

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 038

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on April 12, 1995, at 1:03 p.m. in Room 402.

ROLL CALL

Members Present:

Sen. Steve Benedict (R)
Sen. John R. Hertel (R)
Sen. John "J.D." Lynch (D)
Rep. Royal C. Johnson (R)
Rep. Bruce T. Simon (R)
Rep. Mike Kadas (D)

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch, Legislative Council
Carla Turk, Secretary

Discussion:

CHAIRMAN BENEDICT stated the purpose of the Free Conference Committee was to readopt the amendments adopted in the previous Conference Committee and to look at new amendments contained in sb003804.agp, as to their affect. He said the amendments in sb003804.agp would: move \$3-million of authorized, but unused seed capital into Research and Development (R&D); and enfold the mezzanine financing loans into the Montana Science and Technology Alliance (MSTA) where it would become a portion of the seed capital loans; to make the Program a revolving loan fund; add a retroactive applicability date; and reduce the rate of "payback" of R&D from "two" to "1.5" times. He asked **Linda Reed** of the Governor's Office if she had anything to add in explanation of the amendments? **Ms. Reed** said the Universities were currently repaying at 2.5 times. She said current Statute required "payback" to occur at a rate of at least "two", and understood the Universities current contract stated a "payback" at "2.5"

CHAIRMAN BENEDICT stated there was already \$6-million in R&D funds which had been expended and this amendment would authorize another \$3-million, for a total of \$9-million. **Linda Reed** attested that was correct.

CO-CHAIRMAN ROYAL JOHNSON asked for a recounting of the proposed fund authorization. **CHAIRMAN BENEDICT** stated that \$6-million in R&D funds had been allocated to the University System, with \$.5-million remaining in authorized R&D funds, and this amendment would move \$3-million of seed capital money into R&D for the University System.

CO-CHAIRMAN JOHNSON clarified that the amendment would give the University System an additional \$3-million. **CHAIRMAN BENEDICT** stated that was correct.

CO-CHAIRMAN JOHNSON asked if the Universities had currently committed \$7.5-million of their appropriations? **Ms. Reed** stated the Universities had currently committed approximately \$6-million in R&D appropriations allocated from the MSTA. She explained that the entire amount had not been funded, but \$6-million was committed.

CO-CHAIRMAN JOHNSON asked if the current amount available to the Universities wasn't \$8-million? **Ms. Reed** replied yes, there was current authorization for \$8.1-million in R&D appropriations allocated from MSTA. She clarified that the \$8.1-million was authorized for both University System and private sector research and development projects. He stated that a portion of the authorization had been loaned to private sector companies for research and development and \$6-million was currently committed to the University System. She said a portion of the \$6-million had already been distributed to the Universities.

CO-CHAIRMAN JOHNSON asked how the uncommitted \$500,000 figure was arrived at? **Ms. Reed** said that of the \$8.1-million total authorization, \$500,000 remained uncommitted.

CO-CHAIRMAN JOHNSON clarified that **Ms. Reed** was stating the \$.5-million remained, and asked if there had been an original "breakdown" of how the \$8.1-million was to be allocated to the private sector and/or the University System? **Ms. Reed** replied no, there was not.

CO-CHAIRMAN JOHNSON asked if it had been on a first come, first serve basis? **Ms. Reed** replied, yes sir.

REPRESENTATIVE BRUCE SIMON asked if, essentially, the proposal was that \$4-million of currently authorized MSTA money for mezzanine financing, and \$3-million currently authorized seed capital money allocated to MSTA would be earmarked as R&D money under MSTA, which would increase their authorization? **CHAIRMAN BENEDICT** stated that wasn't entirely accurate, and asked **Ms. Reed** to clarify.

Ms. Reed said the seed capital authorization was currently \$15.5-million, and R&D was \$8.1-million. She said the proposal was to move \$3-million from seed capital into R&D, which would equal \$12.5-million in seed capital and \$11.1-million in R&D. She said that of those amounts, currently \$7.6-million of the \$8.1-million in current seed capital authorization had been committed, while \$500,000 remained uncommitted. She said that of the \$15.5-million, currently everything but \$7.6-million had been committed. She stated a small excess currently existed in both seed capital and R&D authorizations. She said they were suggesting reauthorization of \$3-million, of the uncommitted \$7.6-million, from seed capital authorization into R&D. She said that \$3-million, plus the \$500,000 of currently uncommitted R&D appropriations would total \$3.5-million which would be available for R&D appropriations to the University System. **Ms. Reed** stated the amendments would exclude lending opportunities to private sector companies or research and development businesses.

REPRESENTATIVE SIMON asked if the \$4-million for mezzanine financing would also be reappropriated from seed capital allocations? **Ms. Reed** stated that was correct. She said the \$4-million would become available for both seed capital and mezzanine financing, with no distinction in terms of amount what might be used for one program versus the other. She reiterated that this \$4-million would no longer be available to private companies. She said the remaining \$4.6-million would be available for private research and development. She stated there was no new money being authorized.

REPRESENTATIVE SIMON stated the mezzanine financing could theoretically be as high as \$4.6-million, if all of the seed capital money was used for that purpose. **Ms. Reed** stated that was correct.

REPRESENTATIVE MIKE KADAS asked if all of the seed capital loans were going to become revolving loans, rather than a "payback" to the Trust Fund? **Ms. Reed** said right, and that would actually echo what had been with the mezzanine financing bill, as a revolving loan fund. She said this would "sunset" in 1997, and these types of programs, or pieces of them, could essentially be eliminated. She said that the elimination of the programs would allow all of the remaining money and repayments to be returned to the Trust Fund.

REPRESENTATIVE KADAS asked if the remaining unauthorized funds could be loaned if the programs were to sunset in 1997, with any repayment after 1997 having to be returned to the Trust Fund? **Ms. Reed** said she understood that the entire issue would be revisited in two years, and that any unused authorization would expire unless the authorization term was extended. She said that if the term extension was not granted and the MSTTA programs were not renewed, the loan payments would be repaid to the Trust Fund.

CHAIRMAN BENEDICT asked if the Department of Commerce would assume administration responsibility for the loans if MSTTA no longer existed? **Ms. Reed** stated that would be her guess, as at that point there would essentially be a liquidation process regarding the administration of the remaining assets which existed.

CHAIRMAN BENEDICT stated the return on these loans would be very slow. **Ms. Reed** agreed that the ultimate repayment would be very slow, as the current payments were \$250,000 annually.

REPRESENTATIVE KADAS asked what the effective interest rate pertaining to that payment? **CHAIRMAN BENEDICT** stated the proposed authorization rate would be 2.5%. He said that a payment of \$250,000 on approximately \$10-million would be about 2.5%.

REPRESENTATIVE KADAS asked why a specific rate of repayment and interest couldn't be set on the authorization, versus a stated dollar amount and the 1.5 or two times? **CHAIRMAN BENEDICT** and **Ms. Reed** both replied that the Universities couldn't afford that. **Ms. Reed** clarified that in addition to the \$250,000, a percentage of royalty and licensing fees was required to be paid from any project funded under research and development. She said the rate of "payback" would be determined by which was greater, the percentage of royalties and licensing fees or the set rate in Statute. She said that if any one of the projects showed substantial growth, the cash flow created through the greater royalty and licensing fee percentage could be tapped to make repayment, rather than the set rate totaling \$250,000 annually. She said there was that potential for quicker repayment than an amortization of \$250,000.

REPRESENTATIVE KADAS asked how long repayment was going to take at the "1.5 times"? **Ms. Reed** stated she did not have that information.

REPRESENTATIVE KADAS asked if all of the current seed capital loans were going to become revolving? **CHAIRMAN BENEDICT** said yes, if they were a loan.

Greg Petesch said that when the authority for R&D was retained, in the proposed amendment, there was a termination date of June 30, 1995. He stated the amendments would need to include an immediate effective date to avoid termination prior to granting additional authority.

REPRESENTATIVE KADAS asked for clarification and if the entire program was to sunset in 1997? **Greg Petesch** said the language appeared on page 5, line 23. He stated that "1995" could be struck and "1997" be inserted.

CO-CHAIRMAN JOHNSON asked for clarification of the number of dollars currently committed under R&D? **Ms. Reed** answered \$7.6-million.

CO-CHAIRMAN JOHNSON asked what portion of the committed authorization had not been funded, \$1.6-million? **Ms. Reed** said she did not know. She said the commitment had been made to the Universities these projects and the funding currently hadn't been called for. She said those projects were funded quarterly or semi-annually as the matching funds were received, and the committed funds resided in MSTA until those matching funds were remitted.

CO-CHAIRMAN JOHNSON addressed the Chairman and said that given the information, he was willing to accept the situation, except for the reduced "payback" of the University loans. He said he didn't see any reason for reducing the "payback" rate when it was known that no more than \$250,000 would be received from the University System, which was currently being used to fund this whole program. He said if this program wasn't actually going to "sunset" in two years, why would the Legislature want to reduce the "payback" from "2.5" times back to "1.5" times. **CHAIRMAN BENEDICT** rereferred, by asking if that was the desire of the Governor? **Ms. Reed** said she thought it was something the MSTA Board had thought was practical because they could see the University payments increasing as a result of the Bill.

CO-CHAIRMAN JOHNSON stated he felt that \$250,000 on a \$8-million note was a pretty inadequate repayment schedule. He said that if the University System was going to be given an additional \$8-\$13-million from the total Coal Tax Trust, he hoped the Legislature would have considered having a better "payback" than was historically there. He said the proposal would reduce the original "payback" agreement all of the University loans, and he did not think was a fair thing to do.

REPRESENTATIVE KADAS stated the Universities were currently repaying \$250,000 annually, and asked if they would only be required to make the \$250,000 annual "payback" even though they received the additional funds, or would it be \$500,000 a year. **Ms. Reed** said they contemplated the payments would increase, but it wasn't likely they would double.

REPRESENTATIVE KADAS said he would agree with **REPRESENTATIVE JOHNSON** that he would rather see the "1.5" times left in place rather than the "2" times in the Bill.

Motion:

SENATOR LYNCH MOVED AMENDMENT NUMBER sb003804.agp.

REPRESENTATIVE SIMON asked if SENATOR LYNCH'S motion was intended to included the amendments in SB003804.agp and the conceptual amendment for an immediate effective date? SENATOR LYNCH stated yes.

Motion:

CO-CHAIRMAN JOHNSON MADE A SUBSTITUTE MOTION TO ADOPT THE PREVIOUS MOTION FOR AN IMMEDIATE EFFECTIVE DATE AND THE AMENDMENTS IN sb003804.agp, EXCEPT FOR REDUCING THE "PAYBACK" ON THE UNIVERSITY SYSTEM LOANS.

Discussion:

CO-CHAIRMAN JOHNSON explained that he wished to strike the amendment which reduced the "payback". Greg Petesch said that amendments 2, 8 and 9 would need to be struck.

THE QUESTION WAS CALLED FOR.

Vote:

CO-CHAIRMAN JOHNSON'S SUBSTITUTE MOTION TO ADOPT THE PREVIOUS MOTION FOR AN IMMEDIATE EFFECTIVE DATE AND THE AMENDMENTS IN sb003804.agp, EXCEPT FOR NUMBER 2, 8, & 9 CARRIED, WITH REPRESENTATIVE LYNCH VOTING NO.

Discussion:

REPRESENTATIVE KADAS asked if the mezzanine financing program would be administered by the MSTA? Ms. Reed stated that was the intent.

REPRESENTATIVE KADAS stated he would rather leave the administration as it was. CHAIRMAN BENEDICT said he did not see how that could be accomplished, as the money was being moved into MSTA and he thought the administration had to remain with MSTA Board.

CO-CHAINMAN JOHNSON stated MSTA was part of the Department of Commerce and asked if the staff was the same for both. Ms. Reed stated that MSTA had its own independent staff.

