

SENATE BILL NO. 125

INTRODUCED BY BLAYLOCK, MAZUREK, HIMSL, KOLSTAD,
TOWE, METCALF, FABREGA, RAMIREZ

IN THE SENATE

January 12, 1983	Introduced and referred to Committee on Business and Industry.
January 25, 1983	Committee recommend bill do pass as amended. Report adopted.
January 26, 1983	Bill printed and placed on members' desks.
January 27, 1983	Second reading, do pass.
January 28, 1983	Correctly engrossed.
January 29, 1983	Third reading, passed. Ayes, 47; Noes, 1. Transmitted to House.

IN THE HOUSE

January 29, 1983	Introduced and referred to Select Committee on Economic Development.
March 3, 1983	Rereferred to Committee on Business and Industry.
March 21, 1983	Committee recommend bill be concurred in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *135*
 2 INTRODUCED BY *Blaylock, Maguire, Hines, Kester*
 3 *Don Metcalf, George Ramirez*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE WORD
 5 "CREDIT" FROM THE NAME OF DEVELOPMENT CREDIT CORPORATIONS OF
 6 MONTANA; TO CHANGE THE LOAN LIMIT RESTRICTIONS FOR SUCH
 7 CORPORATIONS; TO LOWER THE INTEREST RATE ON SUCH
 8 CORPORATIONS' EVIDENCES OF INDEBTEDNESS; AND TO LOWER THE
 9 REQUIRED EARNED SURPLUS OF SUCH CORPORATIONS; AMENDING
 10 SECTIONS 32-4-101, 32-4-201, 32-4-302, AND 32-4-304, MCA;
 11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 32-4-101, MCA, is amended to read:
 15 "32-4-101. Definitions. As used in this chapter, the
 16 following words and phrases, unless differently defined or
 17 described, shall have the meanings and references as
 18 follows:
 19 (1) "corporation"--a Montana development credit
 20 corporation created under this chapter;
 21 (2) "financial institution"--any banking corporation
 22 or trust company, building and loan association, insurance
 23 company or related corporation, partnership, foundation, or
 24 other institution engaged primarily in lending or investing
 25 funds;

1 (3) "member"--any financial institution authorized to
 2 do business within this state which shall undertake to lend
 3 money to a corporation created under this chapter, upon its
 4 call and in accordance with the provisions of this chapter;
 5 (4) "board of directors"--the board of directors of
 6 the corporation created under this chapter;
 7 (5) "loan limit"--for any member, the maximum amount
 8 permitted to be outstanding at one time on loans made by
 9 such member to the corporation, as determined under the
 10 provisions of this chapter."
 11 Section 2. Section 32-4-201, MCA, is amended to read:
 12 "32-4-201. Incorporators -- general powers -- capital
 13 stock -- articles of incorporation. Nine or more persons, a
 14 majority of whom shall be residents of this state, who
 15 desire to create a development credit corporation under the
 16 provisions of this chapter for the purpose of promoting,
 17 developing, and advancing the prosperity and economic
 18 welfare of the state and, to that end, to exercise the
 19 powers and privileges hereinafter provided, may be
 20 incorporated in the following manner:
 21 (1) Such persons shall by articles of incorporation
 22 filed in the manner prescribed in Title 35, under their
 23 hands and seals, set forth:
 24 (a) the name of the corporation, which shall include
 25 the words "Development Credit Corporation of Montana";

1 (b) the location of the principal office of the
2 corporation, but such corporation may have offices in such
3 other places within the state as may be fixed by the board
4 of directors;

5 (c) the purposes for which the corporation is founded,
6 which shall include the following:

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

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

15 (iii) to borrow money from the members, nonmember
16 persons, firms, or corporations and state and federal
17 agencies for any of the purposes of the corporation; to
18 issue therefor its bonds, debentures, notes, or other
19 evidences of indebtedness, whether secured or unsecured, and
20 to secure the same by mortgage, pledge, deed of trust, or
21 other lien on its property, franchises, rights, and
22 privileges of every kind and nature or any part thereof or
23 interest therein, without securing stockholder or member
24 approval; provided that no loan to the corporation may be
25 secured in any manner unless all outstanding loans to the

1 corporation are secured equally and ratably in proportion to
2 the unpaid balance of such loans and in the same manner;

3 (iv) to make loans to any person, firm, corporation,
4 joint-stock company, association, or trust and establish and
5 regulate the terms and conditions with respect to any such
6 loans and the charges for interest and service connected
7 therewith; provided, however, that the corporation may not
8 approve any application for a loan unless the person
9 applying for the loan shows that he has applied for the loan
10 through ordinary banking channels and that the loan has been
11 refused by at least one bank or other financial institution;

12 (v) to participate with any duly authorized private
13 lending agency and city, state, and federal governmental
14 lending agencies in the making of loans;

15 (vi) to purchase, receive, hold, lease, or otherwise
16 acquire and to sell, convey, transfer, lease, or otherwise
17 dispose of real and personal property, together with such
18 rights and privileges as may be incidental and appurtenant
19 thereto and the use thereof, including, but not restricted
20 to, any real or personal property acquired by the
21 corporation from time to time in the satisfaction of debts
22 or enforcement of obligations;

