

House Bill 798

In The House

February 17, 1981	Introduced and referred to Committee on Business and Industry.
February 21, 1981	Committee recommend bill do pass as amended.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day.
	Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Taxation.
March 16, 1981	Fiscal note requested.
March 19, 1981	Fiscal note reutrned.
April 7, 1981	Committee recommend bill concurred as amended.
April 10, 1981	Motion pass consideration. Fiscal note amended.
April 11, 1981	Second reading pass consideration.
April 13, 1981	Second reading concurred as amended.
April 14, 1981	Third reading not concurred.

In The House

April 15, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 798 *Mark Thorne*  
 2 INTRODUCED BY *Harold Falgout, D. Howard Winkler, J. Kitzelmann, Robert Meyer, Vincent Kemmis, Menahan*  
 3 *Mark Phillip Schultz, Bruce Sullivan, Duane*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ECONOMIC  
 5 DEVELOPMENT AUTHORITY PROVIDING FOR THE ISSUANCE OF BONDS  
 6 TO FINANCE PROJECTS; DESIGNATING TYPES OF PROJECTS TO BE  
 7 FUNDED; CREATING ACCOUNTS NECESSARY FOR CARRYING OUT THE  
 8 PROGRAM; AND PROVIDING RULEMAKING AUTHORITY."

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

10 Section 1. Short title. [This act] shall be known and  
11 may be cited as the "Montana Economic Development Act of  
12 1981".

13 Section 2. Policy statement. (1) It is the policy of  
14 the state of Montana, in the interest of promoting the  
15 health, safety, and general welfare of all the people of the  
16 state, to increase job opportunities and to retain existing  
17 jobs by making available through the economic development  
18 authority funds for industrial, commercial, manufacturing,  
19 recreational, tourist, and health care development.

- 20 (2) The legislature finds that:  
 21 (a) a vigorous growing economy is the basic source of  
 22 job opportunities;  
 23 (b) protection against unemployment, its economic  
 24 burdens, and the spread of economic stagnation in the areas  
 25

1 affected can best be provided by promoting, attracting,  
2 stimulating, and revitalizing industry, manufacturing,  
3 commerce, recreation, tourism, and health care facilities in  
4 such areas; and

5 (c) the state of Montana has a responsibility to help  
6 create a favorable climate for new and improved job  
7 opportunities for its citizens by encouraging the  
8 development of business.

9 Section 3. Definitions. As used in [this act], unless  
10 the context requires otherwise, the following definitions  
11 apply:

12 (1) "Authority" means the economic development  
13 authority created in [section 4].

14 (2) "Bond" means any bond, note, debenture, interim  
15 certificate, or other evidence of financial indebtedness  
16 issued by the authority pursuant to [this act].

17 (3) "Capital reserve account" means the capital  
18 reserve account provided for in [section 17].

19 (4) "Composite bond" means a bond issued under the  
20 provisions of [this act], the proceeds of which may be used  
21 to finance more than one project.

22 (5) "Department" means the department of  
23 administration provided for in Title 2, chapter 15, part 10.

24 (6) "Mortgage" means a mortgage deed, deed of trust,  
25 or other security device.

1 (7) "Primary industries" means industries designated  
2 as such, from time to time, by the authority.

3 (8) "Project" means any land, building, or other  
4 improvement and any other real or personal property  
5 considered necessary in connection therewith, whether or not  
6 in existence, that is suitable for use for:

7 (a) commercial, manufacturing, or industrial  
8 enterprises;

9 (b) recreation or tourist facilities;

10 (c) hospitals, long-term care facilities, or medical  
11 facilities; or

12 (d) any combination of these projects.

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

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

17 (b) the actual cost of construction of all or any part  
18 of a project that may be constructed, including architects'  
19 and engineers' fees;

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

23 (d) bond reserves and premiums for insurance of lease  
24 rentals pledged to pay the bonds; and

25 (e) the interest on such bonds for a reasonable time

1 prior to construction, during construction, and not  
2 exceeding 6 months after completion of construction.

3 (10) "Financial institution" means a bank, savings and  
4 loan association, or credit union authorized to do business  
5 in the state of Montana.

6 Section 4. Economic development authority --  
7 allocation -- composition -- quasi-judicial. (1) There is an  
8 economic development authority consisting of seven members  
9 who shall be informed and experienced in economics or  
10 finance.

11 (a) Two members shall be appointed by the governor as  
12 provided in 2-15-124.

13 (b) One member who is an active participant in the  
14 management of a financial institution shall be appointed by  
15 each of the following:

16 (i) the president of the senate;

17 (ii) the minority leader of the senate;

18 (iii) the speaker of the house; and

19 (iv) the minority leader of the house.

20 (c) The six members appointed pursuant to subsections  
21 (1)(a) and (1)(b) shall appoint the seventh member.

22 (2) The authority shall elect a chairman and other  
23 necessary officers.

24 (3) The authority is designated quasi-judicial for the  
25 purposes of 2-15-124.

1 (4) The authority is allocated to the department of  
2 administration for administrative purposes only, as provided  
3 in 2-15-121.

4 (5) The staff of the board of housing created in  
5 2-15-1008 shall also serve as staff of the authority.

6 (6) A member of the authority may not be considered to  
7 have a conflict of interest under the provisions of 2-2-201  
8 merely because the member is a stockholder, officer, or  
9 employee of any business enterprise which may participate in  
10 the authority's programs.

11 Section 5. Powers of the authority. The authority may:

12 (1) sue and be sued;

13 (2) have a seal;

14 (3) adopt all procedural and substantive rules  
15 necessary for the administration of [this act];

16 (4) make contracts, agreements, and other instruments  
17 necessary or convenient for the exercise of its powers under  
18 [this act];

19 (5) enter into agreements or other transactions with  
20 any federal, state, or local governmental agency or any  
21 person or any domestic or foreign partnership, corporation,  
22 association, or organization in carrying out [this act];

23 (6) enter into agreements or other transactions with  
24 and accept grants and the cooperation of any governmental  
25 agency in furtherance of [this act];

1 (7) accept services, appropriations, gifts, grants,  
2 bequests, and devises and utilize or dispose of them in  
3 carrying out [this act];

4 (8) with regard to property:

5 (a) acquire real or personal property or any right,  
6 interest, or easement therein by gift, purchase, transfer,  
7 foreclosure, lease, or otherwise;

8 (b) hold, sell, assign, lease, encumber, mortgage, or  
9 otherwise dispose of property;

10 (c) hold, sell, assign, or otherwise dispose of any  
11 mortgage or loan owned by it or in its control or custody;

12 (d) release or relinquish any right, title, claim,  
13 interest, easement, or demand, however acquired, including  
14 any equity or right of redemption in property;

15 (e) do any of the foregoing by public or private sale,  
16 with or without public bidding;

17 (f) commence any action to protect or enforce any  
18 right conferred upon it by law, mortgage, lease, contract,  
19 or other agreement;

20 (g) bid for and purchase property at any foreclosure  
21 or other sale or acquire or take possession of it in lieu of  
22 foreclosure; and

23 (h) operate, manage, lease, dispose of, and otherwise  
24 deal with such property in any manner necessary or desirable  
25 to protect its interests and the holders of its bonds or

1 notes consistent with any agreement with such holders;

2 (9) service, contract, and pay for the servicing of

3 loans;

4 (10) invest any funds not required for immediate use,

5 subject to any agreements with its bondholders and

6 noteholders, as provided in Title 17, chapter 6;

7 (11) consent, whenever it considers necessary or

8 desirable in fulfilling its purposes, to the modification of

9 the rate of interest, time, and payment of any installment

10 of principal or interest, security, or any other term of any

11 contract, lease agreement, loan agreement, mortgage,

12 mortgage loan, mortgage loan commitment, construction loan,

13 advance contract, or agreement of any kind, subject to any

14 agreement with bondholders and noteholders;

15 (12) collect reasonable interest, fees, and charges in

16 connection with making and servicing its lease agreements,

17 loan agreements, mortgage loans, notes, bonds, commitments,

18 and other evidences of indebtedness. Interest, fees, and

19 charges shall be limited to the amounts required to pay the

20 costs of the authority, including operating and

21 administrative expenses and reasonable allowances for losses

22 that may be incurred;

23 (13) procure insurance or guarantees from any parties,

24 including governmental agencies, against any loss in

25 connection with its lease agreements, loan agreements,

1 mortgage loans, and other assets or property in amounts and

2 in the form the authority considers desirable or necessary;

3 (14) acquire, by construction, purchase, devise, gift,

4 lease, or any combination of such methods, one or more

5 projects located within this state;

6 (15) lease to others any or all of its projects for

7 such rentals and upon terms and conditions, consistent with

8 the provisions of [this act], that the authority considers

9 advisable;

10 (16) enter into agreements, upon terms the authority

11 considers advisable and not in conflict with the provisions

12 of [this act], to loan the proceeds of its bonds to others

13 for the purpose of defraying the cost of acquiring or

14 improving any project;

15 (17) issue bonds, including composite bonds, for the

16 purpose of defraying the cost of acquiring or improving any

17 project or projects and securing the payment of such bonds

18 as provided in [this act];

19 (18) sell and convey any real or personal property

20 acquired as provided by subsection (8) and make any order

21 respecting it, as may be conducive to the best interest of

22 the authority. However, such sale or conveyance is subject

23 to the terms of any lease but is free and clear of any other

24 encumbrance.

25 (19) make and participate in making loans to

1 individuals, corporations, and government agencies and  
2 accept guarantees from individuals, corporations, and  
3 government agencies of its loans or the resultant evidences  
4 of obligations to the authority;

5 (20) issue notes and bonds, including composite bonds,  
6 and replace lost, destroyed, or mutilated notes and bonds;  
7 and

8 (21) give preference, in exercising its powers, to  
9 primary industries as designated by the authority.

10 Section 6. Self-sufficiency of projects. (1) Prior to  
11 the leasing of any project or entering into a loan agreement  
12 concerning a project, the authority must determine the  
13 following:

14 (a) the amount necessary to pay the principal of and  
15 the interest on the bonds proposed to be issued to finance  
16 such project;

17 (b) the amount necessary to be paid into any reserve  
18 funds that the authority considers advisable to establish in  
19 connection with the retirement of the proposed bonds and the  
20 maintenance of the project including taxes; and

21 (c) the estimated cost of maintaining the project in  
22 good repair and keeping it properly insured, unless the  
23 terms of the lease or loan agreement provide that the lessee  
24 or borrower shall maintain the project and carry all  
25 property insurance with respect thereto.

1 (2) The determinations and findings of the authority  
2 required by subsection (1) shall be set forth in the  
3 proceedings under which the proposed bonds are to be issued.  
4 Prior to the issuance of any bonds authorized by [this act],  
5 the authority shall lease the project to a lessee or lessees  
6 or enter into a loan agreement with a borrower under a lease  
7 or loan agreement conditioned upon completion of the project  
8 by the lessees or borrowers and providing for payment to the  
9 authority of such rentals or payments, on the basis of  
10 determinations and findings, that will be sufficient to:

11 (a) pay the principal of and interest on the bonds  
12 issued to finance the project;

13 (b) pay the taxes on the project;

14 (c) build up and maintain any reserves considered by  
15 the authority to be advisable in connection with the  
16 project; and

17 (d) pay the costs of maintaining the project in good  
18 repair and keeping it properly insured, unless the lease or  
19 loan agreement obligates the lessees or borrowers to pay for  
20 the maintenance and insurance of the project.

21 (3) Subject to the limitations of [this act], the  
22 lease, loan agreement, or extensions or modifications  
23 thereof may contain other terms and conditions mutually  
24 acceptable to the parties and, notwithstanding any other  
25 provision of law relating to the sale of property owned by

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1 the authority, an option may be granted to a lessee to  
2 purchase the project on terms and conditions as may be  
3 mutually acceptable to the parties.

4 Section 7. Loan applications -- institution financing.  
5 (1) The authority shall contract with financial institutions  
6 for review of loan applications and other services related  
7 to the applications. The authority shall authorize such  
8 institutions to charge a sum equal to 1% of the amount  
9 loaned as a service fee.

10 (2) The financial institution involved in the funding  
11 of a project shall carry as its loan an amount equal to 10%  
12 of the total sum loaned in connection with a project. The  
13 financial institution may secure its percentage of the loan  
14 with security other than the kind of security required by  
15 the authority. Loans may be made only to qualified  
16 individuals or business entities doing business in the state  
17 of Montana.

18 (3) No single project may receive a loan from the  
19 authority in excess of \$2 million. Loans made by the  
20 authority may be pooled with other loans received by a  
21 project.

22 (4) The authority may subordinate to commercial  
23 financial institutions, up to 20% of all loans outstanding  
24 on a project, when in its opinion such subordination is  
25 necessary to help a project through a period of expansion.

1 Section 8. Bonds and notes. (1) The authority may by  
2 resolution, issue negotiable notes and bonds in a principal  
3 amount as the authority determines necessary to provide  
4 sufficient funds for achieving any of its purposes,  
5 including the payment of interest on notes and bonds of the  
6 authority, establishment of reserves to secure the notes and  
7 bonds, including the reserve funds created under [section  
8 17], and all other expenditures of the authority incident to  
9 and necessary or convenient to carry out [this act].

10 (2) The authority may by resolution, from time to  
11 time, issue notes to renew notes and bonds or to pay notes,  
12 including interest, and whenever it considers refunding  
13 expedient, refund any bonds by the issuance of new bonds,  
14 whether or not the bonds to be refunded have matured, or  
15 issue bonds partly to refund bonds outstanding and partly  
16 for any of its other purposes.

17 (3) Except as otherwise expressly provided by  
18 resolution of the authority, every issue of its notes and  
19 bonds is an obligation of the authority payable out of any  
20 revenue, assets, or money of the authority, subject only to  
21 agreements with the holders of particular notes or bonds  
22 pledging particular revenues, assets, or money.

23 (4) The notes and bonds shall be authorized by  
24 resolutions of the authority, bear a date, and mature at  
25 times as the resolutions provide. A note may not mature more

1 than 5 years and a bond may not mature more than 40 years  
 2 from the date of its issue. The bonds may be issued as  
 3 serial bonds payable in annual installments, as term bonds,  
 4 or as a combination thereof. The notes and bonds shall bear  
 5 interest at a rate or rates, be in denominations, be in a  
 6 form, either coupon or registered, carry registration  
 7 privileges, be executed in a manner, be payable in a medium  
 8 of payment, at places within or without the state, and be  
 9 subject to terms of redemption as provided in resolutions.  
 10 The notes and bonds of the authority may be sold at public  
 11 or private sale at prices above or below par, as determined  
 12 by the authority.

13 (5) The total amount of notes and bonds outstanding at  
 14 any one time, except notes or bonds as to which the  
 15 authority's obligations have been satisfied and discharged  
 16 by refunding or for which reserve for payment or other means  
 17 of payment have been otherwise provided, may not exceed \$150  
 18 million.

19 Section 9. Provisions of bond resolutions. A  
 20 resolution authorizing notes or bonds, or any issue thereof,  
 21 may contain provisions, which shall be a part of the  
 22 contract or contracts with the holders thereof, as to:

23 (1) pledging all or any part of the revenue or  
 24 property of the authority to secure the payment of the notes  
 25 or bonds or of any issue thereof, subject to existing

1 agreements with noteholders or bondholders;

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

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

12 (4) the setting aside of reserves for sinking funds in  
 13 the hands of trustees, paying agents, and other depositories  
 14 and the regulation and disposition thereof;

15 (5) limitations on the purpose for which the proceeds  
 16 of the sale of notes or bonds may be applied and the pledge  
 17 of the proceeds to secure the payment of the notes or bonds  
 18 or of any issue thereof;

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

23 (7) the procedure, if any, by which the terms of any  
 24 contract with noteholders or bondholders may be amended or  
 25 abrogated, the amount of notes or bonds the holders of which



1 must consent thereto, and the manner in which such consent  
2 may be given;

3 (8) a commitment to employ adequate and competent  
4 personnel at reasonable compensation, salaries, fees, and  
5 charges as may be determined by the authority in conjunction  
6 with the department and to maintain suitable facilities and  
7 services for the purpose of carrying out its programs;

8 (9) vesting in a trustee such property, rights,  
9 powers, and duties in trust as the authority determines;

10 (10) defining the acts or omissions that shall  
11 constitute a default in the obligations and duties of the  
12 authority to the holders of the notes or bonds and providing  
13 for the rights and remedies of the holders of the notes or  
14 bonds in the event of such default, including as a matter of  
15 right the appointment of a receiver. Rights and remedies may  
16 not be inconsistent with the laws of the state and the other  
17 provisions of [this act]; and

18 (11) any other matters of like or different character  
19 that in any way affect the security or protection of the  
20 holders of the notes or bonds.

21 Section 10. Validity of pledge. Any pledge made by the  
22 authority is valid and binding from the time the pledge is  
23 made. The revenues, money, or property pledged and received  
24 by the authority shall immediately be subject to the lien of  
25 the pledge without any physical delivery or further act. The

1 lien of any pledge shall be valid and binding against all  
2 parties having claims of any kind, whether in tort,  
3 contract, or otherwise against the authority, irrespective  
4 of whether such parties have notice thereof. Neither the  
5 resolution nor any other instrument by which a pledge is  
6 created is required to be recorded.

7 Section 11. Personal liability. The authority members  
8 and employees of the department are not personally liable or  
9 accountable by reason of the issuance of or on any bond or  
10 note issued by the authority.

11 Section 12. Purchase of notes and bonds --  
12 cancellation. The authority, subject to existing agreements  
13 with noteholders or bondholders, may, out of any funds  
14 available for that purpose, purchase notes or bonds of the  
15 authority, which shall then be canceled, at a price not  
16 exceeding:

17 (1) the current redemption price plus accrued interest  
18 to the next interest payment, if the notes or bonds are then  
19 redeemable; or

20 (2) the redemption price applicable on the first date  
21 after the purchase on which the notes or bonds become  
22 subject to redemption plus accrued interest to that date, if  
23 the notes or bonds are not then redeemable.

24 Section 13. Trust indenture. (1) In the discretion of  
25 the authority, the bonds may be secured by a trust indenture

1 between the authority and a corporate trustee, which may be  
 2 a trust company or bank having the power of a trust company  
 3 either in or outside the state. A trust indenture may  
 4 contain provisions for protecting and enforcing bondholders'  
 5 rights and remedies that are reasonable, proper, and not in  
 6 violation of law, including covenants setting forth the  
 7 duties of the authority in relation to the exercise of its  
 8 powers and the custody, safeguarding, and application of all  
 9 money. The authority may provide by a trust indenture for  
 10 the payment of the proceeds of the bonds and revenues to the  
 11 trustee under the trust indenture of another depository and  
 12 for the method of disbursement, with safeguards and  
 13 restrictions it considers necessary.

14 (2) All expenditures incurred in carrying out a trust  
 15 indenture may be treated as part of the operating  
 16 expenditures of the authority.

17 Section 14. Negotiability of bonds. Notes and bonds  
 18 issued by the authority are negotiable instruments under the  
 19 Uniform Commercial Code, subject only to the provisions for  
 20 registration of notes and bonds.

21 Section 15. Signatures of authority members. If  
 22 authority members whose signatures appear on notes or bonds  
 23 or coupons cease to be members before the delivery of the  
 24 notes or bonds, their signatures shall, nevertheless, be  
 25 valid and sufficient for all purposes, the same as if the

1 members had remained in office until delivery.

2 Section 16. Accounts. The authority shall create the  
 3 following separate accounts:

4 (1) a bond proceeds account into which bond proceeds  
 5 shall be deposited;

6 (2) a capital reserve account as provided in [section  
 7 17]; and

8 (3) an operating account for defraying the operational  
 9 costs of the authority.

10 Section 17. Reserve funds and appropriations. (1) The  
 11 authority shall establish a capital reserve account and pay  
 12 into it:

13 (a) any funds appropriated and made available by the  
 14 state for the purpose of the account;

15 (b) any proceeds of sale of notes or bonds to the  
 16 extent provided in the resolutions or indentures of the  
 17 authority authorizing their issuance; and

18 (c) any other funds which may be available to the  
 19 authority from any other source for the purpose of the  
 20 account.

21 (2) All funds held in the capital reserve account  
 22 shall be used solely for the payment of the principal of or  
 23 interest on the bonds secured in whole or in part by the  
 24 account or the sinking fund payments with respect to the  
 25 bonds, the purchase or redemption of the bonds, the payment

1 of interest on the bonds, or the payment of any redemption  
 2 premium required to be paid when the bonds are redeemed  
 3 prior to maturity. Funds in the account may not be withdrawn  
 4 at any time in an amount that reduces the account to an  
 5 amount less than the sum of minimum capital reserve  
 6 requirements established in the resolutions or indentures of  
 7 the authority for the account, except, with respect to bonds  
 8 secured in whole or in part by the account, for the purpose  
 9 of making payment, when due, of principal, interest,  
 10 redemption premiums, and sinking fund payments for the  
 11 payment of which other money pledged is not available. Any  
 12 income or interest earned by or incremental to the capital  
 13 reserve account due to its investment may be transferred to  
 14 other accounts of the authority to an extent that does not  
 15 reduce the amount of the capital reserve account below the  
 16 sum of minimum capital reserve requirements for the account.

