

SENATE BILL NO. 460

Introduced: 02/16/83

Referred to Committee on Local Government: 2/16/83

Hearing: 02/17/83

Rereferred to Committee on Business & Industry: 02/17/83

Hearing: 2/19/83

Died in Committee.

1 Monte BILL NO. 460
2 INTRODUCED BY Fuller
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA
5 ECONOMIC DEVELOPMENT CORPORATION; SPECIFYING THE POWERS AND
6 FUNCTIONS OF THE CORPORATION; PROVIDING FOR FUNDING OF THE
7 CORPORATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

10 Section 1. Short title. [Sections 1 through 17] may be
11 cited as the "Montana Economic Development Corporation Act".

12 Section 2. Definitions. As used in [sections 1 through
13 17], unless the context requires otherwise, the following
14 definitions apply:

15 (1) "Board" means the board of directors of the
16 Montana economic development corporation created in [section
17 61.

18 (2) "Corporation" means the Montana economic
19 development corporation authorized in [section 3].

20 (3) "Department" means the department of commerce
21 created in 2-15-1801.

22 (4) "Direct costs" means costs of new tax-supported
23 services resulting from a proposed development or project.

24 (b) "Indirect costs" means nontax-supported secondary
25 and social costs resulting from a proposed development or

1 project.

2 (5) "Primary business" is an exporting business,
3 designated as such by the corporation, including but not
4 limited to commercial, manufacturing, agricultural,
5 industrial, transportation, recreational, and tourist
6 enterprises.

7 Section 3. Montana economic development corporation.
8 The board shall form the Montana economic development
9 corporation pursuant to Title 35, chapter 2. The corporation
10 may not have members. The corporation must be formed for the
11 purpose enumerated in [section 4]. The corporation is under
12 the control of the state.

Section 4. Purpose. The purpose of the corporation is to create new jobs in Montana and to strengthen and diversify the Montana economy.

16 Section 5. Cooperation with department. The
17 corporation shall cooperate and coordinate its functions
18 with the department in order to avoid conflict or
19 duplication of economic development efforts.

Section 6. Board of directors. There is a board of
directors for the Montana economic development corporation.
The board consists of seven members. The members shall be
appointed by the governor and confirmed by the senate, as
provided in 2-15-124, on a staggered-term basis. The
governor may fill vacancies as provided in 2-15-124(4).

1 Section 7. Qualifications of board. (1) Board members
2 must be broadly representative of the state. Consideration
3 must be given to members having expertise in areas useful in
4 overseeing the corporation's activities, including:

- 5 (a) technical expertise for product oversight;
- 6 (b) accounting expertise for financial oversight; and
- 7 (c) business law for legal oversight.

8 (2) Board members must represent key constituencies
9 from within the state, including but not limited to:

- 10 (a) the financial community;
- 11 (b) the business sector;
- 12 (c) labor;
- 13 (d) the general public; and
- 14 (e) in order to assure coordination of activities and
15 services, the department of commerce.

16 Section 8. Powers of corporation. In addition to the
17 powers enumerated in 35-2-107, the corporation acting
18 through the board may:

- 19 (1) hire and set salaries for its staff;
- 20 (2) provide capital to new and expanding businesses;
- 21 (3) identify areas of new business opportunity and
22 encourage entrepreneurs to create or expand activities in
23 Montana;
- 24 (4) provide professional advice to new or expanding
25 businesses;

1 (5) establish and charge fees for its services;

2 (6) enter agreements or transactions with any federal,
3 state, or local government agency or any person,
4 partnership, corporation, association, or organization in
5 order to carry out the purposes of [sections 1 through 17];
6 and

7 (7) set policy for the corporation in accordance with
8 legislative direction.

9 Section 9. Staff of board. The board may hire an
10 executive director and such staff as it considers necessary,
11 including professionals with expertise in program
12 administration, law, accounting, development finance, and
13 general business planning and recruitment.

14 Section 10. Primary functions of corporation. In order
15 to fulfill the purpose set forth in [section 4], the
16 corporation shall:

17 (1) make capital available to new and expanding
18 businesses that are not able to secure capital in the
19 private sector;

20 (2) identify specific business opportunities through:

- 21 (a) study and analysis; and
- 22 (b) contacts with entrepreneurs, innovators, and
23 business people;

24 (3) find and recruit suitable entrepreneurs and
25 managers to undertake business opportunities identified by

the corporation; and

(4) provide professional and technical advice and assistance to business people starting or expanding businesses located in Montana.

Section 11. Investments. The corporation may invest in a new or expanding business by making capital available through:

(1) subordinated debt; or

(2) equity purchase.