CHAIRMAN BENEDICT explained that the MSTA staff funding came from outside the budgeting process, through interest and paybacks.

CO-CHAIRMAN JOHNSON said the Board was actually part of the budgeting process. **CHAIRMAN BENEDICT** answered yes, to a degree, as they were within special revenue rather than general fund. He stated that the Department of Commerce was funded through general fund.

Discussion:

CO-CHAIRMAN JOHNSON stated an inclination to agree with **REPRESENTATIVE KADAS** regarding who should administer the Program. He said it was alright to have the MSTA Board decide mezzanine and the venture capital loans, but stated he would like the staff currently administering the Community Development Block Grant (CDBG) loans should have a voice in the type of loans to be let. He said he thought that staff currently did have an actual voice in those decisions.

SENATOR LYNCH said he thought that staff did have a voice, but too much administrative layering could give the ultimate authority to staff in the Department of Commerce.

CO-CHAIRMAN JOHNSON said he understood that the MSTA Board got the loans after they had been reviewed by the staff. **SENATOR LYNCH** stated that was fine, and this would remain the same.

CHAIRMAN BENEDICT asked if **Ms. Reed** would like to clarify. **Ms. Reed** said that currently the MSTA staff reviewed the MSTA loan requests and the current language of the Bill would give review authority to the Department of Commerce staff. She said that instead of having MSTA staff review mezzanine financing loans, the current existing review staff could be authorized to review and recommend to the MSTA Board on these loans.

CHAIRMAN BENEDICT asked if the language was needed in Statute, or could it be done by rule? **Greg Petesch** said he thought the language should be clarified in the Bill.

REPRESENTATIVE SIMON suggested the clarification should be made in Section 7 of the Bill.

Motion/Vote:

REPRESENTATIVE KADAS' MOTION TO ADOPT THE CONCEPTUAL AMENDMENT WITH THE AUTHORITY FOR GREG PETESCH TO DRAFT THE APPROPRIATE LANGUAGE CARRIED UNANIMOUSLY.

Motion/Vote:

REPRESENTATIVE SIMON'S MOTION TO ADOPT THE PROPOSED AMENDMENTS, INCLUDING THE CONCEPTUAL AMENDMENTS AND THE AMENDMENTS IN THE PREVIOUS FREE CONFERENCE COMMITTEE REPORT OF APRIL 10 CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR LYNCH'S MOTION TO ADOPT THE BILL AS AMENDED, AMENDED CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN BENEDICT asked if everyone was comfortable in signing the Free Conference Committee Report? REPRESENTATIVE KADAS stated he would not be able to sign.

ADJOURNMENT

Adjournment: The meeting was adjourned at 1:29 p.m.



SENATOR STEVE BENEDICT, Chairman



CARLA TURK, Secretary

SB/cmt

Free Conference Committee
on SB 38
Report No.1, April 12, 1995

Page 1 of 3

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 38, met and considered:

SB 38 in its entirety

We recommend that SB 38 (reference copy - salmon) be amended further as follows:

1. Title, line 6.

Strike: "\$4 MILLION"

Insert: "A PORTION"

2. Title, line 7.

Following: ";

Insert: "REVISING THE ADMINISTRATION OF PERMANENT COAL TAX TRUST
FUNDS FOR SEED CAPITAL AND RESEARCH AND DEVELOPMENT
PROJECTS;"

3. Title, line 8.

Following: "AN"

Insert: "IMMEDIATE"

4. Page 2.

Following: line 21

Insert: "(1) "Board" means the Montana board of science and
technology development provided for in 2-15-1818."

Renumber: subsequent subsections

5. Page 2, line 25.

Strike: "approving or denying"

Insert: "recommending to the board the approval or denial of"

6. Page 3, line 27.

Strike: "DEPARTMENT"

Insert: "board"

Strike: "SAME"

Insert: "most favorable"

7. Page 3, line 28.

Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"

Insert: "possible on any"

ADOPT

REJECT

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8. Page 4, line 17.

Strike: "approve or disapprove loans"

Insert: "recommend to the board the approval or disapproval of
loans"

9. Page 5, lines 9 and 10.

Following: "~~(3)~~" on line 9

Strike: remainder of line 9 through "(4)" on line 10

Insert: "and (3)"

10. Page 5, line 20.

Strike: "\$11.5"

Insert: "\$12.5"

11. Page 5, line 21.

Following: "loans"

Insert: "or mezzanine financing loans"

Strike: "\$8.1"

Insert: "\$11.1"

12. Page 5, line 22.

Strike: "loans" through "3"

Insert: "matching funds for projects at Montana public
universities"

13. Page 5, lines 23 and 24.

Strike: "1995"

Insert: "1997"

Following: "development" on line 23

Strike: remainder of line 23 through "loans" on line 24

Insert: "projects"

14. Page 5, line 26.

Following: "."

Insert: "As seed capital and mezzanine financing loans made
pursuant to this subsection are repaid, the Montana board of
science and technology development may reinvest the
principal in new loans."

15. Page 5, lines 27 through 30.

Strike: subsection (4) in its entirety

Re-number: subsequent subsection

16. Page 6, line 9.

Strike: "July 1, 1995"

Insert: "on passage and approval"

And that this Free Conference Committee report be adopted.

For the Senate:

Benedict

Chair

John Hertel

John Lynch

BS
Amd. Coord.

GA
Sec. of Senate

For the House:

Carol Johnson

Chair

Donna Smith

Kedon

Amendments to Senate Bill No. 38
Reference Reading Copy

For the Free Conference Committee

Prepared by Greg Petesch
April 12, 1995

1. Title, line 7.

Following: " ; "

Insert: "REVISING THE ADMINISTRATION OF PERMANENT COAL TAX TRUST
FUNDS FOR SEED CAPITAL AND RESEARCH AND DEVELOPMENT
PROJECTS ; "

Strike: "SECTION"

Insert: "SECTIONS"

Following: "17-6-308"

Insert: "AND 90-3-524"

2. Title, line 8.

Following: "DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 5, line 20.

Strike: "\$11.5"

Insert: "\$12.5"

4. Page 5, line 21.

Following: "loans"

Insert: "or mezzanine financing"

Strike: "\$8.1"

Insert: "\$11.1"

5. Page 5, line 22.

Strike: "loans" through "3"

Insert: "matching funds for projects at Montana public
universities"

6. Page 5, lines 23 and 24.

Strike: "1995"

Insert: "1997"

Following: "development" on line 23

Strike: remainder of line 23 through "loans" on line 24

Insert: "projects"

7. Page 5, line 26.

Following: " . "

Insert: "As seed capital and mezzanine financing loans made
pursuant to this subsection are repaid, the Montana board of
science and technology development may reinvest the
principal in new loans. "

8. Page 6, line 4.

Insert: "Section 11. Section 90-3-524, MCA, is amended to read:

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

(1) The agreement must include provisions calling for a payback of at least ~~two~~ 1.5 times the original loan amount paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the board's financing as negotiated by the parties.

(2) The payback on a research and development project loan for a technology transfer and assistance project may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. The payback on a research and development project loan for a technology transfer and assistance project made from the permanent coal tax trust fund may not be repaid in terms of indirect benefits.

(3) The agreement between the board and the commissioner of higher education on the payback of a research and development project loan must guarantee a minimum annual payback of \$250,000, commencing on June 30, 1994."

Renumber: subsequent sections

9. Page 6, line 10.

Insert: "NEW SECTION. Section 14. {standard} Retroactive applicability. [Section 11] applies retroactively within the meaning of 1-2-109, to loans made prior to [the effective date of this act]."

Free Conference Committee
on SB 38
Report No.1, April 10, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 38, met and considered:

SB 38 in its entirety

We recommend that SB 38 (reference copy - salmon) be amended as follows:

1. Page 3, line 27.

Strike: "SAME"

Insert: "most favorable"

2. Page 3, line 28.

Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"

Insert: "possible on any"

And that this Free Conference Committee report be adopted.

For the Senate:

Benedict

Chair

Hertel

Lynch

Amd. Coord.

Sec. of Senate

For the House:

R. Johnson

Chair

Simon

Kadas

ADOPT

REJECT

SB 38
FCCR#1

821158CC.SRF

SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER ~~\$8~~ \$4 MILLION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE ~~OR~~ AND RETAIN JOBS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4 5] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion ~~and~~, job creation, AND JOB RETENTION. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion ~~and~~, job creation, AND JOB RETENTION and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately \$2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of \$10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create AND RETAIN jobs which would not be fully funded from existing sources.

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

1 NEW SECTION. Section 1. Short title. [Sections 1 through & 9] may be cited as the "Job
2 Investment Act".

3
4 NEW SECTION. Section 2. Legislative findings -- purpose. (1) The legislature finds and declares
5 that:

6 (a) it is the policy of the state to foster and encourage economic development within the state in
7 order to promote the general welfare of the people; AND

8 (b) access to capital for the creation, expansion, and retention of qualified businesses, particularly
9 for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue; and

10 ~~(c) the public sector and the private sector are constrained from satisfying the financial needs of~~
11 ~~state businesses because of federal and state financial regulatory rules and practices.~~

12 (2) The purpose of [sections 1 through & 9] is to create a job investment program that encourages
13 and assists in the creation, development, and financing of businesses whose primary obstacle to expansion
14 or retention of employment is access to the appropriate type and amount of financing. This financial need
15 is particularly acute in areas of the state that are economically depressed, and emphasis should be given
16 to projects that will be located in these areas if the projects meet the requirements of [sections 1 through
17 & 9] and rules adopted pursuant to [section 4 5] and meet acceptable levels of financial risk as determined
18 by the loan review committee.

19
20 NEW SECTION. Section 3. Definitions. As used in [sections 1 through & 9], unless the context
21 requires otherwise, the following definitions apply:

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

23 (2) "Loan review committee" means the committee that is established by the department to
24 consider economic development loan applications for funding by the federal community development block
25 grant program and that is responsible for reviewing and approving or denying job investment loans subject
26 to [sections 1 through & 9] and rules implementing [sections 1 through & 9].

27 (3) "Qualified business" means a business enterprise that either is or will be located in the state
28 and that produces goods or provides services that will, as a result of receiving a job investment loan, create
29 jobs for Montana workers.

30

1 NEW SECTION. SECTION 4. LOAN APPLICANT ENDORSEMENT. APPLICANTS FOR JOB
2 INVESTMENT LOANS MUST BE ENDORSED BY LOCAL GOVERNMENT ENTITIES OR LOCAL ECONOMIC
3 DEVELOPMENT CORPORATIONS.

4
5 NEW SECTION. Section 5. Rulemaking authority. The department shall adopt rules to implement
6 the provisions of [sections 1 through 8 9], including rules:

7 (1) determining the amount of interest and the method of computation and payment of interest
8 charged to recipients of job investment loans and specifying amortization schedules and other terms and
9 conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less
10 than the prevailing market rate.

11 (2) establishing criteria for determining nonperformance and declaring default for a job investment
12 loan;

13 (3) specifying security and collateral requirements that must be met as a condition of receiving a
14 job investment loan;

15 (4) encouraging financial institutions to participate to the greatest extent possible in the financing
16 of job investment projects;

17 (5) requiring ~~at least 50% of project funding to come from equity or debt sources other than a job~~
18 ~~investment loan; and THAT THE PERCENTAGE OF PROJECT FUNDING THAT MUST COME FROM~~
19 ~~SOURCES OTHER THAN A JOB INVESTMENT LOAN BE A MINIMUM OF 50% WHEN A JOB INVESTMENT~~
20 ~~LOAN DOES NOT EXCEED \$100,000 AND 67% FOR A MAXIMUM JOB INVESTMENT LOAN OF \$500,000.~~
21 ~~LOAN PARTICIPATION FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN MUST BE IN~~
22 ~~INCREASING INCREMENTS OF .0425% OVER THE MINIMUM 50% FOR EVERY \$1,000 OF A JOB~~
23 ~~INVESTMENT LOAN IN EXCESS OF \$100,000, AND THE FUNDS FROM OTHER SOURCES MUST INCLUDE~~
24 ~~A LOAN FROM A FINANCIAL INSTITUTION. THAT THE JOB INVESTMENT LOAN MAY NOT EXCEED THE~~
25 ~~FUNDING PROVIDED BY PRIVATE LENDERS AND THAT AT LEAST ONE PRIVATE LENDER MUST BE A~~
26 ~~FINANCIAL INSTITUTION. THE DEPARTMENT SHALL SECURE THE MOST FAVORABLE COLLATERAL~~
27 ~~POSITION POSSIBLE ON ANY JOB INVESTMENT LOAN. THE DEPARTMENT SHALL SECURE THE SAME~~
28 ~~COLLATERAL POSITION AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE JOB INVESTMENT~~
29 ~~LOAN.~~

30 (6) establishing appropriate loan loss reserves; and

1 ~~(6)(7)~~ providing for an application process and a loan review process THAT:
2 (A) INCORPORATE THE FUNDING CRITERIA ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE
3 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM PURSUANT TO 90-1-103(5);
4 (B) MINIMIZE THE AMOUNT OF JOB INVESTMENT ACT FUNDS REQUIRED; AND
5 (C) REQUIRE FINANCIAL INSTITUTION REVIEW AND CONTINGENT APPROVAL OF THE PROJECT
6 BEFORE JOB INVESTMENT ACT FUNDS ARE COMMITTED.

7
8 **NEW SECTION.** Section 6. Job investment administrative account. There is a job investment
9 administrative account in the state special revenue fund. The department shall deposit ~~all loan origination~~
10 ~~fees, all service charges, and up to 2%~~ 20% of interest payments on job investment loans into the account.
11 Money in the account must be used to pay the costs of administering [sections 1 through ~~8~~ 9], including
12 personnel costs, operating costs, and administrative costs.

13
14 **NEW SECTION.** Section 7. Loan review committee -- conflict of interest -- servicing of loans. (1)
15 The department shall establish a loan review committee to administer [sections 1 through ~~8~~ 9]. The
16 committee shall accept and review loan applications pursuant to rules adopted by the department. The
17 committee shall approve or disapprove loans. A loan may not exceed \$500,000.

18 (2) ~~A IF A~~ member of the ~~department or the loan review committee who~~ has a financial interest
19 in a business that submits a job investment loan application ~~shall disclose the interest and abstain from any~~
20 ~~involvement in the application, due diligence, and approval processes,~~ THEN THE APPLICATION MUST BE
21 DENIED.

22 (3) The department ~~may~~ SHALL contract for the servicing of loans.

23
24 **NEW SECTION.** Section 8. Legislative oversight. The department shall report to the revenue
25 oversight committee annually on the performance of the job investment program. The report to the
26 committee must include:

- 27 (1) a summary of all loans made during the year;
28 (2) an analysis of job creation goals and performance;
29 (3) a summary of loan terms and conditions;
30 (4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

NEW SECTION. Section 9. Grants, gifts, and donations. The department may accept grants, gifts, and donations for purposes of [sections 1 through 8 9]. The department may expend the funds pursuant to laws and conditions governing the funds.

Section 10. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) ~~and (3)~~ through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

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

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer ~~\$15.5~~ \$11.5 million of the permanent coal tax trust fund for seed capital project loans and \$8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201.

(4) The board shall allow the department of commerce to administer ~~\$8~~ \$4 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through 8 9]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.

1 ~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance.
2 The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit
3 corporations."

4
5 **NEW SECTION.** Section 11. Codification instruction. [Sections 1 through ~~8~~ 9] are intended to be
6 codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to
7 [sections 1 through ~~8~~ 9].

8
9 **NEW SECTION.** Section 12. Effective date. [This act] is effective July 1, 1995.