17 (3) The authority may not issue bonds secured in whole  
 18 or in part by the capital reserve account unless the  
 19 authority secures such deposits in the account from the  
 20 proceeds of the bonds issued or from any other sources in an  
 21 amount not less than the minimum capital reserve requirement  
 22 for the bonds.

23 (4) In computing the amount of the capital reserve  
 24 account, securities in which all or a portion of the account  
 25 are invested shall be valued at par or, if purchased at less

1 than par, at their cost to the authority.

2 Section 18. Maintenance of capital reserve account.  
 3 (1) In order to assure the maintenance of the capital  
 4 reserve account, the chairman of the authority shall, at  
 5 3-month intervals beginning on September 1, 1931, deliver to  
 6 the governor a certificate stating the sum, if any, required  
 7 to restore the capital reserve account to the minimum  
 8 capital reserve requirements. The governor shall require the  
 9 director of the department to remit the sum required to  
 10 restore the capital reserve account to the sum of the  
 11 minimum capital reserve requirements utilizing revenue  
 12 derived from interest earnings from the coal severance tax  
 13 permanent trust fund created by Article IX, section 5, of  
 14 the Montana constitution. All such sums shall be deposited  
 15 in the capital reserve account.

16 (2) Prior to the 10th legislative day of each regular  
 17 legislative session, the budget director shall provide the  
 18 legislature with an estimate of interest earnings from the  
 19 permanent coal trust fund, and 20% of such estimated  
 20 interest earnings is hereby reserved and pledged for the use  
 21 by the authority as specified in this section.

22 (3) All amounts remitted to the authority by the  
 23 director of the department under this section constitute  
 24 advances to any bonds or notes of the authority and shall be  
 25 repaid to the state treasury without interest from available

1 operating revenues of the authority in excess of amounts  
2 required for the payment of bonds, notes, or other  
3 obligations of the authority for maintenance of the capital  
4 reserve account and operating expenses.

5 Section 19. Refunding obligations -- issuance. The  
6 authority may provide for the issuance of refunding  
7 obligations for refunding any obligations then outstanding  
8 that have been issued under [this act], including the  
9 payment of any redemption of the obligations. The issuance  
10 of obligations, the maturities and other details, the rights  
11 of the holders, and the rights, duties, and obligations of  
12 the authority are governed by the appropriate provisions of  
13 [this act] that relate to the issuance of obligations.

14 Section 20. Refunding obligations -- sale. Refunding  
15 obligations may be sold or exchanged for outstanding  
16 obligations issued under [this act]. The proceeds may be  
17 applied to the purchase, redemption, or payment of  
18 outstanding obligations. Pending the application of the  
19 proceeds of refunding obligations and other available funds  
20 to the payment of principal, accrued interest, and any  
21 redemption premium on the obligations being refunded and, if  
22 permitted in the resolution authorizing the issuance of the  
23 refunding obligations or in the trust agreement securing  
24 them, to the payment of interest on refunding obligations  
25 and expenses in connection with refunding, the proceeds may

1 be invested as provided in Title 17, chapter 6.

2 Section 21. Credit of state not pledged. Obligations  
3 issued under the provisions of [this act] do not constitute  
4 a debt, liability, obligation, or pledge of the faith and  
5 credit of the state, but are payable solely from the  
6 revenues or assets of the authority. An obligation issued  
7 under [this act] shall contain on the face thereof a  
8 statement to the effect that the state of Montana is not  
9 liable on the obligation, the obligation is not a debt of  
10 the state, and neither the faith and credit nor the taxing  
11 power of the state is pledged to the payment of the  
12 principal of or the interest on the obligation.

13 Section 22. Annual audit. (1) The authority's books  
14 and records shall be audited at least once each fiscal year.

15 (2) The legislative auditor may conduct an audit at  
16 any time upon the request of the legislative audit  
17 committee.

18 Section 23. Tax exemption of bonds. Bonds, notes, or  
19 other obligations issued by the authority under [this act],  
20 their transfer, and income (including any profits made on  
21 their sale) are free from taxation by the state or any  
22 political subdivision or other instrumentality of the state,  
23 except for inheritance, estate, and gift taxes. The  
24 authority is not required to pay recording or transfer fees  
25 or taxes on instruments recorded by it.

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1       Section 24. Taxation of projects. (1) Notwithstanding  
2 that title to a project may be in the authority, the  
3 projects are subject to taxation to the same extent, in the  
4 same manner, and under the same procedures as privately  
5 owned property in similar circumstances if the projects are  
6 leased to or held by private interests on both the  
7 assessment date and the date the levy is made in any year.  
8 The projects are not subject to taxation in any year if they  
9 are not leased to or held by private interests on both the  
10 assessment date and the date the levy is made in that year.

11       (2) If personal property owned by a municipality or  
12 county is taxed under this section and the personal property  
13 taxes are delinquent, levy by warrant of distraint for  
14 collection of the delinquent taxes may only be made on  
15 personal property against which the taxes were levied.

16       Section 25. Pledge of the state. In accordance with  
17 the Constitution of the United States and the Constitution  
18 of the State of Montana, the state pledges that it will not  
19 in any way impair the obligations of any agreement between  
20 the authority and the holders of notes and bonds issued by  
21 the authority, including but not limited to an agreement to  
22 administer an economic development program financed by the  
23 issuance of bonds and to employ a staff sufficient and  
24 competent for this purpose.

-End-

STATE OF MONTANA

REQUEST NO. 430-81

FISCAL NOTE

Form BD-15

In compliance with a written request received March 15, 19 81, there is hereby submitted a Fiscal Note for House Bill 798 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

House Bill 798 is an act to create an Economic Development Authority; providing for the issuance of bonds to finance projects; designating types of projects to be funded; creating accounts necessary for carrying out the program; and providing rulemaking authority.

Assumptions

1. Sale of \$200 million bonds and notes each year.
2. 1/8% arbitrage limitation - \$250,000 per year spending authority-maximum.
3. No commitment fees.
4. General Fund monies required for initial operating expenses and start up costs with no guarantee of repayment. Bonds are sold after loans are made.
5. Costs of issuance paid from bond proceeds.
6. All bonds and notes will be secured by a trust indenture between the authority and a corporation trustee.
7. Require creation of a separate bureau under the Montana Board of Housing to comply with existing Montana Board of Housing trust indenture.
8. Requires 5 FTE and operating expenses for same.
9. A supreme court test is not necessary.
10. A market exists for bonds backed only by 20% of the estimated interest earnings from the permanent coal trust fund.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>	<u>Total Biennium</u>
<u>Expenditures Under Proposed Law:</u>			
Personal Services	\$112,698	\$123,567	\$236,265
Operating Expenses	116,600	122,100	238,700
Equipment	3,650	_____	3,650
 Total Expenditures Under Proposed Law	 \$232,948	 \$245,667	 \$478,615

Funding: General Fund

Comment

Section 23 of this proposal provides that bonds and other obligations issued by the proposed economic development authority shall be tax exempt. It is not possible to estimate the revenue impact of this exemption.

*David M. Lewis*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 3-20-81

## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. 430-81  
supplement

Form BD-15

In compliance with a written request received April 10, 19 81, there is hereby submitted a Fiscal Note for Amendments to HB 798 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

Amendments to Section 28 of House Bill 798 to create an Economic Development authority would authorize the Board of Examiners to issue General Obligation Bonds to fund the economic development guaranty fund.

Assumptions

1. The Board of Examiners will sell \$5,000,000 in general obligation bonds in fiscal year 1982.
2. The bonds will be 20 year serial bonds at an average interest rate of 8.5%.
3. Annual debt service on the bonds will be made from the Long Range Building Program Sinking Fund.

Fiscal Impact

	FY 1982			FY 1983		
	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law	Estimated Decrease	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law	Estimated Decrease
Bond excess						
o Gen. Fund	\$25,620,457	\$25,099,765	\$(520,692)	\$26,850,834	\$26,330,142	\$(520,642)

Bond excess transfers to the state General Fund will decrease a total of \$1,041,384 over the next biennium. The prior fiscal note, dealing with the expenditure impact, is still applicable.

Technical Note

Section 28 provides for general obligation bonds being issued and sold. This creates a state debt which must be authorized by a two-thirds vote of the members of each house of the legislature under Article VIII, Section 8 of the 1972 Montana Constitution.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-10-81

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 it grants rulemaking authority.

7 Section 5(3) of the bill authorizes the Montana  
8 economic development authority to adopt all procedural and  
9 substantive rules necessary for the administration of the  
10 act.

11 It is intended that these rules deal with the terms of  
12 loans, forms for loan applications, sale of bonds, internal  
13 management of the authority's business, procedures for  
14 servicing loans by financial institutions, procedures for  
15 acquiring and disposing of property, and establishing  
16 reserve requirements.

17 Section 5(21) requires the authority to designate  
18 "primary industries", which are to be given preference for  
19 loans.

20 It is intended that primary industries be commercial,  
21 manufacturing, agricultural, industrial, transportation,  
22 recreational, and tourist enterprises.



Approved by Committee  
on Business and Industry

1                   HOUSE BILL NO. 798  
2    INTRODUCED BY HANNAH, FABREGA, D. O'HARA, LUND, WINSLOW,  
3    MARKS, MOORE, FAGG, AZZARA, KITSELMAN, SEIFERT, MEYER,  
4    VINCENT, KEMMIS, MENAHAN, MATSKO, PHILLIPS, SCHULTZ,  
5    BRIGGS, QUILICI, DUSSAULT, DAILY, HARRINGTON, CONN  
6  
7    A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ECONOMIC  
8    DEVELOPMENT AUTHORITY; PROVIDING FOR THE ISSUANCE OF BONDS  
9    TO FINANCE PROJECTS; DESIGNATING TYPES OF PROJECTS TO BE  
10   FUNDED; CREATING ACCOUNTS NECESSARY FOR CARRYING OUT THE  
11   PROGRAM; AND PROVIDING RULEMAKING AUTHORITY."  
12  
13   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14        Section 1. Short title. [This act] shall be known and  
15   may be cited as the "Montana Economic Development Act of  
16   1981".  
17        Section 2. Policy statement. (1) It is the policy of  
18   the state of Montana, in the interest of promoting the  
19   health, safety, and general welfare of all the people of the  
20   state, to increase job opportunities and to retain existing  
21   jobs by making available through the economic development  
22   authority funds for industrial, commercial, manufacturing,  
23   recreational, tourist, and health care development, AND ALL  
24   PHASES OF THE LIVESTOCK AND AGRICULTURAL INDUSTRY.  
25        (2) The legislature finds that:

1                   (a) a vigorous growing economy is the basic source of  
2   job opportunities;  
3                   (b) protection against unemployment, its economic  
4   burdens, and the spread of economic stagnation in the areas  
5   affected can best be provided by promoting, attracting,  
6   stimulating, and revitalizing industry, manufacturing,  
7   commerce, recreation, tourism, and health care facilities in  
8   such areas; and  
9                   (c) the state of Montana has a responsibility to help  
10   create a favorable climate for new and improved job  
11   opportunities for its citizens by encouraging the  
12   development of business.  
13        Section 3. Definitions. As used in [this act], unless  
14   the context requires otherwise, the following definitions  
15   apply:  
16                   (1) "Authority" means the economic development  
17   authority created in [section 4].  
18                   (2) "Bond" means any bond, note, debenture, interim  
19   certificate, or other evidence of financial indebtedness  
20   issued by the authority pursuant to [this act].  
21                   (3) "Capital reserve account" means the capital  
22   reserve account provided for in [section 17].  
23                   (4) "Composite bond" means a bond issued under the  
24   provisions of [this act], the proceeds of which may be used  
25   to finance more than one project.

1 (5) "Department" means the department of  
2 administration provided for in Title 2, chapter 15, part 10.

3 (6) "Mortgage" means a mortgage deed, deed of trust,  
4 or other security device.

5 (7) "Primary industries" means industries designated  
6 as such, from time to time, by the authority.

7 (8) "Project" means any land, building, or other  
8 improvement and any other real or personal property  
9 considered necessary in connection therewith, whether or not  
10 in existence, that is suitable for use for:

11 (a) commercial, manufacturing, or industrial  
12 enterprises;

13 (b) recreation or tourist facilities;

14 (c) hospitals, long-term care facilities, or medical  
15 facilities; or

16 (d) any combination of these projects.

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

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

21 (b) the actual cost of construction of all or any part  
22 of a project that may be constructed, including architects'  
23 and engineers' fees;

24 (c) all expenses in connection with the authorization,  
25 sale, and issuance of the bonds to finance such acquisition

1 or improvement;

2 (d) bond reserves and premiums for insurance of lease  
3 rentals pledged to pay the bonds; and

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

7 (10) "Financial institution" means a bank, savings and  
8 loan association, or credit union authorized to do business  
9 in the state of Montana.

10 Section 4. Economic development authority --  
11 allocation -- composition ~~---quasi-judicial~~. (1) There is an  
12 economic development authority consisting of seven members  
13 who shall be informed and experienced in economics or  
14 finance.

15 (a) Two members shall be appointed by the governor as  
16 provided in 2-15-124.

17 (b) One member who is an active participant in the  
18 management of a financial institution shall be appointed by  
19 each of the following:

20 (i) the president of the senate;

21 (ii) the minority leader of the senate;

22 (iii) the speaker of the house; and

23 (iv) the minority leader of the house.

24 (c) The six members appointed pursuant to subsections  
25 (1)(a) and (1)(b) shall appoint the seventh member.

1 (2) The authority shall elect a chairman and other  
2 necessary officers.

3 ~~(3) The authority is designated quasi-judicial for the~~  
4 purposes THE TERMS OF MEMBERS OF THE AUTHORITY EXPIRE  
5 COINCIDENTALLY WITH THE TERMS OF THE APPOINTING OFFICERS.  
6 COMPENSATION OF MEMBERS AND FUNCTIONS OF THE AUTHORITY ARE  
7 REGULATED BY SUBSECTIONS (7) AND (8) of 2-15-124.

8 (4) The authority is allocated to the department of  
9 administration for administrative purposes only, as provided  
10 in 2-15-121.

11 (5) The staff of the board of housing created in  
12 2-15-1008 shall also serve as staff of the authority.

13 (6) A member of the authority may not be considered to  
14 have a conflict of interest under the provisions of 2-2-201  
15 merely because the member is a stockholder, officer, or  
16 employee of any business enterprise which may participate in  
17 the authority's programs.

18 Section 5. Powers of the authority. The authority may:

19 (1) sue and be sued;

20 (2) have a seal;

21 (3) adopt all procedural and substantive rules  
22 necessary for the administration of [this act];

23 (4) make contracts, agreements, and other instruments  
24 necessary or convenient for the exercise of its powers under  
25 [this act];

1 (5) enter into agreements or other transactions with  
2 any federal, state, or local governmental agency or any  
3 person or any domestic or foreign partnership, corporation,  
4 association, or organization in carrying out [this act];

5 (6) enter into agreements or other transactions with  
6 and accept grants and the cooperation of any governmental  
7 agency in furtherance of [this act];

8 (7) accept services, appropriations, gifts, grants,  
9 bequests, and devises and utilize or dispose of them in  
10 carrying out [this act];

11 (8) with regard to property:

12 (a) acquire real or personal property or any right,  
13 interest, or easement therein by gift, purchase, transfer,  
14 foreclosure, lease, or otherwise;

15 (b) hold, sell, assign, lease, encumber, mortgage, or  
16 otherwise dispose of property;

17 (c) hold, sell, assign, or otherwise dispose of any  
18 mortgage or loan owned by it or in its control or custody;

19 (d) release or relinquish any right, title, claim,  
20 interest, easement, or demand, however acquired, including  
21 any equity or right of redemption in property;

22 (e) do any of the foregoing by public or private sale,  
23 with or without public bidding;

24 (f) commence any action to protect or enforce any  
25 right conferred upon it by law, mortgage, lease, contract,

1 or other agreement;

2 (g) bid for and purchase property at any foreclosure  
3 or other sale or acquire or take possession of it in lieu of  
4 foreclosure; and

5 (h) operate, manage, lease, dispose of, and otherwise  
6 deal with such property in any manner necessary or desirable  
7 to protect its interests and the holders of its bonds or  
8 notes consistent with any agreement with such holders;

9 (9) service, contract, and pay for the servicing of  
10 loans;

11 (10) invest any funds not required for immediate use,  
12 subject to any agreements with its bondholders and  
13 noteholders, as provided in Title 17, chapter 6;

14 (11) consent, whenever it considers necessary or  
15 desirable in fulfilling its purposes, to the modification of  
16 the rate of interest, time, and payment of any installment  
17 of principal or interest, security, or any other term of any  
18 contract, lease agreement, loan agreement, mortgage,  
19 mortgage loan, mortgage loan commitment, construction loan,  
20 advance contract, or agreement of any kind, subject to any  
21 agreement with bondholders and noteholders;

22 (12) collect reasonable interest, fees, and charges in  
23 connection with making and servicing its lease agreements,  
24 loan agreements, mortgage loans, notes, bonds, commitments,  
25 and other evidences of indebtedness. Interest, fees, and

1 charges shall be limited to the amounts required to pay the  
2 costs of the authority, including operating and  
3 administrative expenses and reasonable allowances for losses  
4 that may be incurred;

5 (13) procure insurance or guarantees from any parties,  
6 including governmental agencies, against any loss in  
7 connection with its lease agreements, loan agreements,  
8 mortgage loans, and other assets or property in amounts and  
9 in the form the authority considers desirable or necessary;

10 (14) acquire, by construction, purchase, devise, gift,  
11 lease, or any combination of such methods, one or more  
12 projects located within this state;

13 (15) lease to others any or all of its projects for  
14 such rentals and upon terms and conditions, consistent with  
15 the provisions of [this act], that the authority considers  
16 advisable;

17 (16) enter into agreements, upon terms the authority  
18 considers advisable and not in conflict with the provisions  
19 of [this act], to loan the proceeds of its bonds to others  
20 for the purpose of defraying the cost of acquiring or  
21 improving any project;

22 (17) issue bonds, including composite bonds, for the  
23 purpose of defraying the cost of acquiring or improving any  
24 project or projects and securing the payment of such bonds  
25 as provided in [this act];

1 (18) sell and convey any real or personal property  
 2 acquired as provided by subsection (8) and make any order  
 3 respecting it, as may be conducive to the best interest of  
 4 the authority. However, such sale or conveyance is subject  
 5 to the terms of any lease but is free and clear of any other  
 6 encumbrance.

7 (19) make and participate in making loans to  
 8 individuals, corporations, and government agencies and  
 9 accept guarantees from individuals, corporations, and  
 10 government agencies of its loans or the resultant evidences  
 11 of obligations to the authority;

12 (20) issue notes and bonds, including composite bonds,  
 13 and replace lost, destroyed, or mutilated notes and bonds;  
 14 and

15 (21) give preference, in exercising its powers, to  
 16 primary industries as designated by the authority.

17 Section 6. Self-sufficiency of projects. (1) Prior to  
 18 the leasing of any project or entering into a loan agreement  
 19 concerning a project, the authority must determine the  
 20 following:

21 (a) the amount necessary to pay the principal of and  
 22 the interest on the bonds proposed to be issued to finance  
 23 such project;

24 (b) the amount necessary to be paid into any reserve  
 25 funds that the authority considers advisable to establish in

1 connection with the retirement of the proposed bonds and the  
 2 maintenance of the project including taxes; and

3 (c) the estimated cost of maintaining the project in  
 4 good repair and keeping it properly insured, unless the  
 5 terms of the lease or loan agreement provide that the lessee  
 6 or borrower shall maintain the project and carry all  
 7 property insurance with respect thereto.

8 (2) The determinations and findings of the authority  
 9 required by subsection (1) shall be set forth in the  
 10 proceedings under which the proposed bonds are to be issued.  
 11 Prior to the issuance of any bonds authorized by [this act],  
 12 the authority shall lease the project to a lessee or lessees  
 13 or enter into a loan agreement with a borrower under a lease  
 14 or loan agreement conditioned upon completion of the project  
 15 by the lessees or borrowers and providing for payment to the  
 16 authority of such rentals or payments, on the basis of  
 17 determinations and findings, that will be sufficient to:

18 (a) pay the principal of and interest on the bonds  
 19 issued to finance the project;

20 (b) pay the taxes on the project;

21 (c) build up and maintain any reserves considered by  
 22 the authority to be advisable in connection with the  
 23 project; and

24 (d) pay the costs of maintaining the project in good  
 25 repair and keeping it properly insured, unless the lease or

1 loan agreement obligates the lessees or borrowers to pay for  
2 the maintenance and insurance of the project.