Section 12. Criteria for investment. (1) In considering which investments to make, the corporation shall evaluate the following:

(a) whether capital is available in the private financial market;

(a) repayment ability;

(c) except as provided in subsection (2), the direct association between the investment and the creation of specific new jobs;

(d) except as provided in subsection (2), the number of jobs created per unit of funds invested, considering the wage levels for such jobs;

(e) the direct and indirect costs associated with the economic development financed by the investment; and

(f) whether the business is a primary business.

(2) The corporation may consider the number of jobs

preserved in the case of a business that would otherwise close.

Section 13. Screening of investments. (1) Prior to investing in a business, the corporation shall gather and assess detailed information on the proposed business and its management. This information must be used to determine if the business merits financing.

(2) To obtain the information required to be assessed under subsection (1), the board may require that a business plan be prepared by the management of the business. Such a plan must:

(a) include detailed information on the skills and experience of the business's management personnel;

(b) document the profit and growth potential of the business;

(c) discuss how management intends to operate the business to achieve its potential; and

(d) identify problems the business may confront and ways in which management can effectively respond.

Section 14. Fees. The board may establish and charge fees for applications for investment and for advisory services that are not part of a financing arrangement.

Section 15. Reports of the corporation. The board shall prepare an annual report to be submitted to the governor, the legislature, and the public. The report must

1 includes:
 2 (1) financial statements;
 3 (2) a statement of investment activity;
 4 (3) a statement of jobs created and the cost of each
 5 such job;
 6 (4) the performance of businesses invested in; and
 7 (5) any other information the board considers
 8 appropriate.

9 Section 16. Audits. (1) The legislative auditor shall
 10 conduct an annual financial audit of the corporation and
 11 report the findings to the legislature and the governor.

12 (2) The corporation shall contract with an independent
 13 firm for a performance audit on a biennial basis. The
 14 performance audit report must be submitted to the
 15 corporation, the governor, and the legislature.

16 Section 17. Funding. Funding for the operation of the
 17 corporation must be from money appropriated by the
 18 legislature from the interest and earnings on the permanent
 19 coal severance tax trust fund created in Article IX, section
 20 5, of the Montana constitution.

21 Section 18. Implementation schedule. (1) The
 22 legislature intends that in the first year of its existence,
 23 the Montana economic development corporation shall:

- 24 (a) plan for and hire a staff;
 25 (b) publicize its existence;

1 (c) identify possible investment opportunities; and
 2 (d) begin screening applications.
 3 (2) In its second year, the corporation shall,
 4 consistent with this act and to the extent practicable,
 5 begin to make investments.
 6 Section 19. Effective date. This act is effective on
 7 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 467-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 19, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 460 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:

Senate Bill 460 creates a seven member Montana economic development corporation that has the power to make direct subordinate debt and equity investments in Montana businesses. The board may also study business opportunities, fund and recruit entrepreneurs, and provide professional and technical advise to new or expanding businesses.

ASSUMPTIONS:

- 1) Seven member board.
- 2) Two member staff.
- 3) No assumptions are made with regard to level of investment of investment activity because the act does not indicate the size of the investment fund to be created.

FISCAL IMPACT:

Expenditures:	<u>FY84</u>	<u>FY85</u>	<u>BIENNIUM TOTAL</u>
Personal Services	\$ 122,984	\$ 122,521	\$ 245,505
Operating Expenses	77,401	80,389	157,790
Equipment	5,010	-0-	5,010
Total Expenditures	<u>\$ 205,395</u>	<u>\$ 202,090</u>	<u>\$ 408,305</u>

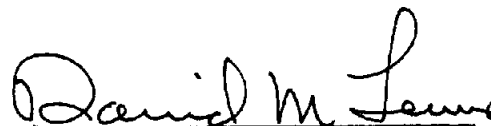
Revenue:

Appropriation of Coal Tax Interest	<u>(\$205,395)</u>	<u>(\$202,090)</u>	<u>(\$408,305)</u>
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NOTE:

The appropriation of coal tax interest to fund the loan investment fund will reduce revenue to the general fund.

FISCAL NOTE 15: BB/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-83

STATE OF MONTANA

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FISCAL NOTE

Revised Fiscal Note

Form BD-15

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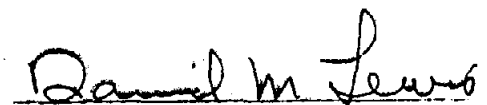
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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-22-83

SECOND PRINTING

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

From the title of this bill, one could infer that the author's intent was to allocate the increase in collections attributable to the proposed $\frac{1}{2}\%$ increase in tax rates to the judiciary. However, as introduced, the bill would not change the disposition of tax collections. In order to affect the distribution of income tax receipts, one would have to amend 15-1-501, MCA.

LOCAL IMPACT:

Will relieve counties of approximately \$11 million per year in district court expenditures. Counties will continue to fund clerks of courts and their staff.

FISCAL NOTE: 17:H/2