23 (vii) to acquire the good will, business, rights, real
24 and personal property, and other assets or any part thereof
25 or interest therein of any persons, firms, corporations,

1 joint-stock companies, associations, or trusts and to
 2 assume, undertake, or pay the obligations, debts, and
 3 liabilities of any such person, firm, corporation,
 4 joint-stock company, association, or trust;

5 (viii) to acquire improved or unimproved real estate
 6 for the purpose of constructing industrial plants or other
 7 business establishments thereon or for the purpose of
 8 disposing of such real estate to others for the construction
 9 of industrial plants or other business establishments;

10 (ix) to acquire, construct or reconstruct, alter,
 11 repair, maintain, operate, sell, convey, transfer, lease, or
 12 otherwise dispose of industrial plants or business
 13 establishments;

14 (x) to acquire, subscribe for, own, hold, sell,
 15 assign, transfer, mortgage, pledge, or otherwise dispose of
 16 the stock, shares, bonds, debentures, notes, or other
 17 securities and evidences of interest in or indebtedness of
 18 any person, firm, corporation, joint-stock company,
 19 association, or trust and while the owner or holder thereof
 20 exercise all the rights, powers, and privileges of
 21 ownership, including the right to vote thereon;

22 (xi) to mortgage, pledge, or otherwise encumber any
 23 property, right, or thing of value, acquired pursuant to the
 24 powers contained in subsections (1)(c)(vi) through (1)(c)(x)
 25 of this section, as security for the payment of any part of

1 the purchase price thereof;

2 (xii) to cooperate with and avail itself of the
 3 facilities of the state planning and economic development
 4 divisions of the department of commerce and any similar
 5 governmental agencies and to cooperate with, assist, and
 6 otherwise encourage organizations in the various communities
 7 of the state in the promotion, assistance, and development
 8 of the business prosperity and economic welfare of such
 9 communities or of this state or of any part thereof;

10 (xiii) to accept gifts, donations, bequests, devises,
 11 or grants from any person, corporation, association, or
 12 governmental agency, whether state, federal, or municipal;

13 (xiv) to do all acts and things necessary or convenient
 14 to carry out the powers expressly granted in this chapter;

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

24 (2) The articles of incorporation may also contain any
 25 provision consistent with the laws of this state for the

1 regulation of the affairs of the corporation or creating,
2 defining, limiting, and regulating its powers. The articles
3 of incorporation shall be in accordance with the provisions
4 of Title 35, so far as consistent with this chapter."

5 Section 3. Section 32-4-302, MCA, is amended to read:

6 "32-4-302. Membership -- limitation and apportionment
7 of loans by members. Any financial institution may request
8 membership in the corporation by making application to the
9 board of directors on such form and in such manner as said
10 board of directors may require, and membership shall become
11 effective upon acceptance of such application by the board.
12 The application for membership will specify the loan limit
13 which shall be subject to call of the corporation, but in no
14 case shall the amount so specified exceed the limit provided
15 for in this chapter. Each member of the corporation shall
16 make loans to the corporation as and when called upon by it
17 to do so on such terms and other conditions as shall be
18 approved from time to time by the board of directors,
19 subject to the following conditions:

20 (1) All loan limits shall be established at the
21 thousand-dollar amount nearest the amount computed in
22 accordance with the provisions of this section.

23 (2) No loan to the corporation shall be made if
24 immediately thereafter the total amount of the obligations
25 of the corporation to its members would exceed 10 times the

1 amount then paid in on the outstanding capital stock of the
2 corporation.

3 (3) The total amount outstanding on loans to the
4 corporation made by any member at any one time, when added
5 to the amount of the investment in the capital stock of the
6 corporation then held by such member, shall not exceed:

7 (a) 20% of the total amount then outstanding on loans
8 to the corporation by all members, including in said total
9 amount outstanding amounts validly called for loan but not
10 yet loaned;

11 (b) the following limit, to be determined ~~as of the~~
12 ~~time such member becomes a member on the basis of the most~~
13 ~~recent year-end balance sheet of such member at the close of~~
14 ~~its fiscal year immediately preceding its application for~~
15 ~~membership on the basis of the member's balance sheet at the~~
16 ~~close of its 1982 fiscal year and then redetermined~~
17 ~~periodically with the concurrence of the member:~~

18 (i) 3% of the capital and surplus of commercial banks
19 and trust companies;

20 (ii) 1% of the total outstanding loans made by a
21 building and loan association;

22 (iii) 2% of the capital and unassigned surplus of stock
23 insurance companies; and

24 (iv) such comparable limits as may be approved by the
25 board of directors of the corporation for other financial

institutions.

~~(4) The board of directors, on the request of any financial institution applying for membership and with the approval of one-half of the members that are the same type of financial institution as the applicant, may authorize a different loan limit than that set forth in subsection (3)(b).~~

~~(4)(5)~~ Subject to subsection (3)(a) of this section, each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

~~(5)(6)~~ All loans to the corporation by a member shall be evidenced by bonds, debentures, notes, or other evidences of indebtedness of the corporation, which shall be freely transferable at all times and which shall bear interest at a rate of not less than $\frac{1}{2}$ $\frac{1}{4}$ of 1% in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date of issuance thereof on unsecured commercial loans time."

Section 4. Section 32-4-304, MCA, is amended to read:

"32-4-304. Surplus. Each year the corporation shall set apart as earned surplus not less than 10% of its net earnings for the preceding fiscal year until such surplus shall be equal in value to 100% 50% of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons."

NEW SECTION. Section 5. Effective date. This act is effective on passage and approval.

-End-

Approved by Committee
on Business and Industry

SENATE BILL NO. 125

INTRODUCED BY BLAYLOCK, MAZUREK, HIMSL, KOLSTAD,

TOWE, METCALF, FABREGA, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE WORD
"CREDIT" FROM THE NAME OF DEVELOPMENT CREDIT CORPORATIONS OF
MONTANA; TO CHANGE THE LOAN LIMIT RESTRICTIONS FOR SUCH
CORPORATIONS; TO LOWER THE INTEREST RATE ON SUCH
CORPORATIONS' EVIDENCES OF INDEBTEDNESS; AND TO LOWER THE
REQUIRED EARNED SURPLUS OF SUCH CORPORATIONS; AMENDING
SECTIONS 32-4-101, 32-4-201, 32-4-302, AND 32-4-304, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-4-101, MCA, is amended to read:

"32-4-101. Definitions. As used in this chapter, the
following words and phrases, unless differently defined or
described, shall have the meanings and references as
follows:

(1) "corporation"--a Montana development credit
corporation created under this chapter;

(2) "financial institution"--any banking corporation
or trust company, building and loan association, insurance
company or related corporation, partnership, foundation, or
other institution engaged primarily in lending or investing

funds;

(3) "member"--any financial institution authorized to
do business within this state which shall undertake to lend
money to a corporation created under this chapter, upon its
call and in accordance with the provisions of this chapter;

(4) "board of directors"--the board of directors of
the corporation created under this chapter;

(5) "loan limit"--for any member, the maximum amount
permitted to be outstanding at one time on loans made by
such member to the corporation, as determined under the
provisions of this chapter."

Section 2. Section 32-4-201, MCA, is amended to read:

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

(1) Such persons shall by articles of incorporation
filed in the manner prescribed in Title 35, under their
hands and seals, set forth:

(a) the name of the corporation, which shall include

1 the words "Development Credit Corporation of Montana";

2 (b) the location of the principal office of the
3 corporation, but such corporation may have offices in such
4 other places within the state as may be fixed by the board
5 of directors;

6 (c) the purposes for which the corporation is founded,
7 which shall include the following:

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

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

16 (iii) to borrow money from the members, nonmember
17 persons, firms, or corporations and state and federal
18 agencies for any of the purposes of the corporation; to
19 issue therefor its bonds, debentures, notes, or other
20 evidences of indebtedness, whether secured or unsecured, and
21 to secure the same by mortgage, pledge, deed of trust, or
22 other lien on its property, franchises, rights, and
23 privileges of every kind and nature or any part thereof or
24 interest therein, without securing stockholder or member
25 approval; provided that no loan to the corporation may be

1 secured in any manner unless all outstanding loans to the
2 corporation are secured equally and ratably in proportion to
3 the unpaid balance of such loans and in the same manner;

4 (iv) to make loans to any person, firm, corporation,
5 joint-stock company, association, or trust and establish and
6 regulate the terms and conditions with respect to any such
7 loans and the charges for interest and service connected
8 therewith; provided, however, that the corporation may not
9 approve any application for a loan unless the person
10 applying for the loan shows that he has applied for the loan
11 through ordinary banking channels and that the loan has been
12 refused by at least one bank or other financial institution;

13 (v) to participate with any duly authorized private
14 lending agency and city, state, and federal governmental
15 lending agencies in the making of loans;

16 (vi) to purchase, receive, hold, lease, or otherwise
17 acquire and to sell, convey, transfer, lease, or otherwise
18 dispose of real and personal property, together with such
19 rights and privileges as may be incidental and appurtenant
20 thereto and the use thereof, including, but not restricted
21 to, any real or personal property acquired by the
22 corporation from time to time in the satisfaction of debts
23 or enforcement of obligations;

24 (vii) to acquire the good will, business, rights, real
25 and personal property, and other assets or any part thereof

1 or interest therein of any persons, firms, corporations,
 2 joint-stock companies, associations, or trusts and to
 3 assume, undertake, or pay the obligations, debts, and
 4 liabilities of any such person, firm, corporation,
 5 joint-stock company, association, or trust;

6 (viii) to acquire improved or unimproved real estate
 7 for the purpose of constructing industrial plants or other
 8 business establishments thereon or for the purpose of
 9 disposing of such real estate to others for the construction
 10 of industrial plants or other business establishments;

11 (ix) to acquire, construct or reconstruct, alter,
 12 repair, maintain, operate, sell, convey, transfer, lease, or
 13 otherwise dispose of industrial plants or business
 14 establishments;

15 (x) to acquire, subscribe for, own, hold, sell,
 16 assign, transfer, mortgage, pledge, or otherwise dispose of
 17 the stock, shares, bonds, debentures, notes, or other
 18 securities and evidences of interest in or indebtedness of
 19 any person, firm, corporation, joint-stock company,
 20 association, or trust and while the owner or holder thereof
 21 exercise all the rights, powers, and privileges of
 22 ownership, including the right to vote thereon;

23 (xi) to mortgage, pledge, or otherwise encumber any
 24 property, right, or thing of value, acquired pursuant to the
 25 powers contained in subsections (1)(c)(vi) through (1)(c)(x)

1 of this section, as security for the payment of any part of
 2 the purchase price thereof;

3 (xii) to cooperate with and avail itself of the
 4 facilities of the state planning and economic development
 5 divisions of the department of commerce and any similar
 6 governmental agencies and to cooperate with, assist, and
 7 otherwise encourage organizations in the various communities
 8 of the state in the promotion, assistance, and development
 9 of the business prosperity and economic welfare of such
 10 communities or of this state or of any part thereof;

11 (xiii) to accept gifts, donations, bequests, devises,
 12 or grants from any person, corporation, association, or
 13 governmental agency, whether state, federal, or municipal;

14 (xiv) to do all acts and things necessary or convenient
 15 to carry out the powers expressly granted in this chapter;

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

25 (2) The articles of incorporation may also contain any

1 provision consistent with the laws of this state for the
2 regulation of the affairs of the corporation or creating,
3 defining, limiting, and regulating its powers. The articles
4 of incorporation shall be in accordance with the provisions
5 of Title 35, so far as consistent with this chapter."

6 Section 3. Section 32-4-302, MCA, is amended to read:

7 "32-4-302. Membership -- limitation and apportionment
8 of loans by members. Any financial institution may request
9 membership in the corporation by making application to the
10 board of directors on such form and in such manner as said
11 board of directors may require, and membership shall become
12 effective upon acceptance of such application by the board.
13 The application for membership will specify the loan limit
14 which shall be subject to call of the corporation, but in no
15 case shall the amount so specified exceed the limit provided
16 for in this chapter. Each member of the corporation shall
17 make loans to the corporation as and when called upon by it
18 to do so on such terms and other conditions as shall be
19 approved from time to time by the board of directors,
20 subject to the following conditions:

21 (1) All loan limits shall be established at the
22 thousand-dollar amount nearest the amount computed in
23 accordance with the provisions of this section.

24 (2) No loan to the corporation shall be made if
25 immediately thereafter the total amount of the obligations

1 of the corporation to its members would exceed 10 times the
2 amount then paid in on the outstanding capital stock of the
3 corporation.

4 (3) The total amount outstanding on loans to the
5 corporation made by any member at any one time, when added
6 to the amount of the investment in the capital stock of the
7 corporation then held by such member, shall not exceed:

8 (a) 20% of the total amount then outstanding on loans
9 to the corporation by all members, including in said total
10 amount outstanding amounts validly called for loan but not
11 yet loaned;

12 (b) the following limit, to be determined as--of--the
13 time--such--member--becomes--a--member--on--the--basis--of--the--most
14 recent--year--end--balance--sheet--of--such--member--at--the--close--of
15 its--fiscal--year--immediately--preceding--its--application--for
16 membership on the basis of the member's balance sheet at the
17 close of its 1982 fiscal year and then redetermined
18 periodically with the concurrence of the member:

19 (i) 3% of the capital and surplus of commercial banks
20 and trust companies;

21 (ii) 1% of the total outstanding loans made by a
22 building and loan association;

23 (iii) 2% of the capital and unassigned surplus of stock
24 insurance companies; and

25 (iv) such comparable limits as may be approved by the

board of directors of the corporation for other financial institutions.

~~(4) The board of directors, on the request of any financial institution applying for membership and with the approval of one-half of the members that are the same type of financial institution as the applicant, may authorize a different loan limit than that set forth in subsection (3)(b).~~

~~(4)(5)~~ Subject to subsection (3)(a) of this section, each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

~~(5)(6)~~ All loans to the corporation by a member shall be evidenced by bonds, debentures, notes, or other evidences of indebtedness of the corporation, which shall be freely transferable at all times and which shall bear interest at a rate of not less than ~~1/2~~ $1\frac{1}{4}$ of 1% in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date--of--issuance--thereof--on

~~unsecured-commercial-loans limit."~~

Section 4. Section 32-4-304, MCA, is amended to read:

"32-4-304. Surplus. Each year the corporation shall set apart as earned surplus not less than 10% of its net earnings for the preceding fiscal year until such surplus shall be equal in value to ~~100%~~ 50% of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons."

~~NEW SECTION. SECTION 5. CODE _____ COMMISSIONER INSTRUCTION. WHENEVER A REFERENCE TO A "MONTANA DEVELOPMENT CREDIT CORPORATION" IS CONTAINED IN ANY NEW MATERIAL ENACTED BY THE 48TH LEGISLATURE, THE CODE COMMISSIONER IS INSTRUCTED TO DELETE THE WORD "CREDIT" FROM THE REFERENCE FOR CONSISTENCY WITH SB 125.~~

~~NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.~~

~~-End-~~

SENATE BILL NO. 125

INTRODUCED BY BLAYLOCK, MAZUREK, HIMSL, KOLSTAD,

TOWE, METCALF, FABREGA, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE WORD "CREDIT" FROM THE NAME OF DEVELOPMENT CREDIT CORPORATIONS OF MONTANA; TO CHANGE THE LOAN LIMIT RESTRICTIONS FOR SUCH CORPORATIONS; TO LOWER THE INTEREST RATE ON SUCH CORPORATIONS' EVIDENCES OF INDEBTEDNESS; AND TO LOWER THE REQUIRED EARNED SURPLUS OF SUCH CORPORATIONS; AMENDING SECTIONS 32-4-101, 32-4-201, 32-4-302, AND 32-4-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-4-101, MCA, is amended to read:

"32-4-101. Definitions. As used in this chapter, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

(1) "corporation"--a Montana development credit corporation created under this chapter;

(2) "financial institution"--any banking corporation or trust company, building and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing

funds;

(3) "member"--any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this chapter, upon its call and in accordance with the provisions of this chapter;

(4) "board of directors"--the board of directors of the corporation created under this chapter;

(5) "loan limit"--for any member, the maximum amount permitted to be outstanding at one time on loans made by such member to the corporation, as determined under the provisions of this chapter."

Section 2. Section 32-4-201, MCA, is amended to read:

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

(1) Such persons shall by articles of incorporation filed in the manner prescribed in Title 35, under their hands and seals, set forth:

(a) the name of the corporation, which shall include

1 the words "Development Credit Corporation of Montana";

2 (b) the location of the principal office of the
3 corporation, but such corporation may have offices in such
4 other places within the state as may be fixed by the board
5 of directors;

6 (c) the purposes for which the corporation is founded,
7 which shall include the following:

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

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

16 (iii) to borrow money from the members, nonmember
17 persons, firms, or corporations and state and federal
18 agencies for any of the purposes of the corporation; to
19 issue therefor its bonds, debentures, notes, or other
20 evidences of indebtedness, whether secured or unsecured, and
21 to secure the same by mortgage, pledge, deed of trust, or
22 other lien on its property, franchises, rights, and
23 privileges of every kind and nature or any part thereof or
24 interest therein, without securing stockholder or member
25 approval; provided that no loan to the corporation may be

1 secured in any manner unless all outstanding loans to the
2 corporation are secured equally and ratably in proportion to
3 the unpaid balance of such loans and in the same manner;

4 (iv) to make loans to any person, firm, corporation,
5 joint-stock company, association, or trust and establish and
6 regulate the terms and conditions with respect to any such
7 loans and the charges for interest and service connected
8 therewith; provided, however, that the corporation may not
9 approve any application for a loan unless the person
10 applying for the loan shows that he has applied for the loan
11 through ordinary banking channels and that the loan has been
12 refused by at least one bank or other financial institution;

13 (v) to participate with any duly authorized private
14 lending agency and city, state, and federal governmental
15 lending agencies in the making of loans;

16 (vi) to purchase, receive, hold, lease, or otherwise
17 acquire and to sell, convey, transfer, lease, or otherwise
18 dispose of real and personal property, together with such
19 rights and privileges as may be incidental and appurtenant
20 thereto and the use thereof, including, but not restricted
21 to, any real or personal property acquired by the
22 corporation from time to time in the satisfaction of debts
23 or enforcement of obligations;

24 (vii) to acquire the good will, business, rights, real
25 and personal property, and other assets or any part thereof

1 or interest therein of any persons, firms, corporations,
 2 joint-stock companies, associations, or trusts and to
 3 assume, undertake, or pay the obligations, debts, and
 4 liabilities of any such person, firm, corporation,
 5 joint-stock company, association, or trust;

6 (viii) to acquire improved or unimproved real estate
 7 for the purpose of constructing industrial plants or other
 8 business establishments thereon or for the purpose of
 9 disposing of such real estate to others for the construction
 10 of industrial plants or other business establishments;

11 (ix) to acquire, construct or reconstruct, alter,
 12 repair, maintain, operate, sell, convey, transfer, lease, or
 13 otherwise dispose of industrial plants or business
 14 establishments;

15 (x) to acquire, subscribe for, own, hold, sell,
 16 assign, transfer, mortgage, pledge, or otherwise dispose of
 17 the stock, shares, bonds, debentures, notes, or other
 18 securities and evidences of interest in or indebtedness of
 19 any person, firm, corporation, joint-stock company,
 20 association, or trust and while the owner or holder thereof
 21 exercise all the rights, powers, and privileges of
 22 ownership, including the right to vote thereon;

23 (xi) to mortgage, pledge, or otherwise encumber any
 24 property, right, or thing of value, acquired pursuant to the
 25 powers contained in subsections (1)(c)(vi) through (1)(c)(x)

1 of this section, as security for the payment of any part of
 2 the purchase price thereof;

3 (xii) to cooperate with and avail itself of the
 4 facilities of the state planning and economic development
 5 divisions of the department of commerce and any similar
 6 governmental agencies and to cooperate with, assist, and
 7 otherwise encourage organizations in the various communities
 8 of the state in the promotion, assistance, and development
 9 of the business prosperity and economic welfare of such
 10 communities or of this state or of any part thereof;

11 (xiii) to accept gifts, donations, bequests, devises,
 12 or grants from any person, corporation, association, or
 13 governmental agency, whether state, federal, or municipal;

14 (xiv) to do all acts and things necessary or convenient
 15 to carry out the powers expressly granted in this chapter;

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

25 (2) The articles of incorporation may also contain any

1 provision consistent with the laws of this state for the
2 regulation of the affairs of the corporation or creating,
3 defining, limiting, and regulating its powers. The articles
4 of incorporation shall be in accordance with the provisions
5 of Title 35, so far as consistent with this chapter."

6 Section 3. Section 32-4-302, MCA, is amended to read:

7 "32-4-302. Membership -- limitation and apportionment
8 of loans by members. Any financial institution may request
9 membership in the corporation by making application to the
10 board of directors on such form and in such manner as said
11 board of directors may require, and membership shall become
12 effective upon acceptance of such application by the board.
13 The application for membership will specify the loan limit
14 which shall be subject to call of the corporation, but in no
15 case shall the amount so specified exceed the limit provided
16 for in this chapter. Each member of the corporation shall
17 make loans to the corporation as and when called upon by it
18 to do so on such terms and other conditions as shall be
19 approved from time to time by the board of directors,
20 subject to the following conditions:

21 (1) All loan limits shall be established at the
22 thousand-dollar amount nearest the amount computed in
23 accordance with the provisions of this section.

24 (2) No loan to the corporation shall be made if
25 immediately thereafter the total amount of the obligations

1 of the corporation to its members would exceed 10 times the
2 amount then paid in on the outstanding capital stock of the
3 corporation.

4 (3) The total amount outstanding on loans to the
5 corporation made by any member at any one time, when added
6 to the amount of the investment in the capital stock of the
7 corporation then held by such member, shall not exceed:

8 (a) 20% of the total amount then outstanding on loans
9 to the corporation by all members, including in said total
10 amount outstanding amounts validly called for loan but not
11 yet loaned;

12 (b) the following limit, to be determined as--of--the
13 time--such--member--becomes--a--member--on--the--basis--of--the--most
14 recent--year--end--balance--sheet--of--such--member--at--the--close--of
15 its--fiscal--year--immediately--preceding--its--application--for
16 membership on the basis of the member's balance sheet at the
17 close of its 1982 fiscal year and then redetermined
18 periodically with the concurrence of the member:

19 (i) 3% of the capital and surplus of commercial banks
20 and trust companies;

21 (ii) 1% of the total outstanding loans made by a
22 building and loan association;

23 (iii) 2% of the capital and unassigned surplus of stock
24 insurance companies; and

25 (iv) such comparable limits as may be approved by the

1 board of directors of the corporation for other financial
2 institutions.

3 ~~(4) The board of directors, on the request of any~~
4 ~~financial institution applying for membership and with the~~
5 ~~approval of one-half of the members that are the same type~~
6 ~~of financial institution as the applicant, may authorize a~~
7 ~~different loan limit than that set forth in subsection~~
8 ~~(3)(b)1.~~

9 ~~(4)(5)~~ Subject to subsection (3)(a) of this section,
10 each call made by the corporation shall be prorated among
11 the members of the corporation in substantially the same
12 proportion that the adjusted loan limit of each member bears
13 to the aggregate of the adjusted loan limits of all members.
14 The adjusted loan limit of a member shall be the amount of
15 such member's loan limit, reduced by the balance of
16 outstanding loans made by such member to the corporation and
17 the investment in capital stock of the corporation held by
18 such member at the time of such call.

19 ~~(5)(6)~~ All loans to the corporation by a member shall
20 be evidenced by bonds, debentures, notes, or other evidences
21 of indebtedness of the corporation, which shall be freely
22 transferable at all times and which shall bear interest at a
23 rate of not less than $\frac{1}{2}$ $\frac{1}{4}$ of 1% in excess of the rate of
24 interest determined by the board of directors to be the
25 prime rate prevailing at the date--of--issuance--thereof--on

1 ~~unsecured-commercial-loans time."~~

2 Section 4. Section 32-4-304, MCA, is amended to read:
3 "32-4-304. Surplus. Each year the corporation shall
4 set apart as earned surplus not less than 10% of its net
5 earnings for the preceding fiscal year until such surplus
6 shall be equal in value to ~~100%~~ 50% of the amount paid in on
7 the capital stock then outstanding. Whenever the amount of
8 surplus established herein shall become impaired, it shall
9 be built up again to the required amount in the manner
10 provided for its original accumulation. Net earnings and
11 surplus shall be determined by the board of directors, after
12 providing for such reserves as said directors deem
13 desirable, and the directors' determination made in good
14 faith shall be conclusive on all persons."

15 ~~NEW SECTION. SECTION 5. CODE _____ COMMISSIONER~~
16 ~~INSTRUCTION. WHENEVER A REFERENCE TO A "MONTANA DEVELOPMENT~~
17 ~~CREDIT CORPORATION" IS CONTAINED IN ANY NEW MATERIAL ENACTED~~
18 ~~BY THE 48TH LEGISLATURE, THE CODE COMMISSIONER IS INSTRUCTED~~
19 ~~TO DELETE THE WORD "CREDIT" FROM THE REFERENCE FOR~~
20 ~~CONSISTENCY WITH SB 125.~~

21 ~~NEW SECTION.~~ Section 6. Effective date. This act is
22 effective on passage and approval.

-End-

SENATE BILL NO. 125

INTRODUCED BY BLAYLOCK, MAZUREK, HIMSL, KOLSTAD,

TOWE, METCALF, FABREGA, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE WORD "CREDIT" FROM THE NAME OF DEVELOPMENT CREDIT CORPORATIONS OF MONTANA; TO CHANGE THE LOAN LIMIT RESTRICTIONS FOR SUCH CORPORATIONS; TO LOWER THE INTEREST RATE ON SUCH CORPORATIONS' EVIDENCES OF INDEBTEDNESS; AND TO LOWER THE REQUIRED EARNED SURPLUS OF SUCH CORPORATIONS; AMENDING SECTIONS 32-4-101, 32-4-201, 32-4-302, AND 32-4-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-4-101, MCA, is amended to read:

"32-4-101. Definitions. As used in this chapter, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

(1) "corporation"--a Montana development credit corporation created under this chapter;

(2) "financial institution"--any banking corporation or trust company, building and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing

funds;

(3) "member"--any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this chapter, upon its call and in accordance with the provisions of this chapter;

(4) "board of directors"--the board of directors of the corporation created under this chapter;

(5) "loan limit"--for any member, the maximum amount permitted to be outstanding at one time on loans made by such member to the corporation, as determined under the provisions of this chapter."

Section 2. Section 32-4-201, MCA, is amended to read:

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

(1) Such persons shall by articles of incorporation filed in the manner prescribed in Title 35, under their hands and seals, set forth:

(a) the name of the corporation, which shall include

1 the words "Development Credit Corporation of Montana";

2 (b) the location of the principal office of the
3 corporation, but such corporation may have offices in such
4 other places within the state as may be fixed by the board
5 of directors;

6 (c) the purposes for which the corporation is founded,
7 which shall include the following:

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

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

16 (iii) to borrow money from the members, nonmember
17 persons, firms, or corporations and state and federal
18 agencies for any of the purposes of the corporation; to
19 issue therefor its bonds, debentures, notes, or other
20 evidences of indebtedness, whether secured or unsecured, and
21 to secure the same by mortgage, pledge, deed of trust, or
22 other lien on its property, franchises, rights, and
23 privileges of every kind and nature or any part thereof or
24 interest therein, without securing stockholder or member
25 approval; provided that no loan to the corporation may be

1 secured in any manner unless all outstanding loans to the
2 corporation are secured equally and ratably in proportion to
3 the unpaid balance of such loans and in the same manner;

4 (iv) to make loans to any person, firm, corporation,
5 joint-stock company, association, or trust and establish and
6 regulate the terms and conditions with respect to any such
7 loans and the charges for interest and service connected
8 therewith; provided, however, that the corporation may not
9 approve any application for a loan unless the person
10 applying for the loan shows that he has applied for the loan
11 through ordinary banking channels and that the loan has been
12 refused by at least one bank or other financial institution;

13 (v) to participate with any duly authorized private
14 lending agency and city, state, and federal governmental
15 lending agencies in the making of loans;

16 (vi) to purchase, receive, hold, lease, or otherwise
17 acquire and to sell, convey, transfer, lease, or otherwise
18 dispose of real and personal property, together with such
19 rights and privileges as may be incidental and appurtenant
20 thereto and the use thereof, including, but not restricted
21 to, any real or personal property acquired by the
22 corporation from time to time in the satisfaction of debts
23 or enforcement of obligations;

24 (vii) to acquire the good will, business, rights, real
25 and personal property, and other assets or any part thereof

1 or interest therein of any persons, firms, corporations,
 2 joint-stock companies, associations, or trusts and to
 3 assume, undertake, or pay the obligations, debts, and
 4 liabilities of any such person, firm, corporation,
 5 joint-stock company, association, or trust;

6 (viii) to acquire improved or unimproved real estate
 7 for the purpose of constructing industrial plants or other
 8 business establishments thereon or for the purpose of
 9 disposing of such real estate to others for the construction
 10 of industrial plants or other business establishments;

11 (ix) to acquire, construct or reconstruct, alter,
 12 repair, maintain, operate, sell, convey, transfer, lease, or
 13 otherwise dispose of industrial plants or business
 14 establishments;

15 (x) to acquire, subscribe for, own, hold, sell,
 16 assign, transfer, mortgage, pledge, or otherwise dispose of
 17 the stock, shares, bonds, debentures, notes, or other
 18 securities and evidences of interest in or indebtedness of
 19 any person, firm, corporation, joint-stock company,
 20 association, or trust and while the owner or holder thereof
 21 exercise all the rights, powers, and privileges of
 22 ownership, including the right to vote thereon;

23 (xi) to mortgage, pledge, or otherwise encumber any
 24 property, right, or thing of value, acquired pursuant to the
 25 powers contained in subsections (1)(c)(vi) through (1)(c)(x)

1 of this section, as security for the payment of any part of
 2 the purchase price thereof;

3 (xii) to cooperate with and avail itself of the
 4 facilities of the state planning and economic development
 5 divisions of the department of commerce and any similar
 6 governmental agencies and to cooperate with, assist, and
 7 otherwise encourage organizations in the various communities
 8 of the state in the promotion, assistance, and development
 9 of the business prosperity and economic welfare of such
 10 communities or of this state or of any part thereof;

11 (xiii) to accept gifts, donations, bequests, devises,
 12 or grants from any person, corporation, association, or
 13 governmental agency, whether state, federal, or municipal;

14 (xiv) to do all acts and things necessary or convenient
 15 to carry out the powers expressly granted in this chapter;

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

25 (2) The articles of incorporation may also contain any

1 provision consistent with the laws of this state for the
2 regulation of the affairs of the corporation or creating,
3 defining, limiting, and regulating its powers. The articles
4 of incorporation shall be in accordance with the provisions
5 of Title 35, so far as consistent with this chapter."

6 Section 3. Section 32-4-302, MCA, is amended to read:

7 "32-4-302. Membership -- limitation and apportionment
8 of loans by members. Any financial institution may request
9 membership in the corporation by making application to the
10 board of directors on such form and in such manner as said
11 board of directors may require, and membership shall become
12 effective upon acceptance of such application by the board.
13 The application for membership will specify the loan limit
14 which shall be subject to call of the corporation, but in no
15 case shall the amount so specified exceed the limit provided
16 for in this chapter. Each member of the corporation shall
17 make loans to the corporation as and when called upon by it
18 to do so on such terms and other conditions as shall be
19 approved from time to time by the board of directors,
20 subject to the following conditions:

21 (1) All loan limits shall be established at the
22 thousand-dollar amount nearest the amount computed in
23 accordance with the provisions of this section.

24 (2) No loan to the corporation shall be made if
25 immediately thereafter the total amount of the obligations

1 of the corporation to its members would exceed 10 times the
2 amount then paid in on the outstanding capital stock of the
3 corporation.

4 (3) The total amount outstanding on loans to the
5 corporation made by any member at any one time, when added
6 to the amount of the investment in the capital stock of the
7 corporation then held by such member, shall not exceed:

8 (a) 20% of the total amount then outstanding on loans
9 to the corporation by all members, including in said total
10 amount outstanding amounts validly called for loan but not
11 yet loaned;

12 (b) the following limit, to be determined as--of--the
13 ~~time--such--member-becomes-a-member-on-the-basis-of-the-most~~
14 ~~recent-year-end-balance-sheet-of-such-member-at-the-close-of~~
15 ~~its-fiscal-year-immediately-preceding--its--application--for~~
16 membership on the basis of the member's balance sheet at the
17 close of its 1982 fiscal year and then redetermined
18 periodically with the concurrence of the member;

19 (i) 3% of the capital and surplus of commercial banks
20 and trust companies;

21 (ii) 1% of the total outstanding loans made by a
22 building and loan association;

23 (iii) 2% of the capital and unassigned surplus of stock
24 insurance companies; and

25 (iv) such comparable limits as may be approved by the

1 board of directors of the corporation for other financial
2 institutions.

3 ~~(4) The board of directors, on the request of any~~
4 ~~financial institution applying for membership and with the~~
5 ~~approval of one-half of the members that are the same type~~
6 ~~of financial institution as the applicant, may authorize a~~
7 ~~different loan limit than that set forth in subsection~~
8 ~~(3)(b).~~

9 ~~(4)(5)~~ Subject to subsection (3)(a) of this section,
10 each call made by the corporation shall be prorated among
11 the members of the corporation in substantially the same
12 proportion that the adjusted loan limit of each member bears
13 to the aggregate of the adjusted loan limits of all members.
14 The adjusted loan limit of a member shall be the amount of
15 such member's loan limit, reduced by the balance of
16 outstanding loans made by such member to the corporation and
17 the investment in capital stock of the corporation held by
18 such member at the time of such call.

19 ~~(5)(6)~~ All loans to the corporation by a member shall
20 be evidenced by bonds, debentures, notes, or other evidences
21 of indebtedness of the corporation, which shall be freely
22 transferable at all times and which shall bear interest at a
23 rate of not less than ~~3/2 1/4~~ of 1% in excess of the rate of
24 interest determined by the board of directors to be the
25 prime rate prevailing at the date--of--issuance--thereof--on

1 ~~unsecured-commercial-loans limit."~~

2 Section 4. Section 32-4-304, MCA, is amended to read:

3 "32-4-304. Surplus. Each year the corporation shall
4 set apart as earned surplus not less than 10% of its net
5 earnings for the preceding fiscal year until such surplus
6 shall be equal in value to ~~100%~~ 50% of the amount paid in on
7 the capital stock then outstanding. Whenever the amount of
8 surplus established herein shall become impaired, it shall
9 be built up again to the required amount in the manner
10 provided for its original accumulation. Net earnings and
11 surplus shall be determined by the board of directors, after
12 providing for such reserves as said directors deem
13 desirable, and the directors' determination made in good
14 faith shall be conclusive on all persons."

15 ~~NEW SECTION. SECTION 5. CODE _____ COMMISSIONER~~
16 ~~INSTRUCTION. WHENEVER A REFERENCE TO A "MONTANA DEVELOPMENT~~
17 ~~CREDIT CORPORATION" IS CONTAINED IN ANY NEW MATERIAL ENACTED~~
18 ~~BY THE 48TH LEGISLATURE, THE CODE COMMISSIONER IS INSTRUCTED~~
19 ~~TO DELETE THE WORD "CREDIT" FROM THE REFERENCE FOR~~
20 ~~CONSISTENCY WITH SB 125.~~

21 ~~NEW SECTION.~~ Section 6. Effective date. This act is
22 effective on passage and approval.

-End-