3 (3) Subject to the limitations of [this act], the  
4 lease, loan agreement, or extensions or modifications  
5 thereof may contain other terms and conditions mutually  
6 acceptable to the parties and, notwithstanding any other  
7 provision of law relating to the sale of property owned by  
8 the authority, an option may be granted to a lessee to  
9 purchase the project on terms and conditions as may be  
10 mutually acceptable to the parties.

11 Section 7. Loan applications -- institution financing.  
12 (1) The authority shall contract with financial institutions  
13 for review of loan applications and other services related  
14 to the applications. The authority shall authorize such  
15 institutions to charge a sum equal to 1% of the amount  
16 loaned as a service fee.

17 (2) The financial institution involved in the funding  
18 of a project shall carry as its loan an amount equal to 10%  
19 of the total sum loaned in connection with a project. The  
20 financial institution may secure its percentage of the loan  
21 with security other than the kind of security required by  
22 the authority. Loans may be made only to qualified  
23 individuals or business entities doing business in the state  
24 of Montana.

25 (3) No single project may receive a loan from the

1 authority in excess of \$2 million. Loans made by the  
2 authority may be pooled with other loans received by a  
3 project.

4 (4) The authority may subordinate to commercial  
5 financial institutions, up to 20% of all loans outstanding  
6 on a project, when in its opinion such subordination is  
7 necessary to help a project through a period of expansion.

8 Section 8. Bonds and notes. (1) The authority may by  
9 resolution, issue negotiable notes and bonds in a principal  
10 amount as the authority determines necessary to provide  
11 sufficient funds for achieving any of its purposes,  
12 including the payment of interest on notes and bonds of the  
13 authority, establishment of reserves to secure the notes and  
14 bonds, including the reserve funds created under [section  
15 17], and all other expenditures of the authority incident to  
16 and necessary or convenient to carry out [this act].

17 (2) The authority may by resolution, from time to  
18 time, issue notes to renew notes and bonds or to pay notes,  
19 including interest, and whenever it considers refunding  
20 expedient, refund any bonds by the issuance of new bonds,  
21 whether or not the bonds to be refunded have matured, or  
22 issue bonds partly to refund bonds outstanding and partly  
23 for any of its other purposes.

24 (3) Except as otherwise expressly provided by  
25 resolution of the authority, every issue of its notes and

1 bonds is an obligation of the authority payable out of any  
2 revenue, assets, or money of the authority, subject only to  
3 agreements with the holders of particular notes or bonds  
4 pledging particular revenues, assets, or money.

5 (4) The notes and bonds shall be authorized by  
6 resolutions of the authority, bear a date, and mature at  
7 times as the resolutions provide. A note may not mature more  
8 than 5 years and a bond may not mature more than 40 years  
9 from the date of its issue. The bonds may be issued as  
10 serial bonds payable in annual installments, as term bonds,  
11 or as a combination thereof. The notes and bonds shall bear  
12 interest at a rate or rates, be in denominations, be in a  
13 form, either coupon or registered, carry registration  
14 privileges, be executed in a manner, be payable in a medium  
15 of payment, at places within or without the state, and be  
16 subject to terms of redemption as provided in resolutions.  
17 The notes and bonds of the authority may be sold at public  
18 or private sale at prices above or below par, as determined  
19 by the authority.

20 (5) The total amount of notes and bonds outstanding at  
21 any one time, except notes or bonds as to which the  
22 authority's obligations have been satisfied and discharged  
23 by refunding or for which reserve for payment or other means  
24 of payment have been otherwise provided, may not exceed \$150  
25 \$200 million.

1 Section 9. Provisions of bond resolutions. A  
2 resolution authorizing notes or bonds, or any issue thereof,  
3 may contain provisions, which shall be a part of the  
4 contract or contracts with the holders thereof, as to:

5 (1) pledging all or any part of the revenue or  
6 property of the authority to secure the payment of the notes  
7 or bonds or of any issue thereof, subject to existing  
8 agreements with noteholders or bondholders;

9 (2) pledging all or any part of the assets of the  
10 authority, including lease agreements, loan agreements,  
11 mortgages, and obligations securing them, to secure the  
12 payment of the notes or bonds or of any issue thereof,  
13 subject to existing agreements with noteholders or  
14 bondholders;

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

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

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

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

5 (7) the procedure, if any, by which the terms of any  
6 contract with noteholders or bondholders may be amended or  
7 abrogated, the amount of notes or bonds the holders of which  
8 must consent thereto, and the manner in which such consent  
9 may be given;

10 (8) a commitment to employ adequate and competent  
11 personnel at reasonable compensation, salaries, fees, and  
12 charges as may be determined by the authority in conjunction  
13 with the department and to maintain suitable facilities and  
14 services for the purpose of carrying out its programs;

15 (9) vesting in a trustee such property, rights,  
16 powers, and duties in trust as the authority determines;

17 (10) defining the acts or omissions that shall  
18 constitute a default in the obligations and duties of the  
19 authority to the holders of the notes or bonds and providing  
20 for the rights and remedies of the holders of the notes or  
21 bonds in the event of such default, including as a matter of  
22 right the appointment of a receiver. Rights and remedies may  
23 not be inconsistent with the laws of the state and the other  
24 provisions of [this act]; and

25 (11) any other matters of like or different character

1 that in any way affect the security or protection of the  
2 holders of the notes or bonds.

3 Section 10. Validity of pledge. Any pledge made by the  
4 authority is valid and binding from the time the pledge is  
5 made. The revenues, money, or property pledged and received  
6 by the authority shall immediately be subject to the lien of  
7 the pledge without any physical delivery or further act. The  
8 lien of any pledge shall be valid and binding against all  
9 parties having claims of any kind, whether in tort,  
10 contract, or otherwise against the authority, irrespective  
11 of whether such parties have notice thereof. Neither the  
12 resolution nor any other instrument by which a pledge is  
13 created is required to be recorded.

14 Section 11. Personal liability. The authority members  
15 and employees of the department are not personally liable or  
16 accountable by reason of the issuance of or on any bond or  
17 note issued by the authority.

18 Section 12. Purchase of notes and bonds --  
19 cancellation. The authority, subject to existing agreements  
20 with noteholders or bondholders, may, out of any funds  
21 available for that purpose, purchase notes or bonds of the  
22 authority, which shall then be canceled, at a price not  
23 exceeding:

24 (1) the current redemption price plus accrued interest  
25 to the next interest payment, if the notes or bonds are then



1 redeemable; or

2 (2) the redemption price applicable on the first date  
3 after the purchase on which the notes or bonds become  
4 subject to redemption plus accrued interest to that date, if  
5 the notes or bonds are not then redeemable.

6 Section 13. Trust indenture. (1) In the discretion of  
7 the authority, the bonds may be secured by a trust indenture  
8 between the authority and a corporate trustee, which may be  
9 a trust company or bank having the power of a trust company  
10 either in or outside the state. A trust indenture may  
11 contain provisions for protecting and enforcing bondholders'  
12 rights and remedies that are reasonable, proper, and not in  
13 violation of law, including covenants setting forth the  
14 duties of the authority in relation to the exercise of its  
15 powers and the custody, safeguarding, and application of all  
16 money. The authority may provide by a trust indenture for  
17 the payment of the proceeds of the bonds and revenues to the  
18 trustee under the trust indenture of another depository and  
19 for the method of disbursement, with safeguards and  
20 restrictions it considers necessary.

21 (2) All expenditures incurred in carrying out a trust  
22 indenture may be treated as part of the operating  
23 expenditures of the authority.

24 Section 14. Negotiability of bonds. Notes and bonds  
25 issued by the authority are negotiable instruments under the

1 Uniform Commercial Code, subject only to the provisions for  
2 registration of notes and bonds.

3 Section 15. Signatures of authority members. If  
4 authority members whose signatures appear on notes or bonds  
5 or coupons cease to be members before the delivery of the  
6 notes or bonds, their signatures shall, nevertheless, be  
7 valid and sufficient for all purposes, the same as if the  
8 members had remained in office until delivery.

9 Section 16. Accounts. The authority shall create the  
10 following separate accounts:

11 (1) a bond proceeds account into which bond proceeds  
12 shall be deposited;

13 (2) a capital reserve account as provided in [section  
14 17]; and

15 (3) an operating account for defraying the operational  
16 costs of the authority.

17 Section 17. Reserve funds and appropriations. (1) The  
18 authority shall establish a capital reserve account and pay  
19 into it:

20 (a) any funds appropriated and made available by the  
21 state for the purpose of the account;

22 (b) any proceeds of sale of notes or bonds to the  
23 extent provided in the resolutions or indentures of the  
24 authority authorizing their issuance; and

25 (c) any other funds which may be available to the

1 authority from any other source for the purpose of the  
2 account.

3 (2) All funds held in the capital reserve account  
4 shall be used solely for the payment of the principal of or  
5 interest on the bonds secured in whole or in part by the  
6 account or the sinking fund payments with respect to the  
7 bonds, the purchase or redemption of the bonds, the payment  
8 of interest on the bonds, or the payment of any redemption  
9 premium required to be paid when the bonds are redeemed  
10 prior to maturity. Funds in the account may not be withdrawn  
11 at any time in an amount that reduces the account to an  
12 amount less than the sum of minimum capital reserve  
13 requirements established in the resolutions or indentures of  
14 the authority for the account, except, with respect to bonds  
15 secured in whole or in part by the account, for the purpose  
16 of making payment, when due, of principal, interest,  
17 redemption premiums, and sinking fund payments for the  
18 payment of which other money pledged is not available. Any  
19 income or interest earned by or incremental to the capital  
20 reserve account due to its investment may be transferred to  
21 other accounts of the authority to an extent that does not  
22 reduce the amount of the capital reserve account below the  
23 sum of minimum capital reserve requirements for the account.

24 (3) The authority may not issue bonds secured in whole  
25 or in part by the capital reserve account unless the

1 authority secures such deposits in the account from the  
2 proceeds of the bonds issued or from any other sources in an  
3 amount not less than the minimum capital reserve requirement  
4 for the bonds.

5 (4) In computing the amount of the capital reserve  
6 account, securities in which all or a portion of the account  
7 are invested shall be valued at par or, if purchased at less  
8 than par, at their cost to the authority.

9 Section 18. Maintenance of capital reserve account.  
10 (1) In order to assure the maintenance of the capital  
11 reserve account, the chairman of the authority shall, at  
12 3-month intervals beginning on September 1, 1981, deliver to  
13 the governor a certificate stating the sum, if any, required  
14 to restore the capital reserve account to the minimum  
15 capital reserve requirements. The governor shall require the  
16 director of the department to remit the sum required to  
17 restore the capital reserve account to the sum of the  
18 minimum capital reserve requirements utilizing revenue  
19 derived from interest earnings from the coal severance tax  
20 permanent trust fund created by Article IX, section 5, of  
21 the Montana constitution. All such sums shall be deposited  
22 in the capital reserve account.

23 (2) Prior to the 10th legislative day of each regular  
24 legislative session, the budget director shall provide the  
25 legislature with an estimate of interest earnings from the

1 permanent coal trust fund, and 20% of such estimated  
2 interest earnings is hereby reserved and pledged for the use  
3 by the authority as specified in this section.

4 {3} All amounts remitted to the authority by the  
5 director of the department under this section constitute  
6 advances to any bonds or notes of the authority and shall be  
7 repaid to the state treasury without interest from available  
8 operating revenues of the authority in excess of amounts  
9 required for the payment of bonds, notes, or other  
10 obligations of the authority for maintenance of the capital  
11 reserve account and operating expenses.

12 Section 19. Refunding obligations -- issuance. The  
13 authority may provide for the issuance of refunding  
14 obligations for refunding any obligations then outstanding  
15 that have been issued under [this act], including the  
16 payment of any redemption of the obligations. The issuance  
17 of obligations, the maturities and other details, the rights  
18 of the holders, and the rights, duties, and obligations of  
19 the authority are governed by the appropriate provisions of  
20 [this act] that relate to the issuance of obligations.

21 Section 20. Refunding obligations -- sale. Refunding  
22 obligations may be sold or exchanged for outstanding  
23 obligations issued under [this act]. The proceeds may be  
24 applied to the purchase, redemption, or payment of  
25 outstanding obligations. Pending the application of the

1 proceeds of refunding obligations and other available funds  
2 to the payment of principal, accrued interest, and any  
3 redemption premium on the obligations being refunded and, if  
4 permitted in the resolution authorizing the issuance of the  
5 refunding obligations or in the trust agreement securing  
6 them, to the payment of interest on refunding obligations  
7 and expenses in connection with refunding, the proceeds may  
8 be invested as provided in Title 17, chapter 6.

9 Section 21. Credit of state not pledged. Obligations  
10 issued under the provisions of [this act] do not constitute  
11 a debt, liability, obligation, or pledge of the faith and  
12 credit of the state, but are payable solely from the  
13 revenues or assets of the authority. An obligation issued  
14 under [this act] shall contain on the face thereof a  
15 statement to the effect that the state of Montana is not  
16 liable on the obligation, the obligation is not a debt of  
17 the state, and neither the faith and credit nor the taxing  
18 power of the state is pledged to the payment of the  
19 principal of or the interest on the obligation.

20 Section 22. ~~Annual audit. (1) The authority's books~~  
21 ~~and records shall be audited at least once each fiscal year.~~  
22 (2) The legislative auditor may conduct an audit at  
23 any time upon the request of the legislative audit  
24 committee. ANNUAL AUDIT. THE AUTHORITY'S BOOKS AND RECORDS  
25 MUST BE AUDITED AT LEAST ONCE EACH YEAR BY THE LEGISLATIVE

1 AUDIT COMMITTEE. THE COST OF THE AUDIT SHALL BE PAID BY THE  
 2 AUTHORITY.

3 Section 23. Tax exemption of bonds. Bonds, notes, or  
 4 other obligations issued by the authority under [this act],  
 5 their transfer, and income (including any profits made on  
 6 their sale) are free from taxation by the state or any  
 7 political subdivision or other instrumentality of the state,  
 8 except for inheritance, estate, and gift taxes. The  
 9 authority is not required to pay recording or transfer fees  
 10 or taxes on instruments recorded by it.

11 Section 24. Taxation of projects. (1) Notwithstanding  
 12 that title to a project may be in the authority, the  
 13 projects are subject to taxation to the same extent, in the  
 14 same manner, and under the same procedures as privately  
 15 owned property in similar circumstances if the projects are  
 16 leased to or held by private interests on both the  
 17 assessment date and the date the levy is made in any year.  
 18 The projects are not subject to taxation in any year if they  
 19 are not leased to or held by private interests on both the  
 20 assessment date and the date the levy is made in that year.

21 ~~(2)~~ If personal property owned by a municipality or  
 22 county is taxed under this section and the personal property  
 23 taxes are delinquent, levy by warrant of distraint for  
 24 collection of the delinquent taxes may only be made on  
 25 personal property against which the taxes were levied.

1 Section 25. Pledge of the state. In accordance with  
 2 the Constitution of the United States and the Constitution  
 3 of the State of Montana, the state pledges that it will not  
 4 in any way impair the obligations of any agreement between  
 5 the authority and the holders of notes and bonds issued by  
 6 the authority, including but not limited to an agreement to  
 7 administer an economic development program financed by the  
 8 issuance of bonds and to employ a staff sufficient and  
 9 competent for this purpose.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 it grants rulemaking authority.

7 Section 5(3) of the bill authorizes the Montana  
8 economic development authority to adopt all procedural and  
9 substantive rules necessary for the administration of the  
10 act.

11 It is intended that these rules deal with the terms of  
12 loans, forms for loan applications, sale of bonds, internal  
13 management of the authority's business, procedures for  
14 servicing loans by financial institutions, procedures for  
15 acquiring and disposing of property, and establishing  
16 reserve requirements.

17 Section 5(21) requires the authority to designate  
18 "primary industries", which are to be given preference for  
19 loans.

20 It is intended that primary industries be commercial,  
21 manufacturing, agricultural, industrial, transportation,  
22 recreational, and tourist enterprises.

## 1 HOUSE BILL NO. 798

2 INTRODUCED BY HANNAH, FABREGA, D. O'HARA, LUND, WINSLOW,  
3 MARKS, MOORE, FAGG, AZZARA, KITSELMAN, SEIFERT, MEYER,  
4 VINCENT, KEMMIS, MENAHAN, MATSKO, PHILLIPS, SCHULTZ,  
5 BRIGGS, QUILICI, DUSSAULT, DAILY, HARRINGTON, CONN  
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ECONOMIC  
8 DEVELOPMENT AUTHORITY; PROVIDING FOR THE ISSUANCE OF BONDS  
9 TO FINANCE PROJECTS; DESIGNATING TYPES OF PROJECTS TO BE  
10 FUNDED; CREATING ACCOUNTS NECESSARY FOR CARRYING OUT THE  
11 PROGRAM; AND PROVIDING RULEMAKING AUTHORITY."  
12

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

14 Section 1. Short title. [This act] shall be known and  
15 may be cited as the "Montana Economic Development Act of  
16 1981".

17 Section 2. Policy statement. (1) It is the policy of  
18 the state of Montana, in the interest of promoting the  
19 health, safety, and general welfare of all the people of the  
20 state, to increase job opportunities and to retain existing  
21 jobs by making available through the economic development  
22 authority funds for industrial, commercial, manufacturing,  
23 recreational, tourist, and health care development, AND ALL  
24 PHASES OF THE LIVESTOCK AND AGRICULTURAL INDUSTRY.

25 (2) The legislature finds that:

1 (a) a vigorous growing economy is the basic source of  
2 job opportunities;

3 (b) protection against unemployment, its economic  
4 burdens, and the spread of economic stagnation in the areas  
5 affected can best be provided by promoting, attracting,  
6 stimulating, and revitalizing industry, manufacturing,  
7 commerce, recreation, tourism, and health care facilities in  
8 such areas; and

9 (c) the state of Montana has a responsibility to help  
10 create a favorable climate for new and improved job  
11 opportunities for its citizens by encouraging the  
12 development of business.

13 Section 3. Definitions. As used in [this act], unless  
14 the context requires otherwise, the following definitions  
15 apply:

16 (1) "Authority" means the economic development  
17 authority created in [section 4].

18 (2) "Bond" means any bond, note, debenture, interim  
19 certificate, or other evidence of financial indebtedness  
20 issued by the authority pursuant to [this act].

21 (3) "Capital reserve account" means the capital  
22 reserve account provided for in [section 17].

23 (4) "Composite bond" means a bond issued under the  
24 provisions of [this act], the proceeds of which may be used  
25 to finance more than one project.

1 (5) "Department" means the department of  
2 administration provided for in Title 2, chapter 15, part 10.

3 (6) "Mortgage" means a mortgage deed, deed of trust,  
4 or other security device.

5 (7) "Primary industries" means industries designated  
6 as such, from time to time, by the authority.

7 (8) "Project" means any land, building, or other  
8 improvement and any other real or personal property  
9 considered necessary in connection therewith, whether or not  
10 in existence, that is suitable for use for:

11 (a) commercial, manufacturing, or industrial  
12 enterprises;

13 (b) recreation or tourist facilities;

14 (c) hospitals, long-term care facilities, or medical  
15 facilities; or

16 (d) any combination of these projects.

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

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

21 (b) the actual cost of construction of all or any part  
22 of a project that may be constructed, including architects'  
23 and engineers' fees;

24 (c) all expenses in connection with the authorization,  
25 sale, and issuance of the bonds to finance such acquisition

1 or improvement;

2 (d) bond reserves and premiums for insurance of lease  
3 rentals pledged to pay the bonds; and

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

7 (10) "Financial institution" means a bank, savings and  
8 loan association, or credit union authorized to do business  
9 in the state of Montana.

10 Section 4. Economic development authority --  
11 allocation -- composition ---~~quasi-judicial~~. (1) There is an  
12 economic development authority consisting of seven members  
13 who shall be informed and experienced in economics or  
14 finance.

15 (a) Two members shall be appointed by the governor as  
16 ~~provided-in-2-15-124~~.

17 (b) One member who is an active participant in the  
18 management of a financial institution shall be appointed by  
19 each of the following:

20 (i) the president of the senate;

21 (ii) the minority leader of the senate;

22 (iii) the speaker of the house; and

23 (iv) the minority leader of the house.

24 (c) The six members appointed pursuant to subsections  
25 (1)(a) and (1)(b) shall appoint the seventh member.

1 (2) The authority shall elect a chairman and other  
2 necessary officers.

