

SENATE BILL NO. 298

INTRODUCED BY NEUMAN, HIMSL, BARDANOUVE, JACOBSON,
M. WILLIAMS, HALLIGAN, MAZUREK, POULSEN, MANUEL, ADDY,
SPAETH, LYBECK, HARP, GRADY, GLASER

BY REQUEST OF THE GOVERNOR

IN THE SENATE

FEBRUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 18, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 19, 1987	PRINTING REPORT.
FEBRUARY 20, 1987	SECOND READING, DO PASS.
FEBRUARY 21, 1987	ENGROSSING REPORT.
FEBRUARY 23, 1987	THIRD READING, PASSED. AYES, 30; NOES, 19.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
MARCH 20, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 87; NOES, 9.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 2, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 3, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 14, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1987

CONFERENCE COMMITTEE REPORTED.

APRIL 17, 1987

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 20, 1987

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1987

CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1987

SENT TO ENROLLING.

1
 2 *Senate* BILL NO. *298*
 3 INTRODUCED BY *Neuman Nigel Brundage*
 4 *Jacobson M. Williams Kelly M. HARP* *Mazub Carlson Man*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NEW BOARD OF
 6 INVESTMENTS ~~BY~~ ABOLISHING THE MONTANA ECONOMIC DEVELOPMENT
 7 BOARD AND THE BOARD OF INVESTMENTS; TRANSFERRING TO THE NEW
 8 BOARD OF INVESTMENTS THE FUNCTIONS OF THE ABOLISHED BOARDS;
 9 ALLOCATING THE NEW BOARD OF INVESTMENTS TO THE DEPARTMENT OF
 10 COMMERCE; AMENDING SECTIONS 7-6-1103, 7-7-2259, 7-7-4259,
 11 17-5-1502, 17-5-1503, 17-5-1604, 17-5-1605, 17-5-1630,
 12 17-6-201, 17-6-302, 80-14-102, 90-6-104, AND 90-8-104, MCA;
 13 REPEALING SECTIONS 2-15-1005 AND 2-15-1805 THROUGH
 14 2-15-1807, AND 17-6-307, MCA; AND PROVIDING AN EFFECTIVE
 15 DATE."

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

17 NEW SECTION. Section 1. Board of investments --
 18 allocation -- composition -- quasi-judicial. (1) There is a
 19 board of investments within the department of commerce.

20 (2) Except as otherwise provided in this subsection,
 21 the board is allocated to the department for administrative
 22 purposes as prescribed in 2-15-121. The board may employ an
 23 investment officer, an assistant investment officer, and an
 24 executive director who have general responsibility for
 25 selection and management of the board's staff and for direct

1 investment and economic development activities. The
 2 investment officer, assistant investment officer, and
 3 executive director serve at the pleasure of the board. The
 4 board shall prescribe the duties and annual salaries of its
 5 professional staff positions.

6 (3) The board is composed of nine members appointed by
 7 the governor as prescribed in 2-15-124. The members are:

8 (a) one member from the public employees' retirement
 9 board provided for in 2-15-1009 and one member from the
 10 teachers' retirement board provided for in 2-15-1010. If
 11 either member ceases to be a member of the retirement board,
 12 the position of that member on the board of investments is
 13 vacant, and the governor shall fill the vacancy in
 14 accordance with 2-15-124.

15 (b) seven members who are informed and experienced in
 16 the subject of investments and who are representative of the
 17 financial community, small business, agriculture, and labor,
 18 to provide a balance of professional expertise and public
 19 interest and accountability.

20 (4) The board is designated as a quasi-judicial board
 21 for the purposes of 2-15-124.

22 NEW SECTION. Section 2. Montana economic development
 23 board abolished -- functions transferred. The Montana
 24 economic development board, created by 2-15-1805, is
 25 abolished, and its functions are transferred to the board of



1 investments created in section 1.

2 NEW SECTION. Section 3. Board of investments
3 abolished -- functions transferred. The board of
4 investments, created by 2-15-1005, is abolished, and its
5 functions are transferred to the board of investments
6 created in section 1.

7 Section 4. Section 7-6-1103, MCA, is amended to read:

8 "7-6-1103. Issuance and sale of short-term obligations
9 -- procedure. (1) The issuance of short-term obligations
10 must be authorized by an ordinance of the governing body
11 that fixes the maximum amount of the obligations to be
12 issued or, if applicable, the maximum amount which may be
13 outstanding at any time, the maximum term and interest rate
14 or rates to be borne thereby, the manner of sale, maximum
15 price, form including bearer or registered as provided in
16 Title 17, chapter 5, part 11, terms, conditions, and the
17 covenants of the obligations. Short-term obligations issued
18 under this section shall bear such fixed or variable rate or
19 rates of interest as the governing body considers to be in
20 the best interests of the local government. Variable rates
21 of interest may be fixed in relationship to such standard or
22 index as the governing body designates.

23 (2) The governing body may sell the short-term
24 obligations at par or at a discount:

25 (a) at private negotiated sale to the Montana-economic

1 development board of investments as provided in Title 17,
2 chapter 5, part 16; or

3 (b) at public sale to any other person. Any public
4 sale must be noticed as provided in 7-7-4434(2)."

5 Section 5. Section 7-7-2259, MCA, is amended to read:

6 "7-7-2259. Delivery of bonds. (1) If the board of
7 investments is the purchaser of the bonds, the county
8 treasurer shall forward the registered bonds to the
9 department of administration commerce. The department shall
10 deliver them to the state treasurer, and payment therefor
11 shall be made in the manner provided by law.

12 (2) If the bonds are purchased by other investors, the
13 county treasurer shall deliver the bonds to the purchaser
14 upon receiving full payment therefor."

15 Section 6. Section 7-7-4259, MCA, is amended to read:

16 "7-7-4259. Delivery of bonds. (1) If the board of
17 investments is the purchaser of the bonds, the city
18 treasurer or town clerk shall forward the registered bonds
19 to the department of administration commerce. The department
20 shall deliver them to the state treasurer, and payment
21 therefor shall be made in the manner provided by law.

22 (2) If the bonds are purchