in
14 initiating commercial operations.

15 †19†(20) "State" means the state of Montana.

16 †20†(21) "Warrant" means an instrument issued by a
17 corporation that gives a holder other than the board the
18 right to purchase stock of a corporation either for a
19 limited time or perpetually."

20 **Section 6.** Section 90-3-301, MCA, is amended to read:

21 **"90-3-301. Appropriation authority and funding --**
22 **matching funds.** (1) The board has authority to accept and
23 expend all funds received by it as grants, donations, or
24 other private or public income. These funds are statutorily
25 appropriated as provided in 17-7-502.

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

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

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

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

7 NEW SECTION. Section 7. Intellectual property
8 assessment. The university system shall conduct an
9 assessment of its intellectual property management programs
10 and policies. Based on the assessment, the board of regents
11 shall consider the adoption of a system of intellectual
12 property management that will provide a coordinated and
13 effective method of meeting payback requirements for
14 research and development project loans made to
15 organizations, individuals, and other entities within the
16 university system. The assessment must be coordinated with
17 the Montana board of science and technology development, and
18 a final report and recommendations must be presented to the
19 board by January 1, 1992.

20 NEW SECTION. Section 8. Coordination instruction. If
21 ___Bill No. ___ [LC 15] is passed and approved, if it
22 includes a section that amends 17-6-308, and if it includes
23 amendments that replace references to the "in-state
24 investment fund" with "permanent coal tax trust fund", then
25 in [section 3 of this act, amending 17-6-308(4)], the code

LC 1609/01

1 commissioner shall make a similar change.

2 NEW SECTION. Section 9. Severability. If a part of
3 [this act] is invalid, all valid parts that are severable
4 from the invalid part remain in effect. If a part of [this
5 act] is invalid in one or more of its applications, the part
6 remains in effect in all valid applications that are
7 severable from the invalid applications.

8 NEW SECTION. Section 10. Effective date. [This act] is
9 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0242, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing funding from the in-state investment fund for research and development project loans; providing for medical facility research and development project loans; requiring at least three members of the Board of Science and Technology Development to have knowledge of early state financing of private businesses; changing matching fund requirements for research and development projects; requiring the university system to assess intellectual property management; amending sections 2-15-1818, 17-6-308, 90-3-101, 90-3-102, and 90-3-301, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. Pursuant to the provisions of the Montana Science and Technology Financing Act, the Montana Science and Technology Alliance (MSTA) of the Department of Commerce will administer the proposed research and development loans. MSTa will need an additional 1.00 FTE at grade 18/step 2 to administer the loan program.
2. MSTa will be authorized to lend \$5.1 million of in-state investment funds as follows: \$600,000 for matching state funding requirements for national science foundation awards; \$3.5 million for loans relating to the stimulation of competitive research; and \$1.0 million for medical facility research and development project loans.
3. Projects must have matching funds from nonstate-appropriated sources to qualify for loans. The Science and Technology Development Board may waive the required match for up to 25% of research and development loan funds.
4. The authority to lend in-state investment funds does not extend beyond June 30, 1993. The entire amount of the proposed \$5.1 million of lending authority must be obligated by MSTa within the 1993 biennium.
5. Pursuant to the provisions of 90-3-525, MCA, debt payments on loans will be deposited into the science and technology development account and appropriated as follows: 100% of the principle will be returned to the in-state investment fund, 15% of interest earnings will be appropriated to the state equalization aid account, and 85% of interest earnings will be appropriated to the general fund.
6. Administrative costs will be paid from a \$50,000 general fund appropriation for each year of the 1993 biennium.
7. In conjunction with the university system, MSTa will provide the initial operating supplies and materials for the intellectual property management assessment.
8. Under current law, the general fund and state equalization aid account would receive the interest earnings from the \$5.1 million transferred from the in-state investment fund to MSTa. Interest earnings on the in-state investment fund will decrease following the transfer of funds. Interest earnings will gradually increase as the principle amount of the loans are returned to the in-state investment fund.
9. MSTa has unencumbered approximately \$6.3 million of the \$7.5 million appropriated in 17-6-308(4) for seed capital projects. MSTa's authority to lend the above funds does not extend beyond June 30, 1994.
10. Current law is represented by the FY92-93 executive budget recommendation for the MSTa.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2-5-91
DATE


BRUCE D. CRIPPEN, PRIMARY SPONSOR

2-7-91
DATE

Fiscal Note for SB0242, as introduced.

SB 242

FISCAL IMPACT:

<u>Science & Tech Alliance:</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures</u>						
FTE	1.00	2.00	1.00	1.00	2.00	1.00
Personal Services	206,654	244,967	38,313	206,206	244,519	38,313
Operating Costs	237,900	249,587	11,687	248,071	259,758	11,687
Local Assistance	<u>6,359,750</u>	<u>8,909,750</u>	<u>2,550,000</u>	<u>4,554,400</u>	<u>7,104,400</u>	<u>2,550,000</u>
Total	6,804,304	9,404,304	(2,600,000)	5,008,677	7,608,677	(2,600,000)
<u>Funding:</u>						
General Fund	495,054	545,054	50,000	492,777	542,777	50,000
State Special	15,000	15,000	0	20,000	20,000	0
In-State Investment Fd	<u>6,294,250</u>	<u>8,844,250</u>	<u>2,550,000</u>	<u>4,495,900</u>	<u>7,045,900</u>	<u>2,550,000</u>
Total	6,804,304	9,404,304	2,600,000	5,008,677	7,608,677	2,600,000
<u>Revenues:</u>						
General Fund	153,000	0	(153,000)	307,700	0	(307,700)
State Equalization Aid	<u>27,000</u>	<u>0</u>	<u>(27,000)</u>	<u>54,300</u>	<u>0</u>	<u>(54,300)</u>
Total	180,000	0	(180,000)	362,000	0	(362,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Recent assessments by the National Governors' Association have concluded that expenditure of state funds for applied research projects have led to long-term growth potential technologies resulting in the re-creation of high-quality jobs and the expansion of local tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

MSTA's research and development project loans will generate approximately \$7.1 million in principal and interest payments over a ten year period which will be distributed as follows:

Principal to the In-State Investment Fund:	\$5,100,000
State Equalization Aid Account (15%):	\$ 300,000
General Fund (85%):	\$1,700,000
	=====
Total:	\$7,100,000

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0242, second reading, amended.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing funding from the in-state investment fund for research and development project loans; providing for medical facility research and development project loans; requiring at least three members of the Board of Science and Technology Development to have knowledge of early state financing of private businesses; changing matching fund requirements for research and development projects; requiring the university system to assess intellectual property management; and providing an immediate effective date.

ASSUMPTIONS:


1. Pursuant to the provisions of the Montana Science and Technology Financing Act, the Montana Science and Technology Alliance (MSTA) of the Department of Commerce will administer the proposed research and development loans. MSTTA will need an additional 1.00 FTE at grade 18/step 2 to administer the loan program.
2. MSTTA will be authorized to lend \$5.1 million of in-state investment funds as follows: \$600,000 for matching state funding requirements for national science foundation awards; \$3.5 million for loans averaging \$40,000 each and relating to the stimulation of competitive research; and \$1 million for medical facility research and development project loans.
3. Projects must have nonstate matching funds to qualify for loans. The Science and Technology Development Board may waive the required match for up to 25% of research and development loan funds.
4. The authority to lend in-state investment funds does not extend beyond June 30, 1994.
5. The payback of principal and earnings on a seed capital project loan or on a research and development project loan from the Montana in-state investment fund will be deposited as follows: 100% of the principle will be returned to the in-state investment fund, 15% of interest earnings to the state equalization aid account, and 85% of interest earnings to the general fund (17-6-306).
6. Administrative costs will require a \$50,000 general fund appropriation each year of the 1993 biennium.
7. Under current law, the general fund and state equalization aid account would receive the interest earnings from the \$5.1 million transferred from the in-state investment fund to MSTTA. Interest earnings on the in-state investment fund will decrease following the transfer of funds. Interest earnings will gradually increase as the payback on loans are returned to the in-state investment fund.
8. MSTTA has unencumbered approximately \$6.3 million of the \$7.5 million appropriated in 17-6-308(4) for seed capital projects. MSTTA's authority to lend the above funds does not extend beyond June 30, 1994.
9. Current law is represented by the FY92-93 executive budget recommendation for the MSTTA.

FISCAL IMPACT:

see next page


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

3-22-91
 DATE


 BRUCE D. CRIPPEN, PRIMARY SPONSOR

3-28-91
 DATE

Fiscal Note for SB0242, second reading, amended. SB 242-2

FISCAL IMPACT:

Science & Tech Alliance:

<u>Expenditures</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	1.00	2.00	1.00	1.00	2.00	1.00
Personal Services	206,654	244,967	38,313	206,206	244,519	38,313
Operating Costs	237,900	249,587	11,687	248,071	259,758	11,687
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General Fund	153,000	0	(153,000)	307,700	0	(307,700)
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Total	180,000	0	(180,000)	362,000	0	(362,000)
General Fund Impact (decrease)			(203,000)			(357,700)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Recent assessments by the National Governors' Association have concluded that expenditure of state funds for applied research projects have led to long-term growth potential of the targeted technologies, resulting in the creation of high-quality jobs and expansion of local tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

MSTA's research and development project loans from July 1, 1991, through June 30, 1994, will generate approximately \$7.1 million in principal and interest payments over a ten-year period which will be distributed as follows:

Principal to the In-State Investment Fund:	\$5,100,000
State Equalization Aid Account (15%):	\$ 300,000
General Fund (85%):	\$1,700,000
	<hr/>
Total:	\$7,100,000

SENATE BILL NO. 242

INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

THAYER, WILLIAMS

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES; CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS 2-15-1818, 17-6-308, 90-3-101, 90-3-102, AND 90-3-301, AND 90-3-524, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-1818, MCA, is amended to read:

"2-15-1818. Montana board of science and technology development -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana board of science and technology development. The board is allocated to the department of commerce. The department shall select, prescribe the duties for, and supervise staff to administer

board activities.

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

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

(4) The membership of the board must include:

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

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

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

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

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

(2) The board may use the in-state investment fund to guarantee loans or bonds issued under the provisions of

SECOND READING



1 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,
 2 or Title 90, chapter 7. Each guaranty must be given in
 3 consideration of a fee. The fees must be paid to the board.
 4 The guaranty must provide directly or by separate agreement
 5 that the board is fully subrogated to the rights of the
 6 obligee under the loan or bond. The board shall by rule
 7 establish the maximum ratio between guaranty funds available
 8 and loans or bonds to be guaranteed. The board may covenant
 9 in bond issues to maintain ~~such~~ the ratio. Unless bonds
 10 issued to finance a project are secured by a common capital
 11 reserve account and a common guaranty fund, the maximum
 12 amount of the guaranty authorized by this section may not
 13 exceed ~~\$3,000,000~~ \$3 million with respect to the bonds or
 14 loans to finance the project.

15 (3) The board may make loans from the in-state
 16 investment fund to the capital reserve account created
 17 pursuant to 17-5-1515 and the guaranty fund created pursuant
 18 to 17-5-1520 to establish balances or restore deficiencies
 19 therein. The board may agree in connection with the issuance
 20 of bonds or notes secured by such account or fund to make
 21 such loans. Loans must be on such terms and conditions as
 22 the board determines and must be repaid from revenues of the
 23 board realized from the exercise of its powers under
 24 17-5-1501 through 17-5-1529, subject to the prior pledge of
 25 the revenues to the bonds and notes.

1 (4) The board shall allow the Montana board of science
 2 and technology development provided for in 2-15-1818 to
 3 administer \$7.5 million of the in-state investment fund for
 4 seed capital project loans and \$5.1 million of the in-state
 5 investment fund for research and development project loans
 6 pursuant only to the provisions of Title 90, chapter 3. This
 7 authority does not extend beyond June 30, 1994, for seed
 8 capital project loans and ~~June 30, 1993,~~ for research and
 9 development project loans. Until ~~such time--as~~ the Montana
 10 board of science and technology development makes a loan
 11 pursuant to those the provisions of Title 90, chapter 3, the
 12 funds under its administration must be invested by the board
 13 of investments pursuant to the provisions of 17-6-201."

14 NEW SECTION. Section 3. Allocation of funds. The \$5.1
 15 million of the in-state investment fund to be used for
 16 research and development project loans is allocated as
 17 follows:

18 (1) \$600,000 to meet state matching fund requirements
 19 for the national science foundation awards to the center for
 20 interfacial microbial process engineering;

21 (2) \$3.5 million for loans relating to but not limited
 22 to the centers of excellence program and the Montana
 23 entrepreneurial center and to meet state matching fund
 24 requirements for the national science foundation's
 25 experimental program to stimulate competitive research; and

1 (3) \$1 million for medical facility research and
2 development project loans provided that:

3 (a) a loan may not be less than \$200,000 or more than
4 \$500,000; and

5 (b) a dollar-for-dollar matching requirement from
6 federal or private sources is required.

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

8 **"90-3-101. Short title -- findings -- purpose.** (1) This
9 chapter may be cited as the "Montana Science and Technology
10 Financing Act".

11 (2) The legislature finds and declares that:

12 (a) it is the policy of the state of Montana to promote
13 the health, safety, and general welfare of all the people of
14 the state;

15 (b) this policy will be furthered through strengthening
16 and diversifying the state's economy by facilitating a
17 public sector-private sector partnership to encourage
18 scientific and technological development within the state in
19 order to keep pace with a changing economic structure and to
20 create new jobs and expand business opportunities;

21 (c) this strengthening and diversification will be
22 fostered by assisting in the acceleration of development of
23 technology in the state through participation with the
24 private sector in the financing of science and technology
25 development projects that have significant potential for

1 commercialization in Montana;

2 (d) the in-state investment fund created through
3 adoption of Initiative Measure No. 95 by the voters of
4 Montana in 1982 is the appropriate source for providing
5 financing programs for the development of new and expanding
6 businesses in Montana; and

7 ~~(e) the Science and Technology Development Board Seed~~
8 ~~Capital Bond Act contained provisions that were found to be~~
9 ~~unconstitutional by the Montana supreme court, and the 51st~~
10 ~~legislature of the state of Montana must remedy those~~
11 ~~defects through legislation; and~~

12 ~~(f) the Montana science and technology development~~
13 ~~board has demonstrated success in forging a partnership~~
14 ~~among the private sector, the university community, and~~
15 ~~government, and this success should be continued through an~~
16 ~~ongoing legislative commitment to the board's programs.~~

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

18 (a) strengthen and diversify Montana's economy by
19 establishing a public-private sector partnership to
20 encourage scientific and technological development within
21 the state in order to keep pace with a transforming economic
22 structure and to create new jobs and expand small business
23 opportunities;

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

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

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

7 **Section 5.** Section 90-3-102, MCA, is amended to read:

8 "90-3-102. **Definitions.** As used in this chapter the
9 following definitions apply:

10 (1) "Act" means the Montana science and technology
11 financing act.

12 (2) "Board" means the Montana board of science and
13 technology development provided for in 2-15-1818.

14 (3) "Company" means a firm, partnership, corporation,
15 association, or any other entity authorized to conduct
16 business in Montana.

17 (4) "Convertible debenture" means a debenture
18 convertible into stock under certain conditions by any
19 individual or company. The debenture may not be converted by
20 the board.

21 (5) "Debenture" or "note" means a writing or
22 certificate issued as evidence of debt.

23 (6) "Department" means the department of commerce
24 created in 2-15-1801.

25 (7) "Expansion capital project" means a science and

1 technology development project undertaken to enable a
2 company to expand its manufacturing and marketing activities
3 in order to move its products or services into new markets
4 or to expand existing markets.

5 (8) "Innovative technology" means the involvement of a
6 product or process that embodies the use of implements,
7 machinery, equipment, chemical formulations, resources,
8 materials, methods, or other items in a manner that departs
9 from previous commercial developments, practices, or
10 applications.

11 (9) "Matching funds" means the funds received in cash
12 by the science and technology development project loan
13 recipient from nonstate-appropriated sources and committed
14 by the loan recipient to the project in an amount that is at
15 least equal to the funds loaned to the recipient by the
16 board for use in the science and technology development
17 project.

18 (10) "Medical facility research and development project"
19 means a research and development project designed to advance
20 the development and operation of facilities that concentrate
21 on fields of medical research involving advanced technology
22 applied to national medical concerns through the financing
23 of personnel, equipment, and operating costs with the goal
24 of establishing the facilities as enduring research
25 organizations in Montana.

1 †10†(11) "Portfolio company" means a startup or
2 expansion stage company that has received a seed capital
3 project loan from the board.

4 †11†(12) "Private sector" means any entity or
5 individual, not principally a part of or associated with a
6 governmental unit, that is associated with or involved in
7 commercial activity.

8 †12†(13) "Research and development project" means a
9 science and technology development project that falls into
10 the category of research capability development, applied
11 technology research, or technology transfer and assistance.

12 †13†(14) "Research and development project loan" means a
13 science and technology development project loan entered into
14 between the board and a loan recipient for a research and
15 development project.

16 †14†(15) "Science and technology development project"
17 means either a seed capital project or research and
18 development project designed to discover, develop, transfer,
19 utilize, or commercialize existing or new, innovative
20 technology in order to strengthen and enhance economic
21 development in Montana.

22 †15†(16) "Science and technology development project
23 loan agreement" or "loan" means an agreement entered into
24 between the board and the loan recipient of a seed capital
25 project loan or a research and development project loan

1 that:

2 (a) creates a debt relationship between the parties;

3 (b) provides for a financial return to the board;

4 (c) provides economic development potential to the
5 state; and

6 (d) contains the applicable provisions and terms
7 required by this chapter.

8 †16†(17) "Seed capital project" means a startup capital
9 project or expansion capital project.

10 †17†(18) "Seed capital project loan" means a science and
11 technology development project loan entered into between the
12 board and a loan recipient for a seed capital project.

13 †18†(19) "Startup capital project" means a science and
14 technology development project that assists a company in
15 initiating commercial operations.

16 †19†(20) "State" means the state of Montana.

17 †20†(21) "Warrant" means an instrument issued by a
18 corporation that gives a holder other than the board the
19 right to purchase stock of a corporation either for a
20 limited time or perpetually."

21 **Section 6.** 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 7. 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 at least two times the original loan amount paid
16 as a percentage of the income stream derived from the sale
17 or other commercialization of products or processes
18 developed with the board's financing. This percentage rate
19 may not 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% 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 8. Intellectual property
 3 assessment. The university system shall conduct an
 4 assessment of its intellectual property management programs
 5 and policies. Based on the assessment, the board of regents
 6 shall consider the adoption of a system of intellectual
 7 property management that will provide a coordinated and
 8 effective method of meeting payback requirements for
 9 research and development project loans made to
 10 organizations, individuals, and other entities within the
 11 university system. The assessment must be coordinated with
 12 the Montana board of science and technology development, and
 13 a final report and recommendations must be presented to the
 14 board by January 1, 1992.

15 NEW SECTION. Section 9. Coordination instruction. If
 16 Senate Bill No. 26 is passed and approved, if it includes a
 17 section that amends 17-6-308, and if it includes amendments
 18 that replace references to the "in-state investment fund"
 19 with "permanent coal tax trust fund", then in [section 3 of
 20 this act, amending 17-6-308(4)], the code commissioner shall
 21 make a similar change.

22 NEW SECTION. Section 10. Severability. If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
 2 severable from the invalid applications.

3 NEW SECTION. Section 11. Effective date. (This act) is
 4 effective on passage and approval.

-End-

RE-REFERRED AND
APPROVED BY COMM. ON
BUSINESS & INDUSTRY
AS AMENDED

1 SENATE BILL NO. 242
2 INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,
3 THAYER, WILLIAMS
4 BY REQUEST OF THE GOVERNOR
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM
7 THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT
8 PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND
9 DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS
10 OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE
11 KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES;
12 CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND
13 DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO
14 ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS
15 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, AND
16 90-3-301, AND 90-3-305, 90-3-524, AND 90-3-525, MCA; AND
17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

1 prescribe the duties for, and supervise staff to administer
2 board activities.

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

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

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

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

12 (b) at least one member with expertise in applied
13 technology development; and

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

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

17 **Section 2.** Section 17-6-308, MCA, is amended to read:

18 "**17-6-308. Authorized investments.** (1) Except as
19 provided in subsection (4), the Montana in-state investment
20 fund must be invested as authorized by rules adopted by the
21 board. For purposes of this section, "investment" includes
22 the guaranty of loans or bonds in consideration for a fee,
23 in lieu of the actual acquisition of ~~such~~ the loans or
24 bonds.

25 (2) The board may use the in-state investment fund to



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

16 (3) The board may make loans from the in-state
 17 investment fund to the capital reserve account created
 18 pursuant to 17-5-1515 and the guaranty fund created pursuant
 19 to 17-5-1520 to establish balances or restore deficiencies
 20 therein. The board may agree in connection with the issuance
 21 of bonds or notes secured by such account or fund to make
 22 such loans. Loans must be on such terms and conditions as
 23 the board determines and must be repaid from revenues of the
 24 board realized from the exercise of its powers under
 25 17-5-1501 through 17-5-1529, subject to the prior pledge of

1 the revenues to the bonds and notes.

2 (4) The board shall allow the Montana board of science
 3 and technology development provided for in 2-15-1818 to
 4 administer \$7.5 million of the in-state investment fund for
 5 seed capital project loans and \$5.1 million of the in-state
 6 investment fund for research and development project loans
 7 pursuant only to the provisions of Title 90, chapter 3. This
 8 authority does not extend beyond June 30, 1994, for seed
 9 capital project loans and ~~June-30-1993~~ for research and
 10 development project loans. Until ~~such-time-as~~ the Montana
 11 board of science and technology development makes a loan
 12 pursuant to those the provisions of Title 90, chapter 3, the
 13 funds under its administration must be invested by the board
 14 of investments pursuant to the provisions of 17-6-201."

15 NEW SECTION. Section 3. Allocation of funds. The \$5.1
 16 million of the in-state investment fund to be used for
 17 research and development project loans is allocated as
 18 follows:

19 (1) \$600,000 to meet state matching fund requirements
 20 for the national science foundation awards to the center for
 21 interfacial microbial process engineering, PROVIDED THE LOAN
 22 CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522
 23 AND 90-3-524;

24 (2) \$3.5 million for loans relating to but not limited
 25 to the centers of excellence program and the Montana

1 entrepreneurial center and to meet state matching fund
2 requirements for the national science foundation's
3 experimental program to stimulate competitive research; and

4 (3) \$1 million for medical facility research and
5 development project loans provided that:

6 (a) a loan may not be less than \$200,000 or more than
7 \$500,000; and

8 (b) a dollar-for-dollar matching requirement from
9 federal or private sources is required.

10 **SECTION 4. SECTION 17-6-310, MCA, IS AMENDED TO READ:**

11 "17-6-310. No direct loans. (1) The state may not use
12 this revenue to make direct loans.

13 (2) ~~No money from the~~ The Montana in-state investment
14 fund may not be used by the board of investments to make
15 direct loans to individual borrowers. The purchase of
16 debentures issued by a capital company and loans or portions
17 thereof originated by a financial institution that are sold
18 to the trust are not direct loans."

19 **Section 5.** Section 90-3-101, MCA, is amended to read:

20 "90-3-101. Short title -- findings -- purpose. (1) This
21 chapter may be cited as the "Montana Science and Technology
22 Financing Act".

23 (2) The legislature finds and declares that:

24 (a) it is the policy of the state of Montana to promote
25 the health, safety, and general welfare of all the people of

1 the state;

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

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

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

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

24 (f) the Montana science and technology development
25 board has demonstrated success in forging a partnership

1 among the private sector, the university community, and
 2 government, and this success should be continued through an
 3 ongoing legislative commitment to the board's programs.

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

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

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

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

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

19 **Section 6.** Section 90-3-102, MCA, is amended to read:

20 **"90-3-102. Definitions.** As used in this chapter the
 21 following definitions apply:

22 (1) "Act" means the Montana science and technology
 23 financing act.

24 (2) "Board" means the Montana board of science and
 25 technology development provided for in 2-15-1818.

1 (3) "Company" means a firm, partnership, corporation,
 2 association, or any other entity authorized to conduct
 3 business in Montana.

4 (4) "Convertible debenture" means a debenture
 5 convertible into stock under certain conditions by any
 6 individual or company. The debenture may not be converted by
 7 the board.

8 (5) "Debenture" or "note" means a writing or
 9 certificate issued as evidence of debt.

10 (6) "Department" means the department of commerce
 11 created in 2-15-1801.

12 (7) "Expansion capital project" means a science and
 13 technology development project undertaken to enable a
 14 company to expand its manufacturing and marketing activities
 15 in order to move its products or services into new markets
 16 or to expand existing markets.

17 (8) "Innovative technology" means the involvement of a
 18 product or process that embodies the use of implements,
 19 machinery, equipment, chemical formulations, resources,
 20 materials, methods, or other items in a manner that departs
 21 from previous commercial developments, practices, or
 22 applications.

23 (9) "Matching funds" means the funds received in cash
 24 by the science and technology development project loan
 25 recipient from nonstate-appropriated sources and committed

1 by the loan recipient to the project in an amount that is at
2 least equal to the funds loaned to the recipient by the
3 board for use in the science and technology development
4 project.

5 (10) "Medical facility research and development project"
6 means a research and development project designed to advance
7 the development and operation of facilities that concentrate
8 on fields of medical research involving advanced technology
9 applied to national medical concerns through the financing
10 of personnel, equipment, and operating costs with the goal
11 of establishing the facilities as enduring research
12 organizations in Montana.

13 (11) "Portfolio company" means a startup or
14 expansion stage company that has received a seed capital
15 project loan from the board.

16 (12) "Private sector" means any entity or
17 individual, not principally a part of or associated with a
18 governmental unit, that is associated with or involved in
19 commercial activity.

20 (13) "Research and development project" means a
21 science and technology development project that falls into
22 the category of research capability development, applied
23 technology research, or technology transfer and assistance.

24 (14) "Research and development project loan" means a
25 science and technology development project loan entered into

1 between the board and a loan recipient for a research and
2 development project.

3 (15) "Science and technology development project"
4 means either a seed capital project or research and
5 development project designed to discover, develop, transfer,
6 utilize, or commercialize existing or new, innovative
7 technology in order to strengthen and enhance economic
8 development in Montana.

9 (16) "Science and technology development project
10 loan agreement" or "loan" means an agreement entered into
11 between the board and the loan recipient of a seed capital
12 project loan or a research and development project loan
13 that:

- 14 (a) creates a debt relationship between the parties;
- 15 (b) provides for a financial return to the board;
- 16 (c) provides economic development potential to the
17 state; and
- 18 (d) contains the applicable provisions and terms
19 required by this chapter.

20 (17) "Seed capital project" means a startup capital
21 project or expansion capital project.

22 (18) "Seed capital project loan" means a science and
23 technology development project loan entered into between the
24 board and a loan recipient for a seed capital project.

25 (19) "Startup capital project" means a science and

1 technology development project that assists a company in
2 initiating commercial operations.

3 ~~†19†~~(20) "State" means the state of Montana.

4 ~~†20†~~(21) "Warrant" means an instrument issued by a
5 corporation that gives a holder other than the board the
6 right to purchase stock of a corporation either for a
7 limited time or perpetually."

8 **Section 7.** Section 90-3-301, MCA, is amended to read:

9 ***90-3-301. Appropriation authority and funding --**
10 **matching funds.** (1) The board has authority to accept and
11 expend all funds received by it as grants, donations, or
12 other private or public income. These funds are statutorily
13 appropriated as provided in 17-7-502.

14 (2) The appropriations and loans made to and by the
15 board are in addition to and separate from general fund
16 appropriations to the university system and other state
17 agencies.

18 (3) A loan may not be made for a seed capital project
19 for which matching funds have not been received. Matching
20 funds are required prior to any expenditure of board funds
21 for ~~research-and-development-projects-or~~ all seed capital
22 projects. The board may accept as matching funds those
23 received by the loan recipient within 1 year prior to the
24 execution of the loan agreement. The board may require
25 additional matching funds, depending on the capital need and

1 the degree of risk encountered in the ~~science-and-technology~~
2 development seed capital project.

3 (4) A loan may not be made for a research and
4 development project for which matching funds have not been
5 received unless the matching fund requirements are waived by
6 the board pursuant to this section. Matching funds, when
7 required, must be received before expenditure of board funds
8 for a research and development project loan may be made. The
9 board may waive the required match for up to 25% of the
10 funding for research and development project loans if the
11 board determines that the capital need and potential
12 commercialization of the research and development project,
13 in addition to its potential to strengthen the partnership
14 between the public sector and private sector, warrant the
15 waiver. The board may accept as matching funds those
16 received by the loan recipient within 1 year prior to the
17 execution of the loan agreement. The board may require
18 additional matching funds depending on the capital need in
19 the research and development project."

20 **SECTION 8. SECTION 90-3-305, MCA, IS AMENDED TO READ:**

21 ***90-3-305. Science and technology development account.**
22 (1) There is a science and technology development account
23 within the state special revenue fund established in
24 17-2-102.

25 (2) There must be paid into the science and technology

1 development account:

2 (a) the payback of principal and earnings on a research
3 and development project loan, made from a source other than
4 the Montana in-state investment fund, executed under this
5 chapter; and

6 (b) all payback of principal and earnings to the board
7 from any agreements executed by the board between July 1,
8 1985, and March 31, 1989."

9 **SECTION 9. SECTION 90-3-524, MCA, IS AMENDED TO READ:**

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

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

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

1 allocation of research and development funds may be used for
2 technology transfer and assistance projects."

3 **SECTION 10. SECTION 90-3-525, MCA, IS AMENDED TO READ:**

4 "90-3-525. Deposit of payback -- seed capital and
5 research and development project loans. (1) The payback of
6 principal and earnings on a seed capital project loan
7 executed under this chapter or on a research and development
8 project loan from the Montana in-state investment fund must
9 be administered pursuant to section 17-6-306.

10 (2) The payback of principal and earnings on a research
11 and development project loan from a source other than the
12 Montana in-state investment fund must be deposited to the
13 state special revenue fund to the credit of the science and
14 technology development account created in 90-3-305.

15 (3) All paybacks of principal and earnings to the board
16 from any agreements executed by the board between July 1,
17 1985, and March 31, 1989, must be deposited to the state
18 special revenue fund to the credit of the science and
19 technology development account created in 90-3-305 for use
20 by the board. The paybacks include all those received after
21 January 1, 1989."

22 **NEW SECTION. Section 11. Intellectual property**
23 **assessment.** The university system shall conduct an
24 assessment of its intellectual property management programs
25 and policies. Based on the assessment, the board of regents

1 shall consider the adoption of a system of intellectual
2 property management that will provide a coordinated and
3 effective method of meeting payback requirements for
4 research and development project loans made to
5 organizations, individuals, and other entities within the
6 university system. The assessment must be coordinated with
7 the Montana board of science and technology development, and
8 a final report and recommendations must be presented to the
9 board by January 1, 1992.

10 NEW SECTION. Section 12. Coordination instruction. If
11 Senate Bill No. 26 is passed and approved, if it includes a
12 section that amends 17-6-308, and if it includes amendments
13 that replace references to the "in-state investment fund"
14 with "permanent coal tax trust fund", then in [section-3--of
15 this act~~7-amending-17-6-308(4)~~], the code commissioner shall
16 make a similar change CHANGES.

17 NEW SECTION. Section 13. Severability. If a part of
18 [this act] is invalid, all valid parts that are severable
19 from the invalid part remain in effect. If a part of [this
20 act] is invalid in one or more of its applications, the part
21 remains in effect in all valid applications that are
22 severable from the invalid applications.

23 NEW SECTION. Section 14. Effective date. [This act] is
24 effective on passage and approval.

-End-

AS AMENDED

SENATE BILL NO. 242

INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

THAYER, WILLIAMS

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES; CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, AND 90-3-301, AND 90-3-305, 90-3-524, AND 90-3-525, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-1818, MCA, is amended to read:

"2-15-1818. Montana board of science and technology development -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana board of science and technology development. The board is allocated to the department of commerce. The department shall select,

prescribe the duties for, and supervise staff to administer board activities.

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

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

(4) The membership of the board must include:

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

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

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

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

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

(2) The board may use the in-state investment fund to



1 guarantee loans or bonds issued under the provisions of
 2 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,
 3 or Title 90, chapter 7. Each guaranty must be given in
 4 consideration of a fee. The fees must be paid to the board.
 5 The guaranty must provide directly or by separate agreement
 6 that the board is fully subrogated to the rights of the
 7 obligee under the loan or bond. The board shall by rule
 8 establish the maximum ratio between guaranty funds available
 9 and loans or bonds to be guaranteed. The board may covenant
 10 in bond issues to maintain ~~such~~ the ratio. Unless bonds
 11 issued to finance a project are secured by a common capital
 12 reserve account and a common guaranty fund, the maximum
 13 amount of the guaranty authorized by this section may not
 14 exceed ~~\$370007000~~ \$3 million with respect to the bonds or
 15 loans to finance the project.

16 (3) The board may make loans from the in-state
 17 investment fund to the capital reserve account created
 18 pursuant to 17-5-1515 and the guaranty fund created pursuant
 19 to 17-5-1520 to establish balances or restore deficiencies
 20 therein. The board may agree in connection with the issuance
 21 of bonds or notes secured by such account or fund to make
 22 such loans. Loans must be on such terms and conditions as
 23 the board determines and must be repaid from revenues of the
 24 board realized from the exercise of its powers under
 25 17-5-1501 through 17-5-1529, subject to the prior pledge of

1 the revenues to the bonds and notes.

2 (4) The board shall allow the Montana board of science
 3 and technology development provided for in 2-15-1818 to
 4 administer \$7.5 million of the in-state investment fund for
 5 seed capital project loans and \$5.1 million of the in-state
 6 investment fund for research and development project loans
 7 pursuant only to the provisions of Title 90, chapter 3. This
 8 authority does not extend beyond June 30, 1994, for seed
 9 capital project loans and ~~June 30, 1993~~ for research and
 10 development project loans. Until ~~such time as~~ the Montana
 11 board of science and technology development makes a loan
 12 pursuant to ~~these~~ the provisions of Title 90, chapter 3, the
 13 funds under its administration must be invested by the board
 14 of investments pursuant to the provisions of 17-6-201."

15 NEW SECTION. Section 3. Allocation of funds. The
 16 PROVIDED THE LOANS CONTAIN THE REPAYMENT REQUIREMENTS SET
 17 FORTH IN 90-3-522 AND 90-3-524, THE \$5.1 million of the
 18 in-state investment fund to be used for research and
 19 development project loans is allocated as follows:

20 (1) \$600,000 to meet state matching fund requirements
 21 for the national science foundation awards to the center for
 22 interfacial microbial process engineering, ~~PROVIDED THE LOAN~~
 23 ~~CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522~~
 24 ~~AND 90-3-524;~~

25 (2) \$3.5 million for loans relating to but not limited

1 to the centers of excellence program and the Montana
2 entrepreneurial center and to meet state matching fund
3 requirements for the national science foundation's
4 experimental program to stimulate competitive research; and

5 (3) \$1 million for medical facility research and
6 development project loans provided that:

7 (a) a loan may not be less than \$200,000 or more than
8 \$500,000; and

9 (b) a dollar-for-dollar matching requirement from
10 federal or private sources is required.

11 **SECTION 4. SECTION 17-6-310, MCA, IS AMENDED TO READ:**

12 **"17-6-310. No direct loans.** (1) The state may not use
13 this revenue to make direct loans.

14 (2) ~~No--money--from--the~~ The Montana in-state investment
15 fund may not be used by the board of investments to make
16 direct loans to individual borrowers. The purchase of
17 debentures issued by a capital company and loans or portions
18 thereof originated by a financial institution that are sold
19 to the trust are not direct loans."

20 **Section 5.** Section 90-3-101, MCA, is amended to read:

21 **"90-3-101. Short title -- findings -- purpose.** (1) This
22 chapter may be cited as the "Montana Science and Technology
23 Financing Act".

24 (2) The legislature finds and declares that:

25 (a) it is the policy of the state of Montana to promote

1 the health, safety, and general welfare of all the people of
2 the state;

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

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

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

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

25 (f) the Montana science and technology development

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

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

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

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

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

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

20 **Section 6.** Section 90-3-102, MCA, is amended to read:

21 **"90-3-102. Definitions.** As used in this chapter the
22 following definitions apply:

23 (1) "Act" means the Montana science and technology
24 financing act.

25 (2) "Board" means the Montana board of science and

1 technology development provided for in 2-15-1818.

2 (3) "Company" means a firm, partnership, corporation,
3 association, or any other entity authorized to conduct
4 business in Montana.

5 (4) "Convertible debenture" means a debenture
6 convertible into stock under certain conditions by any
7 individual or company. The debenture may not be converted by
8 the board.

9 (5) "Debenture" or "note" means a writing or
10 certificate issued as evidence of debt.

11 (6) "Department" means the department of commerce
12 created in 2-15-1801.

13 (7) "Expansion capital project" means a science and
14 technology development project undertaken to enable a
15 company to expand its manufacturing and marketing activities
16 in order to move its products or services into new markets
17 or to expand existing markets.

18 (8) "Innovative technology" means the involvement of a
19 product or process that embodies the use of implements,
20 machinery, equipment, chemical formulations, resources,
21 materials, methods, or other items in a manner that departs
22 from previous commercial developments, practices, or
23 applications.

24 (9) "Matching funds" means the funds received in cash
25 by the science and technology development project loan

1 recipient from nonstate-appropriated sources and committed
2 by the loan recipient to the project in an amount that is at
3 least equal to the funds loaned to the recipient by the
4 board for use in the science and technology development
5 project.

6 (10) "Medical facility research and development project"
7 means a research and development project designed to advance
8 the development and operation of facilities that concentrate
9 on fields of medical research involving advanced technology
10 applied to national medical concerns through the financing
11 of personnel, equipment, and operating costs with the goal
12 of establishing the facilities as enduring research
13 organizations in Montana.

14 (11) "Portfolio company" means a startup or
15 expansion stage company that has received a seed capital
16 project loan from the board.

17 (12) "Private sector" means any entity or
18 individual, not principally a part of or associated with a
19 governmental unit, that is associated with or involved in
20 commercial activity.

21 (13) "Research and development project" means a
22 science and technology development project that falls into
23 the category of research capability development, applied
24 technology research, or technology transfer and assistance.

25 (14) "Research and development project loan" means a

1 science and technology development project loan entered into
2 between the board and a loan recipient for a research and
3 development project.

4 (15) "Science and technology development project"
5 means either a seed capital project or research and
6 development project designed to discover, develop, transfer,
7 utilize, or commercialize existing or new, innovative
8 technology in order to strengthen and enhance economic
9 development in Montana.

10 (16) "Science and technology development project
11 loan agreement" or "loan" means an agreement entered into
12 between the board and the loan recipient of a seed capital
13 project loan or a research and development project loan
14 that:

- 15 (a) creates a debt relationship between the parties;
- 16 (b) provides for a financial return to the board;
- 17 (c) provides economic development potential to the
- 18 state; and
- 19 (d) contains the applicable provisions and terms
- 20 required by this chapter.

21 (17) "Seed capital project" means a startup capital
22 project or expansion capital project.

23 (18) "Seed capital project loan" means a science and
24 technology development project loan entered into between the
25 board and a loan recipient for a seed capital project.

1 ~~(18)~~(19) "Startup capital project" means a science and
 2 technology development project that assists a company in
 3 initiating commercial operations.

4 ~~(19)~~(20) "State" means the state of Montana.

5 ~~(20)~~(21) "Warrant" means an instrument issued by a
 6 corporation that gives a holder other than the board the
 7 right to purchase stock of a corporation either for a
 8 limited time or perpetually."

9 **Section 7.** Section 90-3-301, MCA, is amended to read:

10 **"90-3-301. Appropriation authority and funding --**
 11 **matching funds.** (1) The board has authority to accept and
 12 expend all funds received by it as grants, donations, or
 13 other private or public income. These funds are statutorily
 14 appropriated as provided in 17-7-502.

15 (2) The appropriations and loans made to and by the
 16 board are in addition to and separate from general fund
 17 appropriations to the university system and other state
 18 agencies.

19 (3) A loan may not be made for a seed capital project
 20 for which matching funds have not been received. Matching
 21 funds are required prior to any expenditure of board funds
 22 for ~~research--and--development-projects-or~~ all seed capital
 23 projects. The board may accept as matching funds those
 24 received by the loan recipient within 1 year prior to the
 25 execution of the loan agreement. The board may require

1 additional matching funds, depending on the capital need and
 2 the degree of risk encountered in the ~~science-and-technology~~
 3 development seed capital project.

4 (4) A loan may not be made for a research and
 5 development project for which matching funds have not been
 6 received unless the matching fund requirements are waived by
 7 the board pursuant to this section. Matching funds, when
 8 required, must be received before expenditure of board funds
 9 for a research and development project loan may be made. The
 10 board may waive the required match for up to 25% of the
 11 funding for research and development project loans if the
 12 board determines that the capital need and potential
 13 commercialization of the research and development project,
 14 in addition to its potential to strengthen the partnership
 15 between the public sector and private sector, warrant the
 16 waiver. The board may accept as matching funds those
 17 received by the loan recipient within 1 year prior to the
 18 execution of the loan agreement. The board may require
 19 additional matching funds depending on the capital need in
 20 the research and development project."

21 **SECTION 8. SECTION 90-3-305, MCA, IS AMENDED TO READ:**

22 **"90-3-305. Science and technology development account.**
 23 (1) There is a science and technology development account
 24 within the state special revenue fund established in
 25 17-2-102.

1 (2) There must be paid into the science and technology
2 development account:

3 (a) the payback of principal and earnings on a research
4 and development project loan, made from a source other than
5 the Montana in-state investment fund, executed under this
6 chapter; and

7 (b) all payback of principal and earnings to the board
8 from any agreements executed by the board between July 1,
9 1985, and March 31, 1989."

10 **SECTION 9.** SECTION 90-3-524, MCA, IS AMENDED TO READ:

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

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

22 (2) The payback on a research and development project
23 loan for a technology transfer and assistance project may be
24 made pursuant to subsection (1) or may be realized in terms
25 of indirect benefits related to the goals and criteria of

1 the program. No more than 10% of the board's annual
2 allocation of research and development funds may be used for
3 technology transfer and assistance projects. THE PAYBACK ON
4 A RESEARCH AND DEVELOPMENT PROJECT LOAN FOR A TECHNOLOGY
5 TRANSFER AND ASSISTANCE PROJECT MADE FROM THE IN-STATE
6 INVESTMENT FUND MAY NOT BE REPAID IN TERMS OF INDIRECT
7 BENEFITS."

8 **SECTION 10.** SECTION 90-3-525, MCA, IS AMENDED TO READ:

9 "90-3-525. Deposit of payback -- seed capital and
10 research and development project loans. (1) The payback of
11 principal and earnings on a seed capital project loan
12 executed under this chapter or on a research and development
13 project loan from the Montana in-state investment fund must
14 be administered pursuant to section 17-6-306.

15 (2) The payback of principal and earnings on a research
16 and development project loan from a source other than the
17 Montana in-state investment fund must be deposited to the
18 state special revenue fund to the credit of the science and
19 technology development account created in 90-3-305.

20 (3) All paybacks of principal and earnings to the board
21 from any agreements executed by the board between July 1,
22 1985, and March 31, 1989, must be deposited to the state
23 special revenue fund to the credit of the science and
24 technology development account created in 90-3-305 for use
25 by the board. The paybacks include all those received after

1 January 1, 1989."

2 **NEW SECTION. Section 11. Intellectual property**
 3 **assessment.** The university system shall conduct an
 4 assessment of its intellectual property management programs
 5 and policies. Based on the assessment, the board of regents
 6 shall consider the adoption of a system of intellectual
 7 property management that will provide a coordinated and
 8 effective method of meeting payback requirements for
 9 research and development project loans made to
 10 organizations, individuals, and other entities within the
 11 university system. The assessment must be coordinated with
 12 the Montana board of science and technology development, and
 13 a final report and recommendations must be presented to the
 14 board by January 1, 1992.

15 **NEW SECTION. Section 12. Coordination instruction.** If
 16 Senate Bill No. 26 is passed and approved, if it includes a
 17 section that amends 17-6-308, and if it includes amendments
 18 that replace references to the "in-state investment fund"
 19 with "permanent coal tax trust fund", then in [~~section-3-of~~
 20 ~~this act,-amending-17-6-308(4)~~], the code commissioner shall
 21 make a similar change CHANGES.

22 **NEW SECTION. Section 13. Severability.** If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
 2 severable from the invalid applications.

3 **NEW SECTION. Section 14. Effective date.** [This act] is
 4 effective on passage and approval.

-End-

1 SENATE BILL NO. 242

2 INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

3 THAYER, WILLIAMS

4 BY REQUEST OF THE GOVERNOR

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM
7 THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT
8 PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND
9 DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS
10 OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE
11 KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES;
12 CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND
13 DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO
14 ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS
15 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, AND
16 90-3-301, AND 90-3-305, 90-3-524, AND 90-3-525, MCA; AND
17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20 **Section 1.** Section 2-15-1818, MCA, is amended to read:

21 "2-15-1818. Montana board of science and technology
22 development -- allocation -- composition -- quasi-judicial
23 powers. (1) There is a Montana board of science and
24 technology development. The board is allocated to the
25 department of commerce. The department shall select,

1 prescribe the duties for, and supervise staff to administer
2 board activities.

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

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

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

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

12 (b) at least one member with expertise in applied
13 technology development; and

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

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

17 **Section 2.** Section 17-6-308, MCA, is amended to read:

18 "17-6-308. Authorized investments. (1) Except as
19 provided in subsection (4), the Montana in-state investment
20 fund must be invested as authorized by rules adopted by the
21 board. For purposes of this section, "investment" includes
22 the guaranty of loans or bonds in consideration for a fee,
23 in lieu of the actual acquisition of such the loans or
24 bonds.

25 (2) The board may use the in-state investment fund to

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

16 (3) The board may make loans from the in-state
 17 investment fund to the capital reserve account created
 18 pursuant to 17-5-1515 and the guaranty fund created pursuant
 19 to 17-5-1520 to establish balances or restore deficiencies
 20 therein. The board may agree in connection with the issuance
 21 of bonds or notes secured by such account or fund to make
 22 such loans. Loans must be on such terms and conditions as
 23 the board determines and must be repaid from revenues of the
 24 board realized from the exercise of its powers under
 25 17-5-1501 through 17-5-1529, subject to the prior pledge of

1 the revenues to the bonds and notes.

2 (4) The board shall allow the Montana board of science
 3 and technology development provided for in 2-15-1818 to
 4 administer \$7.5 million of the in-state investment fund for
 5 seed capital project loans and \$5.1 million of the in-state
 6 investment fund for research and development project loans
 7 pursuant only to the provisions of Title 90, chapter 3. This
 8 authority does not extend beyond June 30, 1994, for seed
 9 capital project loans and ~~June 30, 1993~~ for research and
 10 development project loans. Until ~~such time as~~ the Montana
 11 board of science and technology development makes a loan
 12 pursuant to those the provisions of Title 90, chapter 3, the
 13 funds under its administration must be invested by the board
 14 of investments pursuant to the provisions of 17-6-201."

15 NEW SECTION. Section 3. Allocation of funds. The
 16 PROVIDED THE LOANS CONTAIN THE REPAYMENT REQUIREMENTS SET
 17 FORTH IN 90-3-522 AND 90-3-524, THE \$5.1 million of the
 18 in-state investment fund to be used for research and
 19 development project loans is allocated as follows:

20 (1) \$600,000 to meet state matching fund requirements
 21 for the national science foundation awards to the center for
 22 interfacial microbial process engineering, ~~PROVIDED THE LOAN~~
 23 ~~CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522~~
 24 ~~AND 90-3-524;~~

25 (2) \$3.5 million for loans relating to but not limited

1 to the centers of excellence program and the Montana
 2 entrepreneurial center and to meet state matching fund
 3 requirements for the national science foundation's
 4 experimental program to stimulate competitive research; and

5 (3) \$1 million for medical facility research and
 6 development project loans provided that:

7 (a) a loan may not be less than \$200,000 or more than
 8 \$500,000; and

9 (b) a dollar-for-dollar matching requirement from
 10 federal or private sources is required.

11 **SECTION 4. SECTION 17-6-310, MCA, IS AMENDED TO READ:**

12 "17-6-310. No direct loans. (1) The state may not use
 13 this revenue to make direct loans.

14 (2) ~~No--money--from--the~~ The Montana in-state investment
 15 fund may not be used by the board of investments to make
 16 direct loans to individual borrowers. The purchase of
 17 debentures issued by a capital company and loans or portions
 18 thereof originated by a financial institution that are sold
 19 to the trust are not direct loans."

20 **Section 5.** Section 90-3-101, MCA, is amended to read:

21 "90-3-101. Short title -- findings -- purpose. (1) This
 22 chapter may be cited as the "Montana Science and Technology
 23 Financing Act".

24 (2) The legislature finds and declares that:

25 (a) it is the policy of the state of Montana to promote

1 the health, safety, and general welfare of all the people of
 2 the state;

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

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

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

20 ~~(e) the--Science--and--Technology--Development--Board--Seed~~
 21 ~~Capital--Bond--Act--contained--provisions--that--were--found--to--be~~
 22 ~~unconstitutional--by--the--Montana--supreme--court--and--the--51st~~
 23 ~~legislature--of--the--state--of--Montana--must--remedy--those~~
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25 (f) the Montana science and technology development

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

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

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7 establishing a public-private sector partnership to
8 encourage scientific and technological development within
9 the state in order to keep pace with a transforming economic
10 structure and to create new jobs and expand small business
11 opportunities;

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

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

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

20 **Section 6.** Section 90-3-102, MCA, is amended to read:

21 "90-3-102. **Definitions.** As used in this chapter the
22 following definitions apply:

23 (1) "Act" means the Montana science and technology
24 financing act.

25 (2) "Board" means the Montana board of science and

1 technology development provided for in 2-15-1818.

2 (3) "Company" means a firm, partnership, corporation,
3 association, or any other entity authorized to conduct
4 business in Montana.

5 (4) "Convertible debenture" means a debenture
6 convertible into stock under certain conditions by any
7 individual or company. The debenture may not be converted by
8 the board.

9 (5) "Debenture" or "note" means a writing or
10 certificate issued as evidence of debt.

11 (6) "Department" means the department of commerce
12 created in 2-15-1801.

13 (7) "Expansion capital project" means a science and
14 technology development project undertaken to enable a
15 company to expand its manufacturing and marketing activities
16 in order to move its products or services into new markets
17 or to expand existing markets.

18 (8) "Innovative technology" means the involvement of a
19 product or process that embodies the use of implements,
20 machinery, equipment, chemical formulations, resources,
21 materials, methods, or other items in a manner that departs
22 from previous commercial developments, practices, or
23 applications.

24 (9) "Matching funds" means the funds received in cash
25 by the science and technology development project loan

1 recipient from nonstate-appropriated sources and committed
 2 by the loan recipient to the project in an amount that is at
 3 least equal to the funds loaned to the recipient by the
 4 board for use in the science and technology development
 5 project.

6 {10} "Medical facility research and development project"
 7 means a research and development project designed to advance
 8 the development and operation of facilities that concentrate
 9 on fields of medical research involving advanced technology
 10 applied to national medical concerns through the financing
 11 of personnel, equipment, and operating costs with the goal
 12 of establishing the facilities as enduring research
 13 organizations in Montana.

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 16 project loan from the board.

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 18 individual, not principally a part of or associated with a
 19 governmental unit, that is associated with or involved in
 20 commercial activity.

21 {13} "Research and development project" means a
 22 science and technology development project that falls into
 23 the category of research capability development, applied
 24 technology research, or technology transfer and assistance.

25 {14} "Research and development project loan" means a

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 2 between the board and a loan recipient for a research and
 3 development project.

4 {15} "Science and technology development project"
 5 means either a seed capital project or research and
 6 development project designed to discover, develop, transfer,
 7 utilize, or commercialize existing or new, innovative
 8 technology in order to strengthen and enhance economic
 9 development in Montana.

10 {16} "Science and technology development project
 11 loan agreement" or "loan" means an agreement entered into
 12 between the board and the loan recipient of a seed capital
 13 project loan or a research and development project loan
 14 that:

- 15 (a) creates a debt relationship between the parties;
 16 (b) provides for a financial return to the board;
 17 (c) provides economic development potential to the
 18 state; and
 19 (d) contains the applicable provisions and terms
 20 required by this chapter.

21 {17} "Seed capital project" means a startup capital
 22 project or expansion capital project.

23 {18} "Seed capital project loan" means a science and
 24 technology development project loan entered into between the
 25 board and a loan recipient for a seed capital project.

1 ~~(18)~~(19) "Startup capital project" means a science and
2 technology development project that assists a company in
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4 ~~(19)~~(20) "State" means the state of Montana.

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6 corporation that gives a holder other than the board the
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10 "90-3-301. Appropriation authority and funding --
11 **matching funds.** (1) The board has authority to accept and
12 expend all funds received by it as grants, donations, or
13 other private or public income. These funds are statutorily
14 appropriated as provided in 17-7-502.

15 (2) The appropriations and loans made to and by the
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17 appropriations to the university system and other state
18 agencies.

19 (3) A loan may not be made for a seed capital project
20 for which matching funds have not been received. Matching
21 funds are required prior to any expenditure of board funds
22 for ~~research--and--development-projects-or~~ all seed capital
23 projects. The board may accept as matching funds those
24 received by the loan recipient within 1 year prior to the
25 execution of the loan agreement. The board may require

1 additional matching funds, depending on the capital need and
2 the degree of risk encountered in the ~~science-and-technology~~
3 development seed capital project.

4 (4) A loan may not be made for a research and
5 development project for which matching funds have not been
6 received unless the matching fund requirements are waived by
7 the board pursuant to this section. Matching funds, when
8 required, must be received before expenditure of board funds
9 for a research and development project loan may be made. The
10 board may waive the required match for up to 25% of the
11 funding for research and development project loans if the
12 board determines that the capital need and potential
13 commercialization of the research and development project,
14 in addition to its potential to strengthen the partnership
15 between the public sector and private sector, warrant the
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18 execution of the loan agreement. The board may require
19 additional matching funds depending on the capital need in
20 the research and development project."

21 **SECTION 8.** SECTION 90-3-305, MCA, IS AMENDED TO READ:

22 "90-3-305. Science and technology development account.
23 (1) There is a science and technology development account
24 within the state special revenue fund established in
25 17-2-102.

1 (2) There must be paid into the science and technology
2 development account:

3 (a) the payback of principal and earnings on a research
4 and development project loan, made from a source other than
5 the Montana in-state investment fund, executed under this
6 chapter; and

7 (b) all payback of principal and earnings to the board
8 from any agreements executed by the board between July 1,
9 1985, and March 31, 1989."

10 **SECTION 9.** SECTION 90-3-524, MCA, IS AMENDED TO READ:

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

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

22 (2) The payback on a research and development project
23 loan for a technology transfer and assistance project may be
24 made pursuant to subsection (1) or may be realized in terms
25 of indirect benefits related to the goals and criteria of

1 the program. No more than 10% of the board's annual
2 allocation of research and development funds may be used for
3 technology transfer and assistance projects. THE PAYBACK ON
4 A RESEARCH AND DEVELOPMENT PROJECT LOAN FOR A TECHNOLOGY
5 TRANSFER AND ASSISTANCE PROJECT MADE FROM THE IN-STATE
6 INVESTMENT FUND MAY NOT BE REPAID IN TERMS OF INDIRECT
7 BENEFITS."

8 **SECTION 10.** SECTION 90-3-525, MCA, IS AMENDED TO READ:

9 "90-3-525. Deposit of payback -- seed capital and
10 research and development project loans. (1) The payback of
11 principal and earnings on a seed capital project loan
12 executed under this chapter or on a research and development
13 project loan from the Montana in-state investment fund must
14 be administered pursuant to section 17-6-306.

15 (2) The payback of principal and earnings on a research
16 and development project loan from a source other than the
17 Montana in-state investment fund must be deposited to the
18 state special revenue fund to the credit of the science and
19 technology development account created in 90-3-305.

20 (3) All paybacks of principal and earnings to the board
21 from any agreements executed by the board between July 1,
22 1985, and March 31, 1989, must be deposited to the state
23 special revenue fund to the credit of the science and
24 technology development account created in 90-3-305 for use
25 by the board. The paybacks include all those received after

1 January 1, 1989."

2 **NEW SECTION. Section 11. Intellectual property**
 3 **assessment.** The university system shall conduct an
 4 assessment of its intellectual property management programs
 5 and policies. Based on the assessment, the board of regents
 6 shall consider the adoption of a system of intellectual
 7 property management that will provide a coordinated and
 8 effective method of meeting payback requirements for
 9 research and development project loans made to
 10 organizations, individuals, and other entities within the
 11 university system. The assessment must be coordinated with
 12 the Montana board of science and technology development, and
 13 a final report and recommendations must be presented to the
 14 board by January 1, 1992.

15 **NEW SECTION. Section 12. Coordination instruction.** If
 16 Senate Bill No. 26 is passed and approved, if it includes a
 17 section that amends 17-6-308, and if it includes amendments
 18 that replace references to the "in-state investment fund"
 19 with "permanent coal tax trust fund", then in [~~section-3-of~~
 20 ~~this act, amending-17-6-308(4)~~], the code commissioner shall
 21 make a similar change CHANGES.

22 **NEW SECTION. Section 13. Severability.** If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
 2 severable from the invalid applications.

3 **NEW SECTION. Section 14. Effective date.** [This act] is
 4 effective on passage and approval.

-End-

1 SENATE BILL NO. 242

2 INTRODUCED BY CRIPPEN, D. BROWN, GRINDE,

3 THAYER, WILLIAMS

4 BY REQUEST OF THE GOVERNOR

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FROM
7 THE IN-STATE INVESTMENT FUND FOR RESEARCH AND DEVELOPMENT
8 PROJECT LOANS; PROVIDING FOR MEDICAL FACILITY RESEARCH AND
9 DEVELOPMENT PROJECT LOANS; REQUIRING AT LEAST THREE MEMBERS
10 OF THE BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT TO HAVE
11 KNOWLEDGE OF EARLY STAGE FINANCING OF PRIVATE BUSINESSES;
12 CHANGING MATCHING FUND REQUIREMENTS FOR RESEARCH AND
13 DEVELOPMENT PROJECTS; REQUIRING THE UNIVERSITY SYSTEM TO
14 ASSESS INTELLECTUAL PROPERTY MANAGEMENT; AMENDING SECTIONS
15 2-15-1818, 17-6-308, 17-6-310, 90-3-101, 90-3-102, AND
16 90-3-301, AND 90-3-305, 90-3-524, AND 90-3-525, MCA; AND
17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
18

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

20 **Section 1.** Section 2-15-1818, MCA, is amended to read:

21 "2-15-1818. Montana board of science and technology
22 development -- allocation -- composition -- quasi-judicial
23 powers. (1) There is a Montana board of science and
24 technology development. The board is allocated to the
25 department of commerce. The department shall select,

1 prescribe the duties for, and supervise staff to administer
2 board activities.

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

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

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

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

12 (b) at least one member with expertise in applied
13 technology development; and

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

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

17 **Section 2.** Section 17-6-308, MCA, is amended to read:

18 "**17-6-308. Authorized investments.** (1) Except as
19 provided in subsection (4), the Montana in-state investment
20 fund must be invested as authorized by rules adopted by the
21 board. For purposes of this section, "investment" includes
22 the guaranty of loans or bonds in consideration for a fee,
23 in lieu of the actual acquisition of ~~such~~ the loans or
24 bonds.

25 (2) The board may use the in-state investment fund to

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

16 (3) The board may make loans from the in-state
 17 investment fund to the capital reserve account created
 18 pursuant to 17-5-1515 and the guaranty fund created pursuant
 19 to 17-5-1520 to establish balances or restore deficiencies
 20 therein. The board may agree in connection with the issuance
 21 of bonds or notes secured by such account or fund to make
 22 such loans. Loans must be on such terms and conditions as
 23 the board determines and must be repaid from revenues of the
 24 board realized from the exercise of its powers under
 25 17-5-1501 through 17-5-1529, subject to the prior pledge of

1 the revenues to the bonds and notes.

2 (4) The board shall allow the Montana board of science
 3 and technology development provided for in 2-15-1818 to
 4 administer \$7.5 million of the in-state investment fund for
 5 seed capital project loans and \$5.1 million of the in-state
 6 investment fund for research and development project loans
 7 pursuant only to the provisions of Title 90, chapter 3. This
 8 authority does not extend beyond June 30, 1994, for seed
 9 capital project loans and ~~June 30, 1993~~ for research and
 10 development project loans. Until ~~such time as~~ the Montana
 11 board of science and technology development makes a loan
 12 pursuant to these the provisions of Title 90, chapter 3, the
 13 funds under its administration must be invested by the board
 14 of investments pursuant to the provisions of 17-6-201."

15 NEW SECTION. Section 3. Allocation of funds. The
 16 PROVIDED THE LOANS CONTAIN THE REPAYMENT REQUIREMENTS SET
 17 FORTH IN 90-3-522 AND 90-3-524, THE \$5.1 million of the
 18 in-state investment fund to be used for research and
 19 development project loans is allocated as follows:

20 (1) \$600,000 to meet state matching fund requirements
 21 for the national science foundation awards to the center for
 22 interfacial microbial process engineering; ~~PROVIDED THE LOAN~~
 23 ~~CONTAINS THE REPAYMENT REQUIREMENTS SET FORTH IN 90-3-522~~
 24 ~~AND 90-3-524;~~

25 (2) \$3.5 million for loans relating to but not limited

1 to the centers of excellence program and the Montana
2 entrepreneurial center and to meet state matching fund
3 requirements for the national science foundation's
4 experimental program to stimulate competitive research; and

5 (3) \$1 million for medical facility research and
6 development project loans provided that:

7 (a) a loan may not be less than \$200,000 or more than
8 \$500,000; and

9 (b) a dollar-for-dollar matching requirement from
10 federal or private sources is required.

11 **SECTION 4.** SECTION 17-6-310, MCA, IS AMENDED TO READ:

12 "17-6-310. No direct loans. (1) The state may not use
13 this revenue to make direct loans.

14 (2) ~~No--money--from--the~~ The Montana in-state investment
15 fund may not be used by the board of investments to make
16 direct loans to individual borrowers. The purchase of
17 debentures issued by a capital company and loans or portions
18 thereof originated by a financial institution that are sold
19 to the trust are not direct loans."

20 **Section 5.** Section 90-3-101, MCA, is amended to read:

21 "90-3-101. Short title -- findings -- purpose. (1) This
22 chapter may be cited as the "Montana Science and Technology
23 Financing Act".

24 (2) The legislature finds and declares that:

25 (a) it is the policy of the state of Montana to promote

1 the health, safety, and general welfare of all the people of
2 the state;

3 (b) this policy will be furthered through strengthening
4 and diversifying the state's economy by facilitating a
5 public sector-private sector partnership to encourage
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13 development projects that have significant potential for
14 commercialization in Montana;

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13 capital project loans;

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7 BENEFITS."

8 **SECTION 10.** SECTION 90-3-525, MCA, IS AMENDED TO READ:

9 "90-3-525. Deposit of payback -- seed capital and
10 research and development project loans. (1) The payback of
11 principal and earnings on a seed capital project loan
12 executed under this chapter or on a research and development
13 project loan from the Montana in-state investment fund must
14 be administered pursuant to section 17-6-306.

15 (2) The payback of principal and earnings on a research
16 and development project loan from a source other than the
17 Montana in-state investment fund must be deposited to the
18 state special revenue fund to the credit of the science and
19 technology development account created in 90-3-305.

20 (3) All paybacks of principal and earnings to the board
21 from any agreements executed by the board between July 1,
22 1985, and March 31, 1989, must be deposited to the state
23 special revenue fund to the credit of the science and
24 technology development account created in 90-3-305 for use
25 by the board. The paybacks include all those received after

1 January 1, 1989."

2 **NEW SECTION. Section 11. Intellectual property**
 3 **assessment.** The university system shall conduct an
 4 assessment of its intellectual property management programs
 5 and policies. Based on the assessment, the board of regents
 6 shall consider the adoption of a system of intellectual
 7 property management that will provide a coordinated and
 8 effective method of meeting payback requirements for
 9 research and development project loans made to
 10 organizations, individuals, and other entities within the
 11 university system. The assessment must be coordinated with
 12 the Montana board of science and technology development, and
 13 a final report and recommendations must be presented to the
 14 board by January 1, 1992.

15 **NEW SECTION. Section 12. Coordination instruction.** If
 16 Senate Bill No. 26 is passed and approved, if it includes a
 17 section that amends 17-6-308, and if it includes amendments
 18 that replace references to the "in-state investment fund"
 19 with "permanent coal tax trust fund", then in [~~section-3-of~~
 20 ~~this act-amending-17-6-308(4)~~], the code commissioner shall
 21 make a similar change CHANGES.

22 **NEW SECTION. Section 13. Severability.** If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
 2 severable from the invalid applications.

3 **NEW SECTION. Section 14. Effective date.** [This act] is
 4 effective on passage and approval.

-End-