3 (3) ~~The authority is designated quasi-judicial for the~~  
4 purposes THE TERMS OF MEMBERS OF THE AUTHORITY EXPIRE  
5 COINCIDENTALLY WITH THE TERMS OF THE APPOINTING OFFICERS.  
6 COMPENSATION OF MEMBERS AND FUNCTIONS OF THE AUTHORITY ARE  
7 REGULATED BY SUBSECTIONS (7) AND (8) of 2-15-124.

8 (4) The authority is allocated to the department of  
9 administration for administrative purposes only, as provided  
10 in 2-15-121.

11 (5) The staff of the board of housing created in  
12 2-15-1008 shall also serve as staff of the authority.

13 (6) A member of the authority may not be considered to  
14 have a conflict of interest under the provisions of 2-2-201  
15 merely because the member is a stockholder, officer, or  
16 employee of any business enterprise which may participate in  
17 the authority's programs.

18 Section 5. Powers of the authority. The authority may:

- 19 (1) sue and be sued;
- 20 (2) have a seal;
- 21 (3) adopt all procedural and substantive rules  
22 necessary for the administration of [this act];
- 23 (4) make contracts, agreements, and other instruments  
24 necessary or convenient for the exercise of its powers under  
25 [this act];

1 (5) enter into agreements or other transactions with  
2 any federal, state, or local governmental agency or any  
3 person or any domestic or foreign partnership, corporation,  
4 association, or organization in carrying out [this act];

5 (6) enter into agreements or other transactions with  
6 and accept grants and the cooperation of any governmental  
7 agency in furtherance of [this act];

8 (7) accept services, appropriations, gifts, grants,  
9 bequests, and devises and utilize or dispose of them in  
10 carrying out [this act];

11 (8) with regard to property:

12 (a) acquire real or personal property or any right,  
13 interest, or easement therein by gift, purchase, transfer,  
14 foreclosure, lease, or otherwise;

15 (b) hold, sell, assign, lease, encumber, mortgage, or  
16 otherwise dispose of property;

17 (c) hold, sell, assign, or otherwise dispose of any  
18 mortgage or loan owned by it or in its control or custody;

19 (d) release or relinquish any right, title, claim,  
20 interest, easement, or demand, however acquired, including  
21 any equity or right of redemption in property;

22 (e) do any of the foregoing by public or private sale,  
23 with or without public bidding;

24 (f) commence any action to protect or enforce any  
25 right conferred upon it by law, mortgage, lease, contract,



1 or other agreement;

2 (g) bid for and purchase property at any foreclosure  
3 or other sale or acquire or take possession of it in lieu of  
4 foreclosure; and

5 (h) operate, manage, lease, dispose of, and otherwise  
6 deal with such property in any manner necessary or desirable  
7 to protect its interests and the holders of its bonds or  
8 notes consistent with any agreement with such holders;

9 (9) service, contract, and pay for the servicing of  
10 loans;

11 (10) invest any funds not required for immediate use,  
12 subject to any agreements with its bondholders and  
13 noteholders, as provided in Title 17, chapter 6;

14 (11) consent, whenever it considers necessary or  
15 desirable in fulfilling its purposes, to the modification of  
16 the rate of interest, time, and payment of any installment  
17 of principal or interest, security, or any other term of any  
18 contract, lease agreement, loan agreement, mortgage,  
19 mortgage loan, mortgage loan commitment, construction loan,  
20 advance contract, or agreement of any kind, subject to any  
21 agreement with bondholders and noteholders;

22 (12) collect reasonable interest, fees, and charges in  
23 connection with making and servicing its lease agreements,  
24 loan agreements, mortgage loans, notes, bonds, commitments,  
25 and other evidences of indebtedness. Interest, fees, and

1 charges shall be limited to the amounts required to pay the  
2 costs of the authority, including operating and  
3 administrative expenses and reasonable allowances for losses  
4 that may be incurred;

5 (13) procure insurance or guarantees from any parties,  
6 including governmental agencies, against any loss in  
7 connection with its lease agreements, loan agreements,  
8 mortgage loans, and other assets or property in amounts and  
9 in the form the authority considers desirable or necessary;

10 (14) acquire, by construction, purchase, devise, gift,  
11 lease, or any combination of such methods, one or more  
12 projects located within this state;

13 (15) lease to others any or all of its projects for  
14 such rentals and upon terms and conditions, consistent with  
15 the provisions of [this act], that the authority considers  
16 advisable;

17 (16) enter into agreements, upon terms the authority  
18 considers advisable and not in conflict with the provisions  
19 of [this act], to loan the proceeds of its bonds to others  
20 for the purpose of defraying the cost of acquiring or  
21 improving any project;

22 (17) issue bonds, including composite bonds, for the  
23 purpose of defraying the cost of acquiring or improving any  
24 project or projects and securing the payment of such bonds  
25 as provided in [this act];

1 (18) sell and convey any real or personal property  
 2 acquired as provided by subsection (8) and make any order  
 3 respecting it, as may be conducive to the best interest of  
 4 the authority. However, such sale or conveyance is subject  
 5 to the terms of any lease but is free and clear of any other  
 6 encumbrance.

7 (19) make and participate in making loans to  
 8 individuals, corporations, and government agencies and  
 9 accept guarantees from individuals, corporations, and  
 10 government agencies of its loans or the resultant evidences  
 11 of obligations to the authority;

12 (20) issue notes and bonds, including composite bonds,  
 13 and replace lost, destroyed, or mutilated notes and bonds;  
 14 and

15 (21) give preference, in exercising its powers, to  
 16 primary industries as designated by the authority.

17 Section 6. Self-sufficiency of projects. (1) Prior to  
 18 the leasing of any project or entering into a loan agreement  
 19 concerning a project, the authority must determine the  
 20 following:

21 (a) the amount necessary to pay the principal of and  
 22 the interest on the bonds proposed to be issued to finance  
 23 such project;

24 (b) the amount necessary to be paid into any reserve  
 25 funds that the authority considers advisable to establish in

1 connection with the retirement of the proposed bonds and the  
 2 maintenance of the project including taxes; and

3 (c) the estimated cost of maintaining the project in  
 4 good repair and keeping it properly insured, unless the  
 5 terms of the lease or loan agreement provide that the lessee  
 6 or borrower shall maintain the project and carry all  
 7 property insurance with respect thereto.

8 (2) The determinations and findings of the authority  
 9 required by subsection (1) shall be set forth in the  
 10 proceedings under which the proposed bonds are to be issued.  
 11 Prior to the issuance of any bonds authorized by [this act],  
 12 the authority shall lease the project to a lessee or lessees  
 13 or enter into a loan agreement with a borrower under a lease  
 14 or loan agreement conditioned upon completion of the project  
 15 by the lessees or borrowers and providing for payment to the  
 16 authority of such rentals or payments, on the basis of  
 17 determinations and findings, that will be sufficient to:

18 (a) pay the principal of and interest on the bonds  
 19 issued to finance the project;

20 (b) pay the taxes on the project;

21 (c) build up and maintain any reserves considered by  
 22 the authority to be advisable in connection with the  
 23 project; and

24 (d) pay the costs of maintaining the project in good  
 25 repair and keeping it properly insured, unless the lease or

1 loan agreement obligates the lessees or borrowers to pay for  
2 the maintenance and insurance of the project.

3 (3) Subject to the limitations of [this act], the  
4 lease, loan agreement, or extensions or modifications  
5 thereof may contain other terms and conditions mutually  
6 acceptable to the parties and, notwithstanding any other  
7 provision of law relating to the sale of property owned by  
8 the authority, an option may be granted to a lessee to  
9 purchase the project on terms and conditions as may be  
10 mutually acceptable to the parties.

11 Section 7. Loan applications -- institution financing.

12 (1) The authority shall contract with financial institutions  
13 for review of loan applications and other services related  
14 to the applications. The authority shall authorize such  
15 institutions to charge a sum equal to 1% of the amount  
16 loaned as a service fee.

17 (2) The financial institution involved in the funding  
18 of a project shall carry as its loan an amount equal to 10%  
19 of the total sum loaned in connection with a project. The  
20 financial institution may secure its percentage of the loan  
21 with security other than the kind of security required by  
22 the authority. Loans may be made only to qualified  
23 individuals or business entities doing business in the state  
24 of Montana.

25 (3) No single project may receive a loan from the

1 authority in excess of \$2 million. Loans made by the  
2 authority may be pooled with other loans received by a  
3 project.

4 (4) The authority may subordinate to commercial  
5 financial institutions, up to 20% of all loans outstanding  
6 on a project, when in its opinion such subordination is  
7 necessary to help a project through a period of expansion.

8 Section 8. Bonds and notes. (1) The authority may by  
9 resolution, issue negotiable notes and bonds in a principal  
10 amount as the authority determines necessary to provide  
11 sufficient funds for achieving any of its purposes,  
12 including the payment of interest on notes and bonds of the  
13 authority, establishment of reserves to secure the notes and  
14 bonds, including the reserve funds created under [section  
15 17], and all other expenditures of the authority incident to  
16 and necessary or convenient to carry out [this act].

17 (2) The authority may by resolution, from time to  
18 time, issue notes to renew notes and bonds or to pay notes,  
19 including interest, and whenever it considers refunding  
20 expedient, refund any bonds by the issuance of new bonds,  
21 whether or not the bonds to be refunded have matured, or  
22 issue bonds partly to refund bonds outstanding and partly  
23 for any of its other purposes.

24 (3) Except as otherwise expressly provided by  
25 resolution of the authority, every issue of its notes and

1 bonds is an obligation of the authority payable out of any  
2 revenue, assets, or money of the authority, subject only to  
3 agreements with the holders of particular notes or bonds  
4 pledging particular revenues, assets, or money.

5 (4) The notes and bonds shall be authorized by  
6 resolutions of the authority, bear a date, and mature at  
7 times as the resolutions provide. A note may not mature more  
8 than 5 years and a bond may not mature more than 40 years  
9 from the date of its issue. The bonds may be issued as  
10 serial bonds payable in annual installments, as term bonds,  
11 or as a combination thereof. The notes and bonds shall bear  
12 interest at a rate or rates, be in denominations, be in a  
13 form, either coupon or registered, carry registration  
14 privileges, be executed in a manner, be payable in a medium  
15 of payment, at places within or without the state, and be  
16 subject to terms of redemption as provided in resolutions.  
17 The notes and bonds of the authority may be sold at public  
18 or private sale at prices above or below par, as determined  
19 by the authority.

20 (5) The total amount of notes and bonds outstanding at  
21 any one time, except notes or bonds as to which the  
22 authority's obligations have been satisfied and discharged  
23 by refunding or for which reserve for payment or other means  
24 of payment have been otherwise provided, may not exceed \$150  
25 \$200 million.

1 Section 9. Provisions of bond resolutions. A  
2 resolution authorizing notes or bonds, or any issue thereof,  
3 may contain provisions, which shall be a part of the  
4 contract or contracts with the holders thereof, as to:

5 (1) pledging all or any part of the revenue or  
6 property of the authority to secure the payment of the notes  
7 or bonds or of any issue thereof, subject to existing  
8 agreements with noteholders or bondholders;

9 (2) pledging all or any part of the assets of the  
10 authority, including lease agreements, loan agreements,  
11 mortgages, and obligations securing them, to secure the  
12 payment of the notes or bonds or of any issue thereof,  
13 subject to existing agreements with noteholders or  
14 bondholders;

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

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

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

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

5 (7) the procedure, if any, by which the terms of any  
6 contract with noteholders or bondholders may be amended or  
7 abrogated, the amount of notes or bonds the holders of which  
8 must consent thereto, and the manner in which such consent  
9 may be given;

10 (8) a commitment to employ adequate and competent  
11 personnel at reasonable compensation, salaries, fees, and  
12 charges as may be determined by the authority in conjunction  
13 with the department and to maintain suitable facilities and  
14 services for the purpose of carrying out its programs;

15 (9) vesting in a trustee such property, rights,  
16 powers, and duties in trust as the authority determines;

17 (10) defining the acts or omissions that shall  
18 constitute a default in the obligations and duties of the  
19 authority to the holders of the notes or bonds and providing  
20 for the rights and remedies of the holders of the notes or  
21 bonds in the event of such default, including as a matter of  
22 right the appointment of a receiver. Rights and remedies may  
23 not be inconsistent with the laws of the state and the other  
24 provisions of [this act]; and

25 (11) any other matters of like or different character

1 that in any way affect the security or protection of the  
2 holders of the notes or bonds.

3 Section 10. Validity of pledge. Any pledge made by the  
4 authority is valid and binding from the time the pledge is  
5 made. The revenues, money, or property pledged and received  
6 by the authority shall immediately be subject to the lien of  
7 the pledge without any physical delivery or further act. The  
8 lien of any pledge shall be valid and binding against all  
9 parties having claims of any kind, whether in tort,  
10 contract, or otherwise against the authority, irrespective  
11 of whether such parties have notice thereof. Neither the  
12 resolution nor any other instrument by which a pledge is  
13 created is required to be recorded.

14 Section 11. Personal liability. The authority members  
15 and employees of the department are not personally liable or  
16 accountable by reason of the issuance of or on any bond or  
17 note issued by the authority.

18 Section 12. Purchase of notes and bonds --  
19 cancellation. The authority, subject to existing agreements  
20 with noteholders or bondholders, may, out of any funds  
21 available for that purpose, purchase notes or bonds of the  
22 authority, which shall then be canceled, at a price not  
23 exceeding:

24 (1) the current redemption price plus accrued interest  
25 to the next interest payment, if the notes or bonds are then

1 redeemable; or

2 (2) the redemption price applicable on the first date  
3 after the purchase on which the notes or bonds become  
4 subject to redemption plus accrued interest to that date, if  
5 the notes or bonds are not then redeemable.

6 Section 13. Trust indenture. (1) In the discretion of  
7 the authority, the bonds may be secured by a trust indenture  
8 between the authority and a corporate trustee, which may be  
9 a trust company or bank having the power of a trust company  
10 either in or outside the state. A trust indenture may  
11 contain provisions for protecting and enforcing bondholders'  
12 rights and remedies that are reasonable, proper, and not in  
13 violation of law, including covenants setting forth the  
14 duties of the authority in relation to the exercise of its  
15 powers and the custody, safeguarding, and application of all  
16 money. The authority may provide by a trust indenture for  
17 the payment of the proceeds of the bonds and revenues to the  
18 trustee under the trust indenture of another depository and  
19 for the method of disbursement, with safeguards and  
20 restrictions it considers necessary.

21 (2) All expenditures incurred in carrying out a trust  
22 indenture may be treated as part of the operating  
23 expenditures of the authority.

24 Section 14. Negotiability of bonds. Notes and bonds  
25 issued by the authority are negotiable instruments under the

1 Uniform Commercial Code, subject only to the provisions for  
2 registration of notes and bonds.

3 Section 15. Signatures of authority members. If  
4 authority members whose signatures appear on notes or bonds  
5 or coupons cease to be members before the delivery of the  
6 notes or bonds, their signatures shall, nevertheless, be  
7 valid and sufficient for all purposes, the same as if the  
8 members had remained in office until delivery.

9 Section 16. Accounts. The authority shall create the  
10 following separate accounts:

11 (1) a bond proceeds account into which bond proceeds  
12 shall be deposited;

13 (2) a capital reserve account as provided in [section  
14 17]; and

15 (3) an operating account for defraying the operational  
16 costs of the authority.

17 Section 17. Reserve funds and appropriations. (1) The  
18 authority shall establish a capital reserve account and pay  
19 into it:

20 (a) any funds appropriated and made available by the  
21 state for the purpose of the account;

22 (b) any proceeds of sale of notes or bonds to the  
23 extent provided in the resolutions or indentures of the  
24 authority authorizing their issuance; and

25 (c) any other funds which may be available to the

1 authority from any other source for the purpose of the  
2 account.

3 (2) All funds held in the capital reserve account  
4 shall be used solely for the payment of the principal of or  
5 interest on the bonds secured in whole or in part by the  
6 account or the sinking fund payments with respect to the  
7 bonds, the purchase or redemption of the bonds, the payment  
8 of interest on the bonds, or the payment of any redemption  
9 premium required to be paid when the bonds are redeemed  
10 prior to maturity. Funds in the account may not be withdrawn  
11 at any time in an amount that reduces the account to an  
12 amount less than the sum of minimum capital reserve  
13 requirements established in the resolutions or indentures of  
14 the authority for the account, except, with respect to bonds  
15 secured in whole or in part by the account, for the purpose  
16 of making payment, when due, of principal, interest,  
17 redemption premiums, and sinking fund payments for the  
18 payment of which other money pledged is not available. Any  
19 income or interest earned by or incremental to the capital  
20 reserve account due to its investment may be transferred to  
21 other accounts of the authority to an extent that does not  
22 reduce the amount of the capital reserve account below the  
23 sum of minimum capital reserve requirements for the account.

24 (3) The authority may not issue bonds secured in whole  
25 or in part by the capital reserve account unless the

1 authority secures such deposits in the account from the  
2 proceeds of the bonds issued or from any other sources in an  
3 amount not less than the minimum capital reserve requirement  
4 for the bonds.

5 (4) In computing the amount of the capital reserve  
6 account, securities in which all or a portion of the account  
7 are invested shall be valued at par or, if purchased at less  
8 than par, at their cost to the authority.

9 Section 18. Maintenance of capital reserve account.

10 (1) In order to assure the maintenance of the capital  
11 reserve account, the chairman of the authority shall, at  
12 3-month intervals beginning on September 1, 1981, deliver to  
13 the governor a certificate stating the sum, if any, required  
14 to restore the capital reserve account to the minimum  
15 capital reserve requirements. The governor shall require the  
16 director of the department to remit the sum required to  
17 restore the capital reserve account to the sum of the  
18 minimum capital reserve requirements utilizing revenue  
19 derived from interest earnings from the coal severance tax  
20 permanent trust fund created by Article IX, section 5, of  
21 the Montana constitution. All such sums shall be deposited  
22 in the capital reserve account.

23 (2) Prior to the 10th legislative day of each regular  
24 legislative session, the budget director shall provide the  
25 legislature with an estimate of interest earnings from the

1 permanent coal trust fund, and 20% of such estimated  
2 interest earnings is hereby reserved and pledged for the use  
3 by the authority as specified in this section.

4 (3) All amounts remitted to the authority by the  
5 director of the department under this section constitute  
6 advances to any bonds or notes of the authority and shall be  
7 repaid to the state treasury without interest from available  
8 operating revenues of the authority in excess of amounts  
9 required for the payment of bonds, notes, or other  
10 obligations of the authority for maintenance of the capital  
11 reserve account and operating expenses.

12 Section 19. Refunding obligations -- issuance. The  
13 authority may provide for the issuance of refunding  
14 obligations for refunding any obligations then outstanding  
15 that have been issued under [this act], including the  
16 payment of any redemption of the obligations. The issuance  
17 of obligations, the maturities and other details, the rights  
18 of the holders, and the rights, duties, and obligations of  
19 the authority are governed by the appropriate provisions of  
20 [this act] that relate to the issuance of obligations.

21 Section 20. Refunding obligations -- sale. Refunding  
22 obligations may be sold or exchanged for outstanding  
23 obligations issued under [this act]. The proceeds may be  
24 applied to the purchase, redemption, or payment of  
25 outstanding obligations. Pending the application of the

1 proceeds of refunding obligations and other available funds  
2 to the payment of principal, accrued interest, and any  
3 redemption premium on the obligations being refunded and, if  
4 permitted in the resolution authorizing the issuance of the  
5 refunding obligations or in the trust agreement securing  
6 them, to the payment of interest on refunding obligations  
7 and expenses in connection with refunding, the proceeds may  
8 be invested as provided in Title 17, chapter 6.

9 Section 21. Credit of state not pledged. Obligations  
10 issued under the provisions of [this act] do not constitute  
11 a debt, liability, obligation, or pledge of the faith and  
12 credit of the state, but are payable solely from the  
13 revenues or assets of the authority. An obligation issued  
14 under [this act] shall contain on the face thereof a  
15 statement to the effect that the state of Montana is not  
16 liable on the obligation, the obligation is not a debt of  
17 the state, and neither the faith and credit nor the taxing  
18 power of the state is pledged to the payment of the  
19 principal of or the interest on the obligation.

20 Section 22. ~~Annual audit. (1) The authority's books~~  
21 ~~and records shall be audited at least once each fiscal year.~~  
22 ~~(2) The legislative auditor may conduct an audit at~~  
23 ~~any time upon the request of the legislative audit~~  
24 ~~committee. ANNUAL AUDIT. THE AUTHORITY'S BOOKS AND RECORDS~~  
25 ~~MUST BE AUDITED AT LEAST ONCE EACH YEAR BY THE LEGISLATIVE~~



1 AUDIT COMMITTEE. THE COST OF THE AUDIT SHALL BE PAID BY THE  
2 AUTHORITY.

3 Section 23. Tax exemption of bonds. Bonds, notes, or  
4 other obligations issued by the authority under [this act],  
5 their transfer, and income (including any profits made on  
6 their sale) are free from taxation by the state or any  
7 political subdivision or other instrumentality of the state,  
8 except for inheritance, estate, and gift taxes. The  
9 authority is not required to pay recording or transfer fees  
10 or taxes on instruments recorded by it.