10 -END-

STATE OF MONTANA - FISCAL NOTE
Fiscal Note for SB0038, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the Job Investment Act by authorizing the Department of Commerce to administer \$8 million of the permanent coal tax trust fund for loans to businesses to create or retain jobs.

ASSUMPTIONS:

1. It is assumed that Job Investment Act funds will be loaned from the Coal Tax Trust account in amounts averaging \$300,000 per month, beginning September 1995.
2. Job Investment Act funds will be lent at an average rate of 10%; and amortized over a 10 year period.
4. Assume loan repayments (principal and interest) begin 2 months after funds are disbursed.
5. Assume that current Coal Tax Trust opportunity cost earnings, at 8% return on investment, continue over the next biennium.
6. Twenty percent of loan interest payments will be deposited in Job Investment Act state special revenue account (SSR) to be used for costs to administer the program.
7. Principal and 80% of loan interest payments will be deposited into Coal Tax Trust account upon receipt.
8. FY96 operating costs of \$18,000 are for contracted services related to servicing of that year's loans. FY97 operating costs of \$80,000 are for contracted services for loan servicing and administration.

FISCAL IMPACT:

Expenditures:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Department of Commerce:		
FTE	0	0
Personal Services	0	0
Operating Expenses	18,000	80,000
Equipment	0	0
Total	18,000	80,000

Funding:

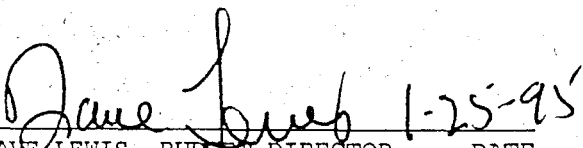
	FY96	FY97
Job Investment SSR (02)	18,000	80,000

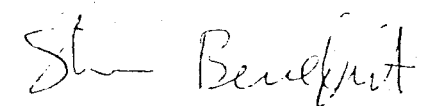
Revenues:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Department of Commerce:		
Job Invest Interest (02)	18,000	80,000
Coal Tax Job Invest Interest	71,000	321,000
Coal Tax Opportunity Cost	(110,000)	(396,000)
Total	(21,000)	5,000

Net Impact:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Job Investment SSR (02)	0	0
School Equalization (02)	(5,850)	(11,250)
General fund (01)	(33,150)	(63,750)
Total	(39,000)	(75,000)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


STEVE BEBEDICT, PRIMARY SPONSOR DATE

Fiscal Note for SB0038, third reading

SB 38-#2

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The business expansion and job creating aspects of this proposal, while difficult to quantify, are beneficial to any locality in which businesses are expanded and jobs are created. In addition, persons previously unemployed would now would now be contributing to the income tax and property tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is estimated that over \$1,700,000 in Job Investment Act proceeds would be available for loans in FY98.

TECHNICAL NOTES:

It was intended that the revenue generated for the new SSR account (Section 5) would be sufficient to offset the administrative costs of the Job Investment Act. Some source of revenue, such as amending Section 5, would have to be implemented to cover the \$88,000 negative biennium amount since no other funds are available. Increases in the SSR account causes an equal decrease to the general fund.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No. The Job Investment Action establishes a SSR which would be funded by a portion of interest payment proceeds from loan repayments. The proposed legislation would make loans to assist in the expansion of Montana businesses. The portion of interest payment proceeds dedicated to the SSR which this proposed legislation creates is funded entirely by those businesses receiving loan proceeds. The bill dedicates a portion of the interest revenues received to fund the administration of the program.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing a portion of the proceeds of the proposed legislation into a SSR, the public, Montana businesses, and the legislature is assured that the program is enacted and working as intended.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? ☒ Yes ☐ No (if no, explain)
- d) Does the need for this SSR provision still exist? ☒ Yes ☐ No (Explain)

The proposed bill creates a SSR which is necessary to effectively and efficiently administer the Job Investment Act.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The dedicated revenue portion of this bill does not diminish the legislature's ability to scrutinize budgets, control expenditures, or establish priorities.