11 Section 24. Taxation of projects. (1) Notwithstanding  
12 that title to a project may be in the authority, the  
13 projects are subject to taxation to the same extent, in the  
14 same manner, and under the same procedures as privately  
15 owned property in similar circumstances if the projects are  
16 leased to or held by private interests on both the  
17 assessment date and the date the levy is made in any year.  
18 The projects are not subject to taxation in any year if they  
19 are not leased to or held by private interests on both the  
20 assessment date and the date the levy is made in that year.

21 (2) If personal property owned by a municipality or  
22 county is taxed under this section and the personal property  
23 taxes are delinquent, levy by warrant of distraint for  
24 collection of the delinquent taxes may only be made on  
25 personal property against which the taxes were levied.

1 Section 25. Pledge of the state. In accordance with  
2 the Constitution of the United States and the Constitution  
3 of the State of Montana, the state pledges that it will not  
4 in any way impair the obligations of any agreement between  
5 the authority and the holders of notes and bonds issued by  
6 the authority, including but not limited to an agreement to  
7 administer an economic development program financed by the  
8 issuance of bonds and to employ a staff sufficient and  
9 competent for this purpose.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 798

3 House Business and Industry Committee

4

5 A statement of intent is required for this bill because  
6 it grants rulemaking authority.

7 Section 5(3) of the bill authorizes the Montana  
8 economic development authority to adopt all procedural and  
9 substantive rules necessary for the administration of the  
10 act.

11 It is intended that these rules deal with the terms of  
12 loans, forms for loan applications, sale of bonds, internal  
13 management of the authority's business, procedures for  
14 servicing loans by financial institutions, procedures for  
15 acquiring and disposing of property, and establishing  
16 reserve requirements.

17 Section 5(21) requires the authority to designate  
18 "primary industries", which are to be given preference for  
19 loans.

20 It is intended that primary industries be commercial,  
21 manufacturing, agricultural, industrial, transportation,  
22 recreational, and tourist enterprises.

HOUSE BILL NO. 798

INTRODUCED BY HANNAH, FABREGA, D. O'HARA, LUND, WINSLOW, MARKS, MOORE, FAGG, AZZARA, KITSELMAN, SEIFERT, MEYER, VINCENT, KEMMIS, MENAHAN, MATSKO, PHILLIPS, SCHULTZ, BRIGGS, QUILICI, DUSSAULT, DAILY, HARRINGTON, CONN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ECONOMIC DEVELOPMENT AUTHORITY; PROVIDING FOR THE ISSUANCE OF BONDS TO FINANCE PROJECTS; DESIGNATING TYPES OF PROJECTS TO BE FUNDED; CREATING ACCOUNTS NECESSARY FOR CARRYING OUT THE PROGRAM; AND PROVIDING RULEMAKING AUTHORITY."

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

Section 1. Short title. [This act] shall be known and may be cited as the "Montana Economic Development Act of 1981".

Section 2. Policy statement. (1) It is the policy of the state of Montana, in the interest of promoting the health, safety, and general welfare of all the people of the state, to increase job opportunities and to retain existing jobs by making available through the economic development authority funds for industrial, commercial, manufacturing, recreational, tourist, and health care development, AND ALL PHASES OF THE LIVESTOCK AND AGRICULTURAL INDUSTRY.

(2) The legislature finds that:

(a) a vigorous growing economy is the basic source of job opportunities;

(b) protection against unemployment, its economic burdens, and the spread of economic stagnation in the areas affected can best be provided by promoting, attracting, stimulating, and revitalizing industry, manufacturing, commerce, recreation, tourism, and health care facilities in such areas; and

(c) the state of Montana has a responsibility to help create a favorable climate for new and improved job opportunities for its citizens by encouraging the development of business.

Section 3. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the economic development authority created in [section 4].

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the authority pursuant to [this act].

(3) "Capital reserve account" means the capital reserve account provided for in [section 17].

(4) "Composite bond" means a bond issued under the provisions of [this act], the proceeds of which may be used to finance more than one project.

1 (5) "Department" means the department of  
2 administration provided for in Title 2, chapter 15, part 10.

3 (6) "Mortgage" means a mortgage deed, deed of trust,  
4 or other security device.

5 (7) "Primary industries" means industries designated  
6 as such, from time to time, by the authority.

7 (8) "Project" means any land, building, or other  
8 improvement and any other real or personal property  
9 considered necessary in connection therewith, whether or not  
10 in existence, that is suitable for use for:

11 (a) commercial, manufacturing, or industrial  
12 enterprises;

13 (b) recreation or tourist facilities;

14 (c) hospitals, long-term care facilities, or medical  
15 facilities; or

16 (d) any combination of these projects.

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

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

21 (b) the actual cost of construction of all or any part  
22 of a project that may be constructed, including architects'  
23 and engineers' fees;

24 (c) all expenses in connection with the authorization,  
25 sale, and issuance of the bonds to finance such acquisition

1 or improvement;

2 (d) bond reserves and premiums for insurance of lease  
3 rentals pledged to pay the bonds; and

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

7 (10) "Financial institution" means a bank, savings and  
8 loan association, or credit union authorized to do business  
9 in the state of Montana.

10 Section 4. Economic development authority --  
11 allocation -- composition -- ~~quasi-judicial~~. (1) There is an  
12 economic development authority consisting of seven members  
13 who shall be informed and experienced in economics or  
14 finance.

15 (a) Two members shall be appointed by the governor as  
16 provided in 2-15-124.

17 (b) One member who is an active participant in the  
18 management of a financial institution shall be appointed by  
19 each of the following:

20 (i) the president of the senate;

21 (ii) the minority leader of the senate;

22 (iii) the speaker of the house; and

23 (iv) the minority leader of the house.

24 (c) The six members appointed pursuant to subsections

25 (1)(a) and (1)(b) shall appoint the seventh member.

1 (2) The authority shall elect a chairman and other  
2 necessary officers.

3 ~~(3) The authority is designated quasi-judicial for the~~  
4 ~~purposes~~ THE TERMS OF MEMBERS OF THE AUTHORITY EXPIRE  
5 COINCIDENTALLY WITH THE TERMS OF THE APPOINTING OFFICERS.  
6 COMPENSATION OF MEMBERS AND FUNCTIONS OF THE AUTHORITY ARE  
7 REGULATED BY SUBSECTIONS (7) AND (8) of 2-15-124.

8 (4) The authority is allocated to the department of  
9 administration for administrative purposes only, as provided  
10 in 2-15-121.

11 (5) The staff of the board of housing created in  
12 2-15-1008 shall also serve as staff of the authority.

13 (6) A member of the authority may not be considered to  
14 have a conflict of interest under the provisions of 2-2-201  
15 merely because the member is a stockholder, officer, or  
16 employee of any business enterprise which may participate in  
17 the authority's programs.

18 Section 5. Powers of the authority. The authority may:

19 (1) sue and be sued;

20 (2) have a seal;

21 (3) adopt all procedural and substantive rules  
22 necessary for the administration of [this act];

23 (4) make contracts, agreements, and other instruments  
24 necessary or convenient for the exercise of its powers under  
25 [this act];

1 (5) enter into agreements or other transactions with  
2 any federal, state, or local governmental agency or any  
3 person or any domestic or foreign partnership, corporation,  
4 association, or organization in carrying out [this act];

5 (6) enter into agreements or other transactions with  
6 and accept grants and the cooperation of any governmental  
7 agency in furtherance of [this act];

8 (7) accept services, appropriations, gifts, grants,  
9 bequests, and devise and utilize or dispose of them in  
10 carrying out [this act];

11 (8) with regard to property:

12 (a) acquire real or personal property or any right,  
13 interest, or easement therein by gift, purchase, transfer,  
14 foreclosure, lease, or otherwise;

15 (b) hold, sell, assign, lease, encumber, mortgage, or  
16 otherwise dispose of property;

17 (c) hold, sell, assign, or otherwise dispose of any  
18 mortgage or loan owned by it or in its control or custody;

19 (d) release or relinquish any right, title, claim,  
20 interest, easement, or demand, however acquired, including  
21 any equity or right of redemption in property;

22 (e) do any of the foregoing by public or private sale,  
23 with or without public bidding;

24 (f) commence any action to protect or enforce any  
25 right conferred upon it by law, mortgage, lease, contract,

1 or other agreement;

2 (g) bid for and purchase property at any foreclosure

3 or other sale or acquire or take possession of it in lieu of

4 foreclosure; and

5 (h) operate, manage, lease, dispose of, and otherwise

6 deal with such property in any manner necessary or desirable

7 to protect its interests and the holders of its bonds or

8 notes consistent with any agreement with such holders;

9 (9) service, contract, and pay for the servicing of

10 loans;

11 (10) invest any funds not required for immediate use,

12 subject to any agreements with its bondholders and

13 noteholders, as provided in Title 17, chapter 6;

14 (11) consent, whenever it considers necessary or

15 desirable in fulfilling its purposes, to the modification of

16 the rate of interest, time, and payment of any installment

17 of principal or interest, security, or any other term of any

18 contract, lease agreement, loan agreement, mortgage,

19 mortgage loan, mortgage loan commitment, construction loan,

20 advance contract, or agreement of any kind, subject to any

21 agreement with bondholders and noteholders;

22 (12) collect reasonable interest, fees, and charges in

23 connection with making and servicing its lease agreements,

24 loan agreements, mortgage loans, notes, bonds, commitments,

25 and other evidences of indebtedness. Interest, fees, and

1 charges shall be limited to the amounts required to pay the

2 costs of the authority, including operating and

3 administrative expenses and reasonable allowances for losses

4 that may be incurred;

5 (13) procure insurance or guarantees from any parties,

6 including governmental agencies, against any loss in

7 connection with its lease agreements, loan agreements,

8 mortgage loans, and other assets or property in amounts and

9 in the form the authority considers desirable or necessary;

10 (14) acquire, by construction, purchase, devise, gift,

11 lease, or any combination of such methods, one or more

12 projects located within this state;

13 (15) lease to others any or all of its projects for

14 such rentals and upon terms and conditions, consistent with

15 the provisions of [this act], that the authority considers

16 advisable;

17 (16) enter into agreements, upon terms the authority

18 considers advisable and not in conflict with the provisions

19 of [this act], to loan the proceeds of its bonds to others

20 for the purpose of defraying the cost of acquiring or

21 improving any project;

22 (17) issue bonds, including composite bonds, for the

23 purpose of defraying the cost of acquiring or improving any

24 project or projects and securing the payment of such bonds

25 as provided in [this act];

1 (18) sell and convey any real or personal property  
 2 acquired as provided by subsection (8) and make any order  
 3 respecting it, as may be conducive to the best interest of  
 4 the authority. However, such sale or conveyance is subject  
 5 to the terms of any lease but is free and clear of any other  
 6 encumbrance.

7 (19) make and participate in making loans to  
 8 individuals, corporations, and government agencies and  
 9 accept guarantees from individuals, corporations, and  
 10 government agencies of its loans or the resultant evidences  
 11 of obligations to the authority;

12 (20) issue notes and bonds, including composite bonds,  
 13 and replace lost, destroyed, or mutilated notes and bonds;  
 14 and

15 (21) give preference, in exercising its powers, to  
 16 primary industries as designated by the authority.

17 Section 6. Self-sufficiency of projects. (1) Prior to  
 18 the leasing of any project or entering into a loan agreement  
 19 concerning a project, the authority must determine the  
 20 following:

21 (a) the amount necessary to pay the principal of and  
 22 the interest on the bonds proposed to be issued to finance  
 23 such project;

24 (b) the amount necessary to be paid into any reserve  
 25 funds that the authority considers advisable to establish in

1 connection with the retirement of the proposed bonds and the  
 2 maintenance of the project including taxes; and

3 (c) the estimated cost of maintaining the project in  
 4 good repair and keeping it properly insured, unless the  
 5 terms of the lease or loan agreement provide that the lessee  
 6 or borrower shall maintain the project and carry all  
 7 property insurance with respect thereto.

8 (2) The determinations and findings of the authority  
 9 required by subsection (1) shall be set forth in the  
 10 proceedings under which the proposed bonds are to be issued.  
 11 Prior to the issuance of any bonds authorized by [this act],  
 12 the authority shall lease the project to a lessee or lessees  
 13 or enter into a loan agreement with a borrower under a lease  
 14 or loan agreement conditioned upon completion of the project  
 15 by the lessees or borrowers and providing for payment to the  
 16 authority of such rentals or payments, on the basis of  
 17 determinations and findings, that will be sufficient to:

18 (a) pay the principal of and interest on the bonds  
 19 issued to finance the project;

20 (b) pay the taxes on the project;

21 (c) build up and maintain any reserves considered by  
 22 the authority to be advisable in connection with the  
 23 project; and

24 (d) pay the costs of maintaining the project in good  
 25 repair and keeping it properly insured, unless the lease or

1 loan agreement obligates the lessees or borrowers to pay for  
2 the maintenance and insurance of the project.

3 (3) Subject to the limitations of [this act], the  
4 lease, loan agreement, or extensions or modifications  
5 thereof may contain other terms and conditions mutually  
6 acceptable to the parties and, notwithstanding any other  
7 provision of law relating to the sale of property owned by  
8 the authority, an option may be granted to a lessee to  
9 purchase the project on terms and conditions as may be  
10 mutually acceptable to the parties.

11 Section 7. Loan applications -- institution financing.

12 (1) The authority shall contract with financial institutions  
13 for review of loan applications and other services related  
14 to the applications. The authority shall authorize such  
15 institutions to charge a sum equal to 1% of the amount  
16 loaned as a service fee.

17 (2) The financial institution involved in the funding  
18 of a project shall carry as its loan an amount equal to 10%  
19 of the total sum loaned in connection with a project. The  
20 financial institution may secure its percentage of the loan  
21 with security other than the kind of security required by  
22 the authority. Loans may be made only to qualified  
23 individuals or business entities doing business in the state  
24 of Montana.

25 (3) No single project may receive a loan from the

1 authority in excess of \$2 million. Loans made by the  
2 authority may be pooled with other loans received by a  
3 project.

4 (4) The authority may subordinate to commercial  
5 financial institutions, up to 20% of all loans outstanding  
6 on a project, when in its opinion such subordination is  
7 necessary to help a project through a period of expansion.

8 Section 8. Bonds and notes. (1) The authority may by  
9 resolution, issue negotiable notes and bonds in a principal  
10 amount as the authority determines necessary to provide  
11 sufficient funds for achieving any of its purposes,  
12 including the payment of interest on notes and bonds of the  
13 authority, establishment of reserves to secure the notes and  
14 bonds, including the reserve funds created under [section  
15 17], and all other expenditures of the authority incident to  
16 and necessary or convenient to carry out [this act].

17 (2) The authority may by resolution, from time to  
18 time, issue notes to renew notes and bonds or to pay notes,  
19 including interest, and whenever it considers refunding  
20 expedient, refund any bonds by the issuance of new bonds,  
21 whether or not the bonds to be refunded have matured, or  
22 issue bonds partly to refund bonds outstanding and partly  
23 for any of its other purposes.

24 (3) Except as otherwise expressly provided by  
25 resolution of the authority, every issue of its notes and



1 bonds is an obligation of the authority payable out of any  
2 revenue, assets, or money of the authority, subject only to  
3 agreements with the holders of particular notes or bonds  
4 pledging particular revenues, assets, or money.

5 (4) The notes and bonds shall be authorized by  
6 resolutions of the authority, bear a date, and mature at  
7 times as the resolutions provide. A note may not mature more  
8 than 5 years and a bond may not mature more than 40 years  
9 from the date of its issue. The bonds may be issued as  
10 serial bonds payable in annual installments, as term bonds,  
11 or as a combination thereof. The notes and bonds shall bear  
12 interest at a rate or rates, be in denominations, be in a  
13 form, either coupon or registered, carry registration  
14 privileges, be executed in a manner, be payable in a medium  
15 of payment, at places within or without the state, and be  
16 subject to terms of redemption as provided in resolutions.  
17 The notes and bonds of the authority may be sold at public  
18 or private sale at prices above or below par, as determined  
19 by the authority.

20 (5) The total amount of notes and bonds outstanding at  
21 any one time, except notes or bonds as to which the  
22 authority's obligations have been satisfied and discharged  
23 by refunding or for which reserve for payment or other means  
24 of payment have been otherwise provided, may not exceed \$150  
25 \$200 million.

1 Section 9. Provisions of bond resolutions. A  
2 resolution authorizing notes or bonds, or any issue thereof,  
3 may contain provisions, which shall be a part of the  
4 contract or contracts with the holders thereof, as to:

5 (1) pledging all or any part of the revenue or  
6 property of the authority to secure the payment of the notes  
7 or bonds or of any issue thereof, subject to existing  
8 agreements with noteholders or bondholders;

9 (2) pledging all or any part of the assets of the  
10 authority, including lease agreements, loan agreements,  
11 mortgages, and obligations securing them, to secure the  
12 payment of the notes or bonds or of any issue thereof,  
13 subject to existing agreements with noteholders or  
14 bondholders;

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

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

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

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

5 (7) the procedure, if any, by which the terms of any  
6 contract with noteholders or bondholders may be amended or  
7 abrogated, the amount of notes or bonds the holders of which  
8 must consent thereto, and the manner in which such consent  
9 may be given;

10 (8) a commitment to employ adequate and competent  
11 personnel at reasonable compensation, salaries, fees, and  
12 charges as may be determined by the authority in conjunction  
13 with the department and to maintain suitable facilities and  
14 services for the purpose of carrying out its programs;

15 (9) vesting in a trustee such property, rights,  
16 powers, and duties in trust as the authority determines;

17 (10) defining the acts or omissions that shall  
18 constitute a default in the obligations and duties of the  
19 authority to the holders of the notes or bonds and providing  
20 for the rights and remedies of the holders of the notes or  
21 bonds in the event of such default, including as a matter of  
22 right the appointment of a receiver. Rights and remedies may  
23 not be inconsistent with the laws of the state and the other  
24 provisions of [this act]; and

25 (11) any other matters of like or different character

1 that in any way affect the security or protection of the  
2 holders of the notes or bonds.

3 Section 10. Validity of pledge. Any pledge made by the  
4 authority is valid and binding from the time the pledge is  
5 made. The revenues, money, or property pledged and received  
6 by the authority shall immediately be subject to the lien of  
7 the pledge without any physical delivery or further act. The  
8 lien of any pledge shall be valid and binding against all  
9 parties having claims of any kind, whether in tort,  
10 contract, or otherwise against the authority, irrespective  
11 of whether such parties have notice thereof. Neither the  
12 resolution nor any other instrument by which a pledge is  
13 created is required to be recorded.

14 Section 11. Personal liability. The authority members  
15 and employees of the department are not personally liable or  
16 accountable by reason of the issuance of or on any bond or  
17 note issued by the authority.

18 Section 12. Purchase of notes and bonds --  
19 cancellation. The authority, subject to existing agreements  
20 with noteholders or bondholders, may, out of any funds  
21 available for that purpose, purchase notes or bonds of the  
22 authority, which shall then be canceled, at a price not  
23 exceeding:

24 (1) the current redemption price plus accrued interest  
25 to the next interest payment, if the notes or bonds are then

1 redeemable; or

2 (2) the redemption price applicable on the first date  
3 after the purchase on which the notes or bonds become  
4 subject to redemption plus accrued interest to that date, if  
5 the notes or bonds are not then redeemable.

6 Section 13. Trust indenture. (1) In the discretion of  
7 the authority, the bonds may be secured by a trust indenture  
8 between the authority and a corporate trustee, which may be  
9 a trust company or bank having the power of a trust company  
10 either in or outside the state. A trust indenture may  
11 contain provisions for protecting and enforcing bondholders'  
12 rights and remedies that are reasonable, proper, and not in  
13 violation of law, including covenants setting forth the  
14 duties of the authority in relation to the exercise of its  
15 powers and the custody, safeguarding, and application of all  
16 money. The authority may provide by a trust indenture for  
17 the payment of the proceeds of the bonds and revenues to the  
18 trustee under the trust indenture of another depository and  
19 for the method of disbursement, with safeguards and  
20 restrictions it considers necessary.

21 (2) All expenditures incurred in carrying out a trust  
22 indenture may be treated as part of the operating  
23 expenditures of the authority.

24 Section 14. Negotiability of bonds. Notes and bonds  
25 issued by the authority are negotiable instruments under the

1 Uniform Commercial Code, subject only to the provisions for  
2 registration of notes and bonds.

3 Section 15. Signatures of authority members. If  
4 authority members whose signatures appear on notes or bonds  
5 or coupons cease to be members before the delivery of the  
6 notes or bonds, their signatures shall, nevertheless, be  
7 valid and sufficient for all purposes, the same as if the  
8 members had remained in office until delivery.

9 Section 16. Accounts. The authority shall create the  
10 following separate accounts:

11 (1) a bond proceeds account into which bond proceeds  
12 shall be deposited;

13 (2) a capital reserve account as provided in [section  
14 17]; and

15 (3) an operating account for defraying the operational  
16 costs of the authority.

17 Section 17. Reserve funds and appropriations. (1) The  
18 authority shall establish a capital reserve account and pay  
19 into it:

20 (a) any funds appropriated and made available by the  
21 state for the purpose of the account;

22 (b) any proceeds of sale of notes or bonds to the  
23 extent provided in the resolutions or indentures of the  
24 authority authorizing their issuance; and

25 (c) any other funds which may be available to the

1 authority from any other source for the purpose of the  
2 account.

3 (2) All funds held in the capital reserve account  
4 shall be used solely for the payment of the principal of or  
5 interest on the bonds secured in whole or in part by the  
6 account or the sinking fund payments with respect to the  
7 bonds, the purchase or redemption of the bonds, the payment  
8 of interest on the bonds, or the payment of any redemption  
9 premium required to be paid when the bonds are redeemed  
10 prior to maturity. Funds in the account may not be withdrawn  
11 at any time in an amount that reduces the account to an  
12 amount less than the sum of minimum capital reserve  
13 requirements established in the resolutions or indentures of  
14 the authority for the account, except, with respect to bonds  
15 secured in whole or in part by the account, for the purpose  
16 of making payment, when due, of principal, interest,  
17 redemption premiums, and sinking fund payments for the  
18 payment of which other money pledged is not available. Any  
19 income or interest earned by or incremental to the capital  
20 reserve account due to its investment may be transferred to  
21 other accounts of the authority to an extent that does not  
22 reduce the amount of the capital reserve account below the  
23 sum of minimum capital reserve requirements for the account.

24 (3) The authority may not issue bonds secured in whole  
25 or in part by the capital reserve account unless the

1 authority secures such deposits in the account from the  
2 proceeds of the bonds issued or from any other sources in an  
3 amount not less than the minimum capital reserve requirement  
4 for the bonds.

5 (4) In computing the amount of the capital reserve  
6 account, securities in which all or a portion of the account  
7 are invested shall be valued at par or, if purchased at less  
8 than par, at their cost to the authority.

9 Section 18. Maintenance of capital reserve account.

10 (1) In order to assure the maintenance of the capital  
11 reserve account, the chairman of the authority shall, at  
12 3-month intervals beginning on September 1, 1981, deliver to  
13 the governor a certificate stating the sum, if any, required  
14 to restore the capital reserve account to the minimum  
15 capital reserve requirements. The governor shall require the  
16 director of the department to remit the sum required to  
17 restore the capital reserve account to the sum of the  
18 minimum capital reserve requirements utilizing revenue  
19 derived from interest earnings from the coal severance tax  
20 permanent trust fund created by Article IX, section 5, of  
21 the Montana constitution. All such sums shall be deposited  
22 in the capital reserve account.

23 (2) Prior to the 10th legislative day of each regular  
24 legislative session, the budget director shall provide the  
25 legislature with an estimate of interest earnings from the

1 permanent coal trust fund, and 20% of such estimated  
2 interest earnings is hereby reserved and pledged for the use  
3 by the authority as specified in this section.

4 (3) All amounts remitted to the authority by the  
5 director of the department under this section constitute  
6 advances to any bonds or notes of the authority and shall be  
7 repaid to the state treasury without interest from available  
8 operating revenues of the authority in excess of amounts  
9 required for the payment of bonds, notes, or other  
10 obligations of the authority for maintenance of the capital  
11 reserve account and operating expenses.

12 Section 19. Refunding obligations -- issuance. The  
13 authority may provide for the issuance of refunding  
14 obligations for refunding any obligations then outstanding  
15 that have been issued under [this act], including the  
16 payment of any redemption of the obligations. The issuance  
17 of obligations, the maturities and other details, the rights  
18 of the holders, and the rights, duties, and obligations of  
19 the authority are governed by the appropriate provisions of  
20 [this act] that relate to the issuance of obligations.

21 Section 20. Refunding obligations -- sale. Refunding  
22 obligations may be sold or exchanged for outstanding  
23 obligations issued under [this act]. The proceeds may be  
24 applied to the purchase, redemption, or payment of  
25 outstanding obligations. Pending the application of the

1 proceeds of refunding obligations and other available funds  
2 to the payment of principal, accrued interest, and any  
3 redemption premium on the obligations being refunded and, if  
4 permitted in the resolution authorizing the issuance of the  
5 refunding obligations or in the trust agreement securing  
6 them, to the payment of interest on refunding obligations  
7 and expenses in connection with refunding, the proceeds may  
8 be invested as provided in Title 17, chapter 6.

9 Section 21. Credit of state not pledged. Obligations  
10 issued under the provisions of [this act] do not constitute  
11 a debt, liability, obligation, or pledge of the faith and  
12 credit of the state, but are payable solely from the  
13 revenues or assets of the authority. An obligation issued  
14 under [this act] shall contain on the face thereof a  
15 statement to the effect that the state of Montana is not  
16 liable on the obligation, the obligation is not a debt of  
17 the state, and neither the faith and credit nor the taxing  
18 power of the state is pledged to the payment of the  
19 principal of or the interest on the obligation.

20 Section 22. ~~Annual audit. (1) The authority's books~~  
21 ~~and records shall be audited at least once each fiscal year.~~  
22 ~~(2) The legislative auditor may conduct an audit at~~  
23 ~~any time upon the request of the legislative audit~~  
24 ~~committee. ANNUAL AUDIT. THE AUTHORITY'S BOOKS AND RECORDS~~  
25 MUST BE AUDITED AT LEAST ONCE EACH YEAR BY THE LEGISLATIVE

1 AUDITOR OR BY A CONTRACT AUDITOR AS DIRECTED BY THE  
 2 LEGISLATIVE AUDIT COMMITTEE. THE COST OF THE AUDIT SHALL BE  
 3 PAID BY THE AUTHORITY.

4 Section 23. Tax exemption of bonds. Bonds, notes, or  
 5 other obligations issued by the authority under [this act],  
 6 their transfer, and income (including any profits made on  
 7 their sale) are free from taxation by the state or any  
 8 political subdivision or other instrumentality of the state,  
 9 except for inheritance, estate, and gift taxes. The  
 10 authority is not required to pay recording or transfer fees  
 11 or taxes on instruments recorded by it.

12 Section 24. Taxation of projects. (1) Notwithstanding  
 13 that title to a project may be in the authority, the  
 14 projects are subject to taxation to the same extent, in the  
 15 same manner, and under the same procedures as privately  
 16 owned property in similar circumstances if the projects are  
 17 leased to or held by private interests on both the  
 18 assessment date and the date the levy is made in any year.  
 19 The projects are not subject to taxation in any year if they  
 20 are not leased to or held by private interests on both the  
 21 assessment date and the date the levy is made in that year.

22 (2) If personal property owned by a municipality or  
 23 county is taxed under this section and the personal property  
 24 taxes are delinquent, levy by warrant of distraint for  
 25 collection of the delinquent taxes may only be made on

1 personal property against which the taxes were levied.

2 Section 25. Pledge of the state. In accordance with  
 3 the Constitution of the United States and the Constitution  
 4 of the State of Montana, the state pledges that it will not  
 5 in any way impair the obligations of any agreement between  
 6 the authority and the holders of notes and bonds issued by  
 7 the authority, including but not limited to an agreement to  
 8 administer an economic development program financed by the  
 9 issuance of bonds and to employ a staff sufficient and  
 10 competent for this purpose.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 798

3 House Business and Industry Committee

4

5 A statement of intent is required for this bill because  
6 it grants rulemaking authority.

7 Section SECTIONS 5(3), 7(4), AND 27(1) of the bill  
8 authorize the Montana economic development authority to  
9 adopt all procedural and substantive rules necessary for the  
10 administration of the act.

11 It is intended that these rules deal with the terms of  
12 loans, forms for loan applications, sale of bonds, internal  
13 management of the authority's business, procedures for  
14 servicing loans by financial institutions, PROCEDURES FOR  
15 GUARANTEEING LOANS UNDER THE LOAN GUARANTY PROGRAM, REVIEW  
16 OF LOAN APPLICATIONS, AND procedures for acquiring  
17 REPOSSESSION and disposing of property, and establishing  
18 reserve requirements.

19 Section 5(21) requires the authority to designate  
20 "primary industries", which are to be given preference for  
21 loans.

22 It is intended that primary industries be commercial,  
23 manufacturing, agricultural, industrial, transportation,  
24 recreational, and tourist enterprises.

## HOUSE BILL NO. 798

INTRODUCED BY HANNAH, FABREGA, D. O'HARA, LUND, WINSLOW,  
MARKS, MOORE, FAGG, AZZARA, KITSELMAN, SEIFERT, MEYER,  
VINCENT, KEMMIS, MENAHAN, MATSKO, PHILLIPS, SCHULTZ,  
BRIGGS, QUILICI, DUSSAULT, DAILY, HARRINGTON, CONN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ECONOMIC  
DEVELOPMENT AUTHORITY; ~~CREATING AN ECONOMIC DEVELOPMENT~~  
~~GUARANTY FUND; PROVIDING FOR THE ISSUANCE OF GENERAL~~  
~~OBLIGATION BONDS TO FUND THE GUARANTY FUND; CREATING AN~~  
ECONOMIC DEVELOPMENT GUARANTY FUND; PROVIDING FOR THE  
ISSUANCE OF BONDS TO FINANCE PROJECTS; DESIGNATING TYPES OF  
PROJECTS TO BE FUNDED; CREATING ACCOUNTS NECESSARY FOR  
CARRYING OUT THE PROGRAM; AND PROVIDING RULEMAKING  
AUTHORITY."

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

Section 1. Short title. [This act] shall be known and  
may be cited as the "Montana Economic Development Act of  
1981".

Section 2. Policy statement. (1) It is the policy of  
the state of Montana, in the interest of promoting the  
health, safety, and general welfare of all the people of the  
state, to increase job opportunities and to retain existing  
jobs by making available through the economic development

authority funds for industrial, commercial, manufacturing,  
recreational, tourist, and health care development, AND ALL  
PHASES OF THE LIVESTOCK AND AGRICULTURAL INDUSTRY.

(2) The legislature finds that:

(a) a vigorous growing economy is the basic source of  
job opportunities;

(b) protection against unemployment, its economic  
burdens, and the spread of economic stagnation in the areas  
affected can best be provided by promoting, attracting,  
stimulating, and revitalizing industry, manufacturing,  
commerce, recreation, tourism, and health care facilities in  
such areas; and

(c) the state of Montana has a responsibility to help  
create a favorable climate for new and improved job  
opportunities for its citizens by encouraging the  
development of business.

Section 3. Definitions. As used in [this act], unless  
the context requires otherwise, the following definitions  
apply:

(1) "Authority" means the economic development  
authority created in [section 4].

(2) "Bond" means any bond, note, debenture, interim  
certificate, or other evidence of financial indebtedness  
issued by the authority pursuant to [this act].

(3) "Capital reserve account" means the capital



1 reserve account provided for in [section 17].

2 (4) "Composite bond" means a bond issued under the  
 3 provisions of [this act], the proceeds of which may be used  
 4 to finance more than one project.

5 (5) "Department" means the department of  
 6 administration provided for in Title 2, chapter 15, part 10.

7 (6) "Mortgage" means a mortgage deed, deed of trust,  
 8 or other security device.

9 (7) "Primary industries" means industries designated  
 10 as such, from time to time, by the authority.

11 (8) "Project" means any land, building, or other  
 12 improvement and any other real or personal property  
 13 considered necessary in connection therewith, whether or not  
 14 in existence, that is suitable for use for:

15 (a) commercial, manufacturing, or industrial  
 16 enterprises;

17 (b) recreation or tourist facilities;

18 (c) hospitals, long-term care facilities, or medical  
 19 facilities; or

20 (d) any combination of these projects.

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

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

25 (b) the actual cost of construction of all or any part

1 of a project that may be constructed, including architects'  
 2 and engineers' fees;

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

6 (d) bond reserves and premiums for insurance of lease  
 7 rentals pledged to pay the bonds; and

8 (e) the interest on such bonds for a reasonable time  
 9 prior to construction, during construction, and not  
 10 exceeding 6 months after completion of construction.

11 (10) "Financial institution" means a bank, savings and  
 12 loan association, or credit union authorized to do business  
 13 in the state of Montana.

14 Section 4. Economic development authority --  
 15 allocation -- composition ---~~quest-judretat.~~ (1) There is an  
 16 economic development authority consisting of seven members  
 17 who shall be informed and experienced in economics or  
 18 finance. TWO MEMBERS OF THE AUTHORITY MUST BE ACTIVE  
 19 PARTICIPANTS IN THE MANAGEMENT OF A FINANCIAL INSTITUTION.

20 ~~(a) (2) Two THREE~~ members shall be appointed by the  
 21 governor ~~as provided in 2-15-124~~ AS PROVIDED IN 2-15-124.

22 ~~(b) --One member who is an active participant in the~~  
 23 ~~management of a financial institution shall be appointed by~~  
 24 ~~each of the following:~~

25 (3) THE GOVERNOR SHALL CONSIDER MAKING APPOINTMENTS TO

1 THE AUTHORITY FROM A PANEL OF NAMES SUBMITTED AS HEREINAFTER  
 2 PROVIDED. TWO PERSONS SHALL BE APPOINTED TO THE PANEL BY  
 3 EACH OF THE FOLLOWING INDIVIDUALS:

- 4 (i) the president of the senate;
- 5 (ii) the minority leader of the senate;
- 6 (iii) the speaker of the house; and
- 7 (iv) the minority leader of the house.

8 ~~{c}--The--six--members--appointed--pursuant--to--subsections~~  
 9 ~~{1}{a}--and--{1}{b}--shall--appoint--the--seventh--member--~~

10 ~~{2}--The--authority--shall--elect--a--chairman--and--other~~  
 11 ~~necessary--officers--~~

12 ~~{3}--The--authority--is--designated--quasi--judicial--for--the~~  
 13 ~~purposes--THE--TERMS--OF--MEMBERS--OF--THE--AUTHORITY--EXPIRE~~  
 14 ~~COINCIDENTALLY--WITH--THE--TERMS--OF--THE--APPOINTING--OFFICERS--~~

15 {4} COMPENSATION OF MEMBERS AND FUNCTIONS OF THE  
 16 AUTHORITY ARE REGULATED BY SUBSECTIONS (7) AND (8) OF  
 17 2-15-124.

18 ~~{4}{5}~~ The authority is allocated to the department of  
 19 administration for administrative purposes only, as provided  
 20 in 2-15-121.

21 ~~{5}{6}~~ The staff of the board of housing created in  
 22 2-15-1008 shall also serve as staff of the authority.

23 ~~{6}{7}~~ A member of the authority may not be considered  
 24 to have a conflict of interest under the provisions of  
 25 2-2-201 merely because the member is a stockholder, officer,

1 or employee of ~~any--business--enterprise~~ A FINANCIAL  
 2 INSTITUTION which may participate in the authority's  
 3 programs.

4 {8} UNLESS HE IS A FULL-TIME SALARIED OFFICER OR  
 5 EMPLOYEE OF THIS STATE OR OF A POLITICAL SUBDIVISION OF THIS  
 6 STATE, EACH MEMBER IS ENTITLED TO BE PAID \$25 FOR EACH DAY  
 7 IN WHICH HE IS ACTUALLY AND NECESSARILY ENGAGED IN THE  
 8 PERFORMANCE OF AUTHORITY DUTIES AND HE IS ALSO ENTITLED TO  
 9 BE REIMBURSED FOR TRAVEL EXPENSES, AS PROVIDED FOR IN  
 10 2-18-501 THROUGH 2-18-503, INCURRED WHILE IN THE PERFORMANCE  
 11 OF AUTHORITY DUTIES. MEMBERS WHO ARE FULL-TIME SALARIED  
 12 OFFICERS OR EMPLOYEES OF THIS STATE OR OF A POLITICAL  
 13 SUBDIVISION OF THIS STATE ARE NOT ENTITLED TO BE COMPENSATED  
 14 FOR THEIR SERVICE AS MEMBERS BUT ARE ENTITLED TO BE  
 15 REIMBURSED FOR TRAVEL EXPENSES AS PROVIDED FOR IN 2-18-501  
 16 THROUGH 2-18-503.

17 {9} THE MEMBERS OF THE AUTHORITY SHALL BE SUBJECT TO  
 18 SENATE CONFIRMATION AS PROVIDED IN 2-15-124.

19 Section 5. Powers of the authority. The authority may:

- 20 (1) sue and be sued;
- 21 (2) have a seal;
- 22 (3) adopt all procedural and substantive rules
- 23 necessary for the administration of [this act];
- 24 (4) make contracts, agreements, and other instruments
- 25 necessary or convenient for the exercise of its powers under

1 [this act];

2 (5) enter into agreements or other transactions with

3 any federal, state, or local governmental agency or any

4 person or any domestic or foreign partnership, corporation,

5 association, or organization in carrying out [this act];

6 (6) enter into agreements or other transactions with

7 and accept grants and the cooperation of any governmental

8 agency in furtherance of [this act];

9 (7) accept services, appropriations, gifts, grants,

10 bequests, and devise and utilize or dispose of them in

11 carrying out [this act];

12 (8) with regard to property:

13 (a) acquire real or personal property or any right,

14 interest, or easement therein by gift, purchase, transfer,

15 foreclosure, lease, or otherwise;

16 (b) hold, sell, assign, lease, encumber, mortgage, or

17 otherwise dispose of property;

18 (c) hold, sell, assign, or otherwise dispose of any

19 mortgage or loan owned by it or in its control or custody;

20 (d) release or relinquish any right, title, claim,

21 interest, easement, or demand, however acquired, including

22 any equity or right of redemption in property;

23 (e) do any of the foregoing by public or private sale,

24 with or without public bidding;

25 (f) commence any action to protect or enforce any

1 right conferred upon it by law, mortgage, lease, contract,

2 or other agreement;

3 (g) bid for and purchase property at any foreclosure

4 or other sale or acquire or take possession of it in lieu of

5 foreclosure; and

6 (h) operate, manage, lease, dispose of, and otherwise

7 deal with such property in any manner necessary or desirable

8 to protect its interests and the holders of its bonds or

9 notes consistent with any agreement with such holders;

10 (9) service, contract, and pay for the servicing of

11 loans;

12 (10) invest any funds not required for immediate use,

13 subject to any agreements with its bondholders and

14 noteholders, as provided in Title 17, chapter 6;

15 (11) consent, whenever it considers necessary or

16 desirable in fulfilling its purposes, to the modification of

17 the rate of interest, time, and payment of any installment

18 of principal or interest, security, or any other term of any

19 contract, lease agreement, loan agreement, mortgage,

20 mortgage loan, mortgage loan commitment, construction loan,

21 advance contract, or agreement of any kind, subject to any

22 agreement with bondholders and noteholders;

23 (12) collect reasonable interest, fees, and charges in

24 connection with making and servicing its lease agreements,

25 loan agreements, mortgage loans, notes, bonds, commitments,

1 and other evidences of indebtedness. Interest, fees, and  
2 charges shall be limited to the amounts required to pay the  
3 costs of the authority, including operating and  
4 administrative expenses and reasonable allowances for losses  
5 that may be incurred;

6 (13) procure insurance or guarantees from any parties,  
7 including governmental agencies, against any loss in  
8 connection with its lease agreements, loan agreements,  
9 mortgage loans, and other assets or property in amounts and  
10 in the form the authority considers desirable or necessary;

11 ~~(14) acquire by construction, purchase, devise, gift,~~  
12 ~~lease, or any combination of such methods, one or more~~  
13 ~~projects located within this state;~~

14 ~~(15) lease to others any or all of its projects for~~  
15 ~~such rentals and upon terms and conditions consistent with~~  
16 ~~the provisions of [this act], that the authority considers~~  
17 ~~advisable;~~

18 (16)(14) enter into agreements, upon terms the  
19 authority considers advisable and not in conflict with the  
20 provisions of [this act], to loan the proceeds of its bonds  
21 to others for the purpose of defraying the cost of acquiring  
22 or improving any project;

23 (17)(15) issue bonds, including composite bonds, for  
24 the purpose of defraying the cost of acquiring or improving  
25 any project or projects and securing the payment of such

1 bonds as provided in [this act];

2 (18)(16) sell and convey any real or personal property  
3 acquired as provided by subsection (8) and make any order  
4 respecting it, as may be conducive to the best interest of  
5 the authority. However, such sale or conveyance is subject  
6 to the terms of any lease but is free and clear of any other  
7 encumbrance.

8 (19)(17) make ~~and~~ participate in making loans to  
9 individuals, corporations, and government agencies UNDER  
10 TERMS AND CONDITIONS IT PRESCRIBES AND PURSUANT TO [SECTION  
11 7] and accept guarantees from individuals, corporations, and  
12 government agencies of its loans or the resultant evidences  
13 of obligations to the authority;

14 (20)(18) issue notes and bonds, including composite  
15 bonds, and replace lost, destroyed, or mutilated notes and  
16 bonds; and

17 (21)(19) give preference, in exercising its powers, to  
18 primary industries as designated by the authority.

19 Section 6. Self-sufficiency of projects. (1) Prior to  
20 the leasing of any project or entering into a loan agreement  
21 concerning a project, the authority must determine the  
22 following:

23 (a) the amount necessary to pay the principal of and  
24 the interest on the bonds proposed to be issued to finance  
25 such project;

1 (b) the amount necessary to be paid into any reserve  
 2 funds that the authority considers advisable to establish in  
 3 connection with the retirement of the proposed bonds and the  
 4 maintenance of the project including taxes; and

5 (c) the estimated cost of maintaining the project in  
 6 good repair and keeping it properly insured, unless the  
 7 terms of the lease or loan agreement provide that the lessee  
 8 or borrower shall maintain the project and carry all  
 9 property insurance with respect thereto.

10 (2) The determinations and findings of the authority  
 11 required by subsection (1) shall be set forth in the  
 12 proceedings under which the proposed bonds are to be issued.  
 13 Prior to the issuance of any bonds authorized by [this act],  
 14 the authority shall lease the project to a lessee or lessees  
 15 or enter into a loan agreement with a borrower under a lease  
 16 or loan agreement conditioned upon completion of the project  
 17 by the lessees or borrowers and providing for payment to the  
 18 authority of such rentals or payments, on the basis of  
 19 determinations and findings, that will be sufficient to:

20 (a) pay the principal of and interest on the bonds  
 21 issued to finance the project;

22 (b) pay the taxes on the project;

23 (c) build up and maintain any reserves considered by  
 24 the authority to be advisable in connection with the  
 25 project; and

1 (d) pay the costs of maintaining the project in good  
 2 repair and keeping it properly insured, unless the lease or  
 3 loan agreement obligates the lessees or borrowers to pay for  
 4 the maintenance and insurance of the project.

5 (3) Subject to the limitations of [this act], the  
 6 lease, loan agreement, or extensions or modifications  
 7 thereof may contain other terms and conditions mutually  
 8 acceptable to the parties and, notwithstanding any other  
 9 provision of law relating to the sale of property owned by  
 10 the authority, an option may be granted to a lessee to  
 11 purchase the project on terms and conditions as may be  
 12 mutually acceptable to the parties.

13 Section 7. Loan applications -- institution financing.

14 (1) The authority shall contract with financial institutions  
 15 for review of loan applications and other services related  
 16 to the applications. The authority shall authorize such  
 17 institutions to charge a sum equal to NOT TO EXCEED 1% of  
 18 the amount loaned as a service fee, PROVIDED SUCH FEE IS  
 19 CONSISTENT WITH THE TERMS OF THE INTERNAL REVENUE CODE AND  
 20 REGULATIONS ADOPTED THEREUNDER.

21 (2) The financial institution involved in the funding  
 22 of a project shall carry as its loan an amount equal to 10%  
 23 of the total sum loaned in connection with a project. The  
 24 financial institution may secure its percentage of the loan  
 25 with security other than the kind of security required by

1 the authority. Loans may be made only to qualified  
 2 individuals or business entities doing business in the state  
 3 of Montana.

4 (3) No single project may receive a loan from the  
 5 authority in excess of \$2 million. Loans made by the  
 6 authority may be pooled with other loans received by a  
 7 project.

8 ~~(4) The authority may subordinate to commercial~~  
 9 ~~financial institutions up to 20% of all loans outstanding~~  
 10 ~~on a project when in its opinion such subordination is~~  
 11 ~~necessary to help a project through a period of expansion.~~

12 (4) LOANS MADE BY THE AUTHORITY MUST BE SECURED BY ANY  
 13 PROPERTY OR COLLATERAL THE AUTHORITY CONSIDERS NECESSARY.

14 (5) THE AUTHORITY SHALL BY RULE ESTABLISH:

15 (A) PROCEDURES FOR SOLICITING AND EVALUATING  
 16 APPLICATIONS;

17 (B) A SYSTEM FOR EVALUATING APPLICATIONS CONSIDERING  
 18 THE FOLLOWING CRITERIA:

19 (I) THE APPLICANT'S NET WORTH;

20 (II) THE APPLICANT'S INABILITY TO SECURE ADEQUATE  
 21 FINANCING FROM OTHER SOURCES AT AN INTEREST RATE THAT WILL  
 22 ALLOW A REASONABLE PROSPECT FOR REPAYMENT;

23 (III) THE APPLICANT'S TRAINING AND EXPERIENCE IN THE  
 24 INDUSTRY INVOLVED IN THE PROPOSED PROJECT;

25 (IV) THE APPLICANT'S PROSPECTS FOR SUCCEEDING IN THE

1 PROPOSED PROJECT;

2 (V) THE DEGREE TO WHICH THE NEW OR INCREASED BUSINESS  
 3 RESULTING FROM THE LOAN WILL MEET THE OBJECTIVES OF [SECTION  
 4 2]; AND

5 (VI) ANY OTHER FACTORS IT MAY PRESCRIBE.

6 Section 8. Bonds and notes. (1) The authority may by  
 7 resolution, issue negotiable notes and bonds in a principal  
 8 amount as the authority determines necessary to provide  
 9 sufficient funds for achieving any of its purposes,  
 10 including the payment of interest on notes and bonds of the  
 11 authority, establishment of reserves to secure the notes and  
 12 bonds, including the reserve funds created under [section  
 13 17], and all other expenditures of the authority incident to  
 14 and necessary or convenient to carry out [this act].

15 (2) The authority may by resolution, from time to  
 16 time, issue notes to renew notes and bonds or to pay notes,  
 17 including interest, and whenever it considers refunding  
 18 expedient, refund any bonds by the issuance of new bonds,  
 19 whether or not the bonds to be refunded have matured, or  
 20 issue bonds partly to refund bonds outstanding and partly  
 21 for any of its other purposes.

22 (3) Except as otherwise expressly provided by  
 23 resolution of the authority, every issue of its notes and  
 24 bonds is an obligation of the authority payable out of any  
 25 revenue, assets, or money of the authority, subject only to

1 agreements with the holders of particular notes or bonds  
2 pledging particular revenues, assets, or money.

3 (4) The notes and bonds shall be authorized by  
4 resolutions of the authority, bear a date, and mature at  
5 times as the resolutions provide. A note may not mature more  
6 than 5 years and a bond may not mature more than 40 years  
7 from the date of its issue. The bonds may be issued as  
8 serial bonds payable in annual installments, as term bonds,  
9 or as a combination thereof. The notes and bonds shall bear  
10 interest at a rate or rates, be in denominations, be in a  
11 form, either coupon or registered, carry registration  
12 privileges, be executed in a manner, be payable in a medium  
13 of payment, at places within or without the state, and be  
14 subject to terms of redemption as provided in resolutions.  
15 The notes and bonds of the authority may be sold at public  
16 or private sale at prices above or below par, as determined  
17 by the authority.

18 (5) The total amount of notes and bonds outstanding at  
19 any one time, except notes or bonds as to which the  
20 authority's obligations have been satisfied and discharged  
21 by refunding or for which reserve for payment or other means  
22 of payment have been otherwise provided, may not exceed ~~4150~~  
23 \$200 \$50 million.

24 Section 9. Provisions of bond resolutions. A  
25 resolution authorizing notes or bonds, or any issue thereof,

1 may contain provisions, which shall be a part of the  
2 contract or contracts with the holders thereof, as to:

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

7 (2) pledging all or any part of the assets of the  
8 authority, including lease agreements, loan agreements,  
9 mortgages, and obligations securing them, to secure the  
10 payment of the notes or bonds or of any issue thereof,  
11 subject to existing agreements with noteholders or  
12 bondholders;

13 (3) the use and disposition of the gross income from  
14 lease agreements, loan agreements, and mortgages owned by  
15 the authority and payment of principal of mortgages owned by  
16 the authority;

17 (4) the setting aside of reserves for sinking funds in  
18 the hands of trustees, paying agents, and other depositories  
19 and the regulation and disposition thereof;

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

24 (6) limitations on the issuance of additional notes or  
25 bonds, the terms upon which additional notes or bonds may be

1 issued and secured, and the refunding of outstanding notes  
2 or bonds;

3 (7) the procedure, if any, by which the terms of any  
4 contract with noteholders or bondholders may be amended or  
5 abrogated, the amount of notes or bonds the holders of which  
6 must consent thereto, and the manner in which such consent  
7 may be given;

8 (8) a commitment to employ adequate and competent  
9 personnel at reasonable compensation, salaries, fees, and  
10 charges as may be determined by the authority in conjunction  
11 with the department and to maintain suitable facilities and  
12 services for the purpose of carrying out its programs;

13 (9) vesting in a trustee such property, rights,  
14 powers, and duties in trust as the authority determines;

15 (10) defining the acts or omissions that shall  
16 constitute a default in the obligations and duties of the  
17 authority to the holders of the notes or bonds and providing  
18 for the rights and remedies of the holders of the notes or  
19 bonds in the event of such default, including as a matter of  
20 right the appointment of a receiver. Rights and remedies may  
21 not be inconsistent with the laws of the state and the other  
22 provisions of [this act]; and

23 (11) any other matters of like or different character  
24 that in any way affect the security or protection of the  
25 holders of the notes or bonds.

1 Section 10. Validity of pledge. Any pledge made by the  
2 authority is valid and binding from the time the pledge is  
3 made. The revenues, money, or property pledged and received  
4 by the authority shall immediately be subject to the lien of  
5 the pledge without any physical delivery or further act. The  
6 lien of any pledge shall be valid and binding against all  
7 parties having claims of any kind, whether in tort,  
8 contract, or otherwise against the authority, irrespective  
9 of whether such parties have notice thereof. Neither the  
10 resolution nor any other instrument by which a pledge is  
11 created is required to be recorded.

12 Section 11. Personal liability. The authority members  
13 and employees of the department are not personally liable or  
14 accountable by reason of the issuance of or on any bond or  
15 note issued by the authority.

16 Section 12. Purchase of notes and bonds --  
17 cancellation. The authority, subject to existing agreements  
18 with noteholders or bondholders, may, out of any funds  
19 available for that purpose, purchase notes or bonds of the  
20 authority, which shall then be canceled, at a price not  
21 exceeding:

22 (1) the current redemption price plus accrued interest  
23 to the next interest payment, if the notes or bonds are then  
24 redeemable; or

25 (2) the redemption price applicable on the first date



1 after the purchase on which the notes or bonds become  
2 subject to redemption plus accrued interest to that date, if  
3 the notes or bonds are not then redeemable.

4 Section 13. Trust indenture. (1) In the discretion of  
5 the authority, the bonds may be secured by a trust indenture  
6 between the authority and a corporate trustee, which may be  
7 a trust company or bank having the power of a trust company  
8 either in or outside the state. A trust indenture may  
9 contain provisions for protecting and enforcing bondholders'  
10 rights and remedies that are reasonable, proper, and not in  
11 violation of law, including covenants setting forth the  
12 duties of the authority in relation to the exercise of its  
13 powers and the custody, safeguarding, and application of all  
14 money. The authority may provide by a trust indenture for  
15 the payment of the proceeds of the bonds and revenues to the  
16 trustee under the trust indenture of another depository and  
17 for the method of disbursement, with safeguards and  
18 restrictions it considers necessary.

19 (2) All expenditures incurred in carrying out a trust  
20 indenture may be treated as part of the operating  
21 expenditures of the authority.

22 Section 14. Negotiability of bonds. Notes and bonds  
23 issued by the authority are negotiable instruments under the  
24 Uniform Commercial Code, subject only to the provisions for  
25 registration of notes and bonds.

1 Section 15. Signatures of authority members. If  
2 authority members whose signatures appear on notes or bonds  
3 or coupons cease to be members before the delivery of the  
4 notes or bonds, their signatures shall, nevertheless, be  
5 valid and sufficient for all purposes, the same as if the  
6 members had remained in office until delivery.

7 Section 16. Accounts. The authority shall create the  
8 following separate accounts:

9 (1) a bond proceeds account into which bond proceeds  
10 shall be deposited;

11 (2) a capital reserve account as provided in [section  
12 17]; and

13 (3) an operating account for defraying the operational  
14 costs of the authority.

15 Section 17. Reserve funds and appropriations. (1) The  
16 authority shall establish a capital reserve account and pay  
17 into it:

18 (a) any funds appropriated and made available by the  
19 state for the purpose of the account;

20 (b) any proceeds of sale of notes or bonds to the  
21 extent provided in the resolutions or indentures of the  
22 authority authorizing their issuance; and

23 (c) any other funds which may be available to the  
24 authority from any other source for the purpose of the  
25 account.

1           (2) All funds held in the capital reserve account  
2 shall be used solely for the payment of the principal of or  
3 interest on the bonds secured in whole or in part by the  
4 account or the sinking fund payments with respect to the  
5 bonds, the purchase or redemption of the bonds, the payment  
6 of interest on the bonds, or the payment of any redemption  
7 premium required to be paid when the bonds are redeemed  
8 prior to maturity. Funds in the account may not be withdrawn  
9 at any time in an amount that reduces the account to an  
10 amount less than the sum of minimum capital reserve  
11 requirements established in the resolutions or indentures of  
12 the authority for the account, except, with respect to bonds  
13 secured in whole or in part by the account, for the purpose  
14 of making payment, when due, of principal, interest,  
15 redemption premiums, and sinking fund payments for the  
16 payment of which other money pledged is not available. Any  
17 income or interest earned by or incremental to the capital  
18 reserve account due to its investment may be transferred to  
19 other accounts of the authority to an extent that does not  
20 reduce the amount of the capital reserve account below the  
21 sum of minimum capital reserve requirements for the account.

22           (3) The authority may not issue bonds secured in whole  
23 or in part by the capital reserve account unless the  
24 authority secures such deposits in the account from the  
25 proceeds of the bonds issued or from any other sources in an

1 amount not less than the minimum capital reserve requirement  
2 for the bonds.

3           (4) In computing the amount of the capital reserve  
4 account, securities in which all or a portion of the account  
5 are invested shall be valued at par or, if purchased at less  
6 than par, at their cost to the authority.

7           ~~Section 18--Maintenance of--capital--reserve--account--~~  
8 ~~{1}--In--order--to--assure--the--maintenance--of--the--capital~~  
9 ~~reserve--account--the--chairman--of--the--authority--shall--at~~  
10 ~~3-month-intervals--beginning--on--September--1--1981--deliver--to~~  
11 ~~the--governor--a--certificate--stating--the--sum--if--any--required~~  
12 ~~to--restore--the--capital--reserve--account--to--the--minimum~~  
13 ~~capital--reserve--requirements--the--governor--shall--require--the~~  
14 ~~director--of--the--department--to--remit--the--sum--required--to~~  
15 ~~restore--the--capital--reserve--account--to--the--sum--of--the~~  
16 ~~minimum--capital--reserve--requirements--utilizing--revenue~~  
17 ~~derived--from--interest--earnings--from--the--coal--severance--tax~~  
18 ~~permanent--trust--fund--created--by--Article--IX--section--5--of~~  
19 ~~the--Montana--Constitution--All--such--sums--shall--be--deposited~~  
20 ~~in--the--capital--reserve--account--~~

21           ~~{2}--Prior--to--the--10th--legislative--day--of--each--regular~~  
22 ~~legislative--session--the--budget--director--shall--provide--the~~  
23 ~~legislature--with--an--estimate--of--interest--earnings--from--the~~  
24 ~~permanent--coal--trust--fund--and--20%--of--such--estimated~~  
25 ~~interest--earnings--is--hereby--reserved--and--pledged--for--the--use~~

1 by the authority as specified in this section.  
 2 ~~(3) All amounts remitted to the authority by the~~  
 3 ~~director of the department under this section constitute~~  
 4 ~~advances to any bonds or notes of the authority and shall be~~  
 5 ~~repaid to the state treasury without interest from available~~  
 6 ~~operating revenues of the authority in excess of amounts~~  
 7 ~~required for the payment of bonds, notes, or other~~  
 8 ~~obligations of the authority for maintenance of the capital~~  
 9 ~~reserve account and operating expenses.~~

10 Section 18. Refunding obligations -- issuance. The  
 11 authority may provide for the issuance of refunding  
 12 obligations for refunding any obligations then outstanding  
 13 that have been issued under [this act], including the  
 14 payment of any redemption of the obligations. The issuance  
 15 of obligations, the maturities and other details, the rights  
 16 of the holders, and the rights, duties, and obligations of  
 17 the authority are governed by the appropriate provisions of  
 18 [this act] that relate to the issuance of obligations.

19 Section 19. Refunding obligations -- sale. Refunding  
 20 obligations may be sold or exchanged for outstanding  
 21 obligations issued under [this act]. The proceeds may be  
 22 applied to the purchase, redemption, or payment of  
 23 outstanding obligations. Pending the application of the  
 24 proceeds of refunding obligations and other available funds  
 25 to the payment of principal, accrued interest, and any

1 redemption premium on the obligations being refunded and, if  
 2 permitted in the resolution authorizing the issuance of the  
 3 refunding obligations or in the trust agreement securing  
 4 them, to the payment of interest on refunding obligations  
 5 and expenses in connection with refunding, the proceeds may  
 6 be invested as provided in Title 17, chapter 6.

7 Section 20. Credit of state not pledged. Obligations  
 8 issued under the provisions of [this act] do not constitute  
 9 a debt, liability, obligation, or pledge of the faith and  
 10 credit of the state, but are payable solely from the  
 11 revenues or assets of the authority. An obligation issued  
 12 under [this act] shall contain on the face thereof a  
 13 statement to the effect that the state of Montana is not  
 14 liable on the obligation, the obligation is not a debt of  
 15 the state, and neither the faith and credit nor the taxing  
 16 power of the state is pledged to the payment of the  
 17 principal of or the interest on the obligation.

18 Section 21. ~~Annual audits -- (1) The authority's books~~  
 19 ~~and records shall be audited at least once each fiscal year.~~

20 ~~(2) The legislative auditor may conduct an audit at~~  
 21 ~~any time upon the request of the legislative audit~~  
 22 ~~committee.~~ ANNUAL AUDIT. THE AUTHORITY'S BOOKS AND RECORDS  
 23 MUST BE AUDITED AT LEAST ONCE EACH YEAR BY THE LEGISLATIVE  
 24 AUDITOR OR BY A CONTRACT AUDITOR AS DIRECTED BY THE  
 25 LEGISLATIVE AUDIT COMMITTEE. THE COST OF THE AUDIT SHALL BE

1 PAID BY THE AUTHORITY.

2 Section 22. Tax exemption of bonds. Bonds, notes, or  
3 other obligations issued by the authority under [this act],  
4 their transfer, and income (including any profits made on  
5 their sale) are free from taxation by the state or any  
6 political subdivision or other instrumentality of the state,  
7 except for inheritance, estate, and gift taxes. The  
8 authority is not required to pay recording or transfer fees  
9 or taxes on instruments recorded by it.

10 Section 23. Taxation of projects. (1) Notwithstanding  
11 that title to a project may be in the authority, the  
12 projects are subject to taxation to the same extent, in the  
13 same manner, and under the same procedures as privately  
14 owned property in similar circumstances if the projects are  
15 leased to or held by private interests on both the  
16 assessment date and the date the levy is made in any year.  
17 The projects are not subject to taxation in any year if they  
18 are not leased to or held by private interests on both the  
19 assessment date and the date the levy is made in that year.

20 (2) If personal property owned by a municipality or  
21 county is taxed under this section and the personal property  
22 taxes are delinquent, levy by warrant of distraint for  
23 collection of the delinquent taxes may only be made on  
24 personal property against which the taxes were levied.

25 Section 24. Pledge of the state. In accordance with

1 the Constitution of the United States and the Constitution  
2 of the State of Montana, the state pledges that it will not  
3 in any way impair the obligations of any agreement between  
4 the authority and the holders of notes and bonds issued by  
5 the authority, including but not limited to an agreement to  
6 administer an economic development program financed by the  
7 issuance of bonds and to employ a staff sufficient and  
8 competent for this purpose.

9 SECTION 25. ECONOMIC DEVELOPMENT GUARANTY FUND. (1)  
10 THE AUTHORITY SHALL CREATE AN ECONOMIC DEVELOPMENT GUARANTY  
11 FUND. THE FUND SHALL BE HELD BY A TRUSTEE OR OTHER FIDUCIARY  
12 DESIGNATED BY THE AUTHORITY. THERE SHALL BE DEPOSITED INTO  
13 THE FUND THE PROCEEDS OF THE SALE OF BONDS AUTHORIZED BY  
14 [SECTION 29] AND SUCH OTHER REVENUES AND ASSETS AS THE  
15 AUTHORITY SHALL CONSIDER NECESSARY TO COMPLY WITH ANY  
16 CONTRACT OR AGREEMENT ENTERED INTO BY THE AUTHORITY UNDER  
17 [THIS ACT].

18 (2) THE AMOUNTS IN THE FUND SHALL BE USED TO SATISFY  
19 ANY CLAIM RESULTING FROM A DEFAULTED LOAN. THE AMOUNTS IN  
20 THE FUND MAY ALSO BE USED FOR ANY OTHER PURPOSE DETERMINED  
21 BY THE AUTHORITY IN ACCORDANCE WITH GUARANTY CONTRACTS WITH  
22 FINANCIAL INSTITUTIONS ENTERED INTO PURSUANT TO [THIS ACT],  
23 INCLUDING WITHOUT LIMITATION, THE PROTECTION OF THE INTEREST  
24 OF THE AUTHORITY IN PROJECTS DURING PERIODS OF LOAN  
25 DELINQUENCY OR UPON LOAN DEFAULTS.

1        SECTION 26. LOAN GUARANTY PROGRAM. (1) THE AUTHORITY  
 2        MAY GUARANTEE AND MAKE COMMITMENTS TO GUARANTEE PAYMENT  
 3        REQUIRED BY A LOAN FOR ANY PROJECT UPON SUCH TERMS AND  
 4        CONDITIONS AS THE AUTHORITY MAY PRESCRIBE IN ACCORDANCE WITH  
 5        [THIS ACT]. IN ADMINISTERING THE GUARANTY PROGRAM, THE  
 6        AUTHORITY MAY REQUIRE THE PAYMENT OF A FEE OR PREMIUM,  
 7        ESTABLISH APPLICATION FEES, AND PRESCRIBE APPLICATION,  
 8        NOTIFICATION, CONTRACT AND GUARANTY FORMS, RULES,  
 9        REGULATIONS AND GUIDELINES.

10        (2) A LOAN GUARANTEED BY THE AUTHORITY UNDER [THIS  
 11        ACT] SHALL:

12        (A) BE MADE FOR A PROJECT;

13        (B) BE FINANCED INITIALLY FROM THE PROCEEDS OF NOTES  
 14        OR BONDS ISSUED PURSUANT TO [SECTION 8];

15        (C) BE MADE TO A BORROWER APPROVED BY THE AUTHORITY OR  
 16        LENDING INSTITUTION AS RESPONSIBLE;

17        (D) CONTAIN COMPLETE AMORTIZATION PROVISIONS  
 18        SATISFACTORY TO THE AUTHORITY; AND

19        (E) BE IN SUCH PRINCIPAL AMOUNT, BE IN SUCH FORM, AND  
 20        CONTAIN SUCH TERMS AND PROVISIONS WITH RESPECT TO PROPERTY  
 21        INSURANCE, REPAIRS, ALTERATIONS, PAYMENT OF TAXES AND  
 22        ASSESSMENTS, DELINQUENCY CHARGES, AND DEFAULT REMEDIES.

23        (3) THE AUTHORITY IS AUTHORIZED FROM TIME TO TIME TO  
 24        ENTER INTO GUARANTIES, INSURANCE CONTRACTS, OR ANY OTHER  
 25        AGREEMENT OR CONTRACTS WITH RESPECT TO THE GUARANTY FUND AND

1        ANY GUARANTEED LOAN. ANY SUCH AGREEMENT OR CONTRACT MAY  
 2        CONTAIN TERMS AND PROVISIONS NECESSARY OR DESIRABLE IN  
 3        CONNECTION WITH THE GUARANTY PROGRAM SUBJECT TO THE  
 4        REQUIREMENTS ESTABLISHED, INCLUDING WITHOUT LIMITATION TERMS  
 5        AND PROVISIONS RELATING TO LOAN DOCUMENTATION, REVIEW AND  
 6        APPROVAL PROCEDURES, ORIGINATION AND SERVICING RIGHTS AND  
 7        RESPONSIBILITIES, DEFAULT OBLIGATIONS, PROCEDURES AND  
 8        OBLIGATIONS, AND OBLIGATIONS WITH RESPECT TO GUARANTY  
 9        CONTRACTS MADE UNDER [THIS ACT].

10        (4) ANY CONTRACT OF GUARANTY MADE BY THE AUTHORITY  
 11        UNDER THE AUTHORIZATION OF [THIS ACT] SHALL PROVIDE THAT  
 12        CLAIMS PAYABLE THEREUNDER SHALL BE PAID FROM ANY AMOUNTS  
 13        AVAILABLE IN THE ECONOMIC DEVELOPMENT GUARANTY FUND AND FROM  
 14        ANY AMOUNTS AVAILABLE UNDER THE TERMS OF ANY APPLICABLE  
 15        CONTRACT OR AGREEMENT WITH THE FINANCIAL INSTITUTION WHICH  
 16        ORIGINATED THE GUARANTEED LOAN. THE OBLIGATION OF THE  
 17        AUTHORITY TO MAKE PAYMENTS UNDER ANY SUCH CONTRACT SHALL BE  
 18        LIMITED SOLELY TO SUCH SOURCES, AND SHALL NOT CONSTITUTE A  
 19        DEBT OR LIABILITY OF THE AUTHORITY OR THE STATE. ANY  
 20        GUARANTY CONTRACT AND ANY RULE, REGULATION, OR GUIDELINE OF  
 21        THE AUTHORITY IMPLEMENTING THE GUARANTY PROGRAM MAY CONTAIN  
 22        SUCH OTHER TERMS, PROVISIONS OR CONDITIONS AS THE AUTHORITY  
 23        CONSIDERS NECESSARY OR APPROPRIATE, INCLUDING WITHOUT  
 24        LIMITATION, THOSE RELATING TO THE PAYMENT OF GUARANTY  
 25        PREMIUMS, THE GIVING OF NOTICE, CLAIM PROCEDURE, THE SOURCES

1 OF PAYMENT FOR CLAIMS, THE PRIORITY OF COMPETING CLAIMS FOR  
 2 PAYMENT, THE RELEASE OR TERMINATION OF LOAN SECURITY AND  
 3 BORROWER LIABILITY, THE TIMING OF PAYMENT, THE MAINTENANCE  
 4 AND DISPOSITION OF PROJECTS AND THE USE OF AMOUNTS RECEIVED  
 5 DURING PERIODS OF LOAN DELINQUENCY OR UPON DEFAULT, AND ANY  
 6 OTHER PROVISION CONCERNING THE RIGHTS OF INSURED PARTIES OR  
 7 CONDITIONS TO THE PAYMENT OF GUARANTY CLAIMS. ANY PREMIUMS  
 8 FOR THE GUARANTY OF LOAN PAYMENTS UNDER THE PROVISIONS OF  
 9 [THIS ACT] MAY BE DETERMINED ON SUCH BASIS, BE PAYABLE BY  
 10 SUCH PERSON, AND BE PAYABLE IN SUCH AMOUNTS AND AT SUCH  
 11 TIMES AS THE AUTHORITY SHALL DETERMINE, AND THE AMOUNT OF  
 12 THE PREMIUM NEED NOT BE UNIFORM AMONG THE VARIOUS LOANS  
 13 GUARANTEED.

14 (5) THE MINIMUM RESERVE REQUIREMENT FOR THE ECONOMIC  
 15 DEVELOPMENT GUARANTY FUND SHALL BE 10% OF THE AGGREGATE  
 16 AMOUNT OF LOANS INSURED. NO LOAN MAY BE INSURED BY THE  
 17 AUTHORITY IF SUCH LOAN TOGETHER WITH THE AGGREGATE OF ALL  
 18 OTHER LOANS THEN INSURED EXCEEDS TEN TIMES THE AMOUNT OF  
 19 FUNDS AVAILABLE IN THE ECONOMIC DEVELOPMENT GUARANTY FUND.

20 SECTION 27. REQUEST FOR APPROPRIATIONS. (1) IN ORDER  
 21 TO ASSURE THE MAINTENANCE OF THE ECONOMIC DEVELOPMENT  
 22 GUARANTY FUND, THE CHAIRMAN OF THE AUTHORITY SHALL ON OR  
 23 BEFORE SEPTEMBER 1 IN THE YEAR PRECEDING THE CONVENING OF  
 24 THE LEGISLATURE DELIVER TO THE GOVERNOR A CERTIFICATE  
 25 STATING THE SUM, IF ANY, REQUIRED TO RESTORE THE ECONOMIC

1 DEVELOPMENT GUARANTY FUND TO THE MINIMUM RESERVE  
 2 REQUIREMENT. THE GOVERNOR SHALL INCLUDE IN THE EXECUTIVE  
 3 BUDGET SUBMITTED TO THE LEGISLATURE THE SUM REQUIRED TO  
 4 RESTORE THE ECONOMIC DEVELOPMENT GUARANTY FUND TO THE  
 5 MINIMUM CAPITAL RESERVE REQUIREMENT.

6 (2) ALL AMOUNTS REMITTED TO THE AUTHORITY UNDER THIS  
 7 SECTION CONSTITUTE LOANS TO THE AUTHORITY AND SHALL BE  
 8 REPAID TO THE STATE TREASURY WITHOUT INTEREST FROM AVAILABLE  
 9 OPERATING REVENUES OF THE AUTHORITY IN EXCESS OF AMOUNTS  
 10 REQUIRED FOR THE GUARANTY OF LOANS.

11 ~~Section 28. General obligation bonds authorized to~~  
 12 ~~fund economic development guaranty fund. (1) The board of~~  
 13 ~~examiners upon the recommendation of the economic~~  
 14 ~~development authority created by (section 4) may issue and~~  
 15 ~~sell general obligation bonds in an amount not to exceed \$5~~  
 16 ~~million. The bonds shall be issued, sold, and retired in the~~  
 17 ~~same manner as prescribed in 17-5-403 for the long-range~~  
 18 ~~building program bonds.~~

19 ~~(2) The proceeds of the sale of the bonds authorized~~  
 20 ~~by subsection (1) shall be deposited in the economic~~  
 21 ~~development guaranty fund as provided in (section 25).~~

22 SECTION 28. REPORT TO 48TH LEGISLATURE. THE AUTHORITY  
 23 SHALL INVESTIGATE THE FEASIBILITY OF GUARANTEEING LOANS OF  
 24 THE AUTHORITY THROUGH METHODS OTHER THAN THE ECONOMIC  
 25 DEVELOPMENT GUARANTY FUND PROVIDED FOR IN [SECTIONS 25

1 THROUGH 27] SUCH AS GUARANTEEING LOANS THROUGH PRIVATE  
2 INSURANCE COVERAGE. THE AUTHORITY SHALL REPORT ITS FINDINGS  
3 TO THE 48TH LEGISLATURE AND MAKE RECOMMENDATIONS CONCERNING  
4 WHETHER TO CONTINUE THE ECONOMIC DEVELOPMENT GUARANTY FUND  
5 OR TO REPLACE IT WITH A MORE APPROPRIATE METHOD OF LOAN  
6 GUARANTY.

7 SECTION 29. COORDINATION INSTRUCTION. IF SB 432 IS  
8 PASSED BY THE 47TH LEGISLATURE AND APPROVED BY THE GOVERNOR,  
9 THE "DEPARTMENT" AS DEFINED IN SUBSECTION (5) OF [SECTION 3]  
10 AND TO WHICH THE AUTHORITY IS ALLOCATED IN SUBSECTIONS (5)  
11 AND (6) OF [SECTION 4], SHALL BE CHANGED FROM THE DEPARTMENT  
12 OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE.

-End-

April 13, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 798, third reading copy,  
as follows:

That the following amendments of the Senate  
Standing Committee on Taxation, dated April  
6, 1981, be amended to read as follows:

1. Title, line 8.

Following: "AUTHORITY"

Insert: "; CREATING AN ECONOMIC DEVELOPMENT  
GUARANTY FUND"

17. Page 24.

Following: line 10.

Insert: Sections 25 through 27.

Strike: Section 28.

Re-number: Sections 29 and 30.



April 6, 1981

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 798 be amended as follows:

1. Title, line 8  
Following: "AUTHORITY"  
Insert: "; CREATING AN ECONOMIC DEVELOPMENT GUARANTY FUND; PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FUND THE GUARANTY FUND"
2. Page 4, line 14.  
Following: "finance."  
Insert: "Two members of the authority must be active participants in the management of a financial institution."
3. Page 4, line 15.  
Following: line 14  
Strike: "(a) Two"  
Insert: "(2) Three"  
Following: "governor"  
Reinsert: stricken language through line 16.
4. Page 4, line 17.  
Following: line 16  
Strike: lines 17 through 19.  
Insert: "(3) The governor shall consider making appointments to the authority from a panel of names submitted as hereinafter provided. Two persons shall be appointed to the panel by each of the following individuals."  
Reinsert: subsequent subsections.
5. Page 4, line 24.  
Following: line 23  
Strike: line 24 through line 5 on page 5.
6. Page 5, line 6.  
Following: line 5  
Insert: "(4)"  
Reinsert: subsequent sections
7. Page 5, line 16.  
Following: "employee of"  
Strike: "any business enterprise"  
Insert: "a financial institution"
8. Page 5, line 18.  
Following: line 17  
Insert: "(8) Unless he is a full-time salaried officer or employee of this state or of a political subdivision of this state, each member is entitled to be paid \$25 for each day in which he is actually and necessarily engaged in the performance of authority duties and he is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of authority duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

Page 2  
House Bill No. 798

(9) The members of the authority shall be subject to senate confirmation as provided in 2-15-124."

9. Page 8, lines 10 through 16.  
Following: line 9  
Strike: lines 10 through 16  
Reinsert: subsequent subsections.
10. Page 9, line 7.  
Following: "(19)"  
Strike: "make and"
11. Page 9, line 8.  
Following: "agencies"  
Insert: "under terms and conditions it prescribes and pursuant to [section 7]"
12. Page 11, line 15  
Following: "sum."  
Strike: "equal to"  
Insert: "not to exceed"
13. Page 11, line 16.  
Following: "fee"  
Insert: ", provided such fee is consistent with the terms of the internal revenue code and regulations adopted thereunder"
14. Page 12, lines 4 through 7.  
Strike: subsection (4) in its entirety  
Following: line 7  
Insert: "(4) Loans made by the authority must be secured by any property or collateral the authority considers necessary.  
(5) The authority shall by rule establish:  
(a) procedures for soliciting and evaluating applications;  
(b) a system for evaluating applications considering the following criteria:  
(i) the applicant's net worth;  
(ii) the applicant's inability to secure adequate financing from other sources at an interest rate that will allow a reasonable prospect for repayment;  
(iii) the applicant's training and experience in the industry involved in the proposed project;  
(iv) the applicant's prospects for succeeding in the proposed project;  
(v) the degree to which the new or increased business resulting from the loan will meet the objectives of [section 2]; and  
(vi) any other factors it may prescribe."  
Reinsert subsequent subsections.
15. Page 13, line 25.  
Following: line 24  
Strike: "\$200"  
Insert: "\$50"
16. Page 20, line 9 through line 11 on page 21.  
Strike: section 18 in its entirety.  
Reinsert: Subsequent sections.

17. Page 24,  
following: line 10

Insert: "Section 25. Economic development guaranty fund. (1) The authority shall create an economic development guaranty fund. The fund shall be held by a trustee or other fiduciary designated by the authority. There shall be deposited into the fund the proceeds of the sale of bonds authorized by [section 29] and such other revenues and assets as the authority shall consider necessary to comply with any contract or agreement entered into by the authority under [this act].

(2) The amounts in the fund shall be used to satisfy any claim resulting from a defaulted loan. The amounts in the fund may also be used for any other purpose determined by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to [this act], including without limitation, the protection of the interest of the authority in projects during periods of loan delinquency or upon loan defaults.

Section 26. Loan guaranty program. (1) The authority may guarantee and make commitments to guarantee payment required by a loan for any project upon such terms and conditions as the authority may prescribe in accordance with [this act]. In administering the guaranty program, the authority may require the payment of a fee or premium, establish application fees, and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(2) A loan guaranteed by the authority under [this act] shall:

- (a) be made for a project;
- (b) be financed initially from the proceeds of notes or bonds issued pursuant to [section 8];
- (c) be made to a borrower approved by the authority or lending institution as responsible;
- (d) contain complete amortization provisions satisfactory to the authority; and
- (e) be in such principal amount, be in such form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, and default remedies.

(3) The authority is authorized from time to time to enter into guaranties, insurance contracts, or any other agreement or contracts with respect to the guaranty fund and any guaranteed loan. Any such agreement or contract may contain terms and provisions necessary or desirable in connection with the guaranty program subject to the requirements established, including without limitation terms and provisions relating to loan documentation, review and approval procedures, origination and servicing rights and responsibilities, default obligations, procedures and obligations, and obligations with respect to guaranty contracts made under [this act].

(4) Any contract of guaranty made by the authority under the authorization of [this act] shall provide that claims payable thereunder shall be paid from any amounts available in the economic development guaranty fund and from any amounts available under the terms of any applicable contract or agreement with the financial institution which originated the guaranteed loan. The obligation of the authority to make payments under any such contract shall be limited solely to such sources, and shall not constitute a debt or liability of the authority or the state. Any guaranty contract and any rule,

regulation, or guideline of the authority implementing the guaranty program may contain such other terms, provisions or conditions as the authority considers necessary or appropriate, including without limitation, those relating to the payment of guaranty premiums, the giving of notice, claim procedure, the sources of payment for claims, the priority of competing claims for payment, the release or termination of loan security and borrower liability, the timing of payment, the maintenance and disposition of projects and the use of amounts received during periods of loan delinquency or upon default, and any other provision concerning the rights of insured parties or conditions to the payment of guaranty claims. Any premiums for the guaranty of loan payments under the provisions of [this act] may be determined on such basis, be payable by such person, and be payable in such amounts and at such times as the authority shall determine, and the amount of the premium need not be uniform among the various loans guaranteed.

(5) The minimum reserve requirement for the economic development guaranty fund shall be 10% of the aggregate amount of loans insured. No loan may be insured by the authority if such loan together with the aggregate of all other loans then insured exceeds ten times the amount of funds available in the economic development guaranty fund.

Section 27. Request for appropriations. (1) In order to assure the maintenance of the economic development guaranty fund, the chairman of the authority shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the economic development guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the economic development guaranty fund to the minimum capital reserve requirement.

(2) All amounts remitted to the authority under this section constitute loans to the authority and shall be repaid to the state treasury without interest from available operating revenues of the authority in excess of amounts required for the guaranty of loans.

Section 28. General obligation bonds authorized to fund economic development guaranty fund. (1) The board of examiners, upon the recommendation of the economic development authority created by [section 4], may issue and sell general obligation bonds in an amount not to exceed \$5 million. The bonds shall be issued, sold, and retired in the same manner as prescribed in 17-5-403 for the long-range building program bonds.

(2) The proceeds of the sale of the bonds authorized by subsection (1) shall be deposited in the economic development guaranty fund as provided in [section 25]."

Section 29. Report to 48th legislature. The authority shall investigate the feasibility of guaranteeing loans of the authority through methods other than the economic development guaranty fund provided for in [section 25 through 27] such as guaranteeing loans through private insurance coverage. The authority shall report its findings to the 48th legislature and make recommendations concerning whether to continue the economic development guaranty fund or to replace it with a more appropriate method of loan guaranty.

Section 30. Coordination instruction. If SB 432 is passed by the 47th legislature and approved by the governor, the "department" as defined in subsection (5) of [section 3] and to which the authority is allocated in subsections (5) and (6) of [section 4], shall be changed from the department of administration to the department of commerce."

April 6, 1981

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 798 Statement of Intent be amended as follows:

1. Statement of intent, line 7.  
Following: line 6  
Strike: "Section"  
Insert: "Sections"
2. Statement of intent, line 7.  
Following: "5(3)"  
Insert: ", 7(4), and 27(1)"
3. Statement of intent, line 14.  
Following: "institutions,"  
Insert: "procedures for guaranteeing loans under the loan guaranty program,  
review of loan applications, and"
4. Statement of intent, line 15.  
Following: line 14  
Strike: "acquiring"  
Insert: "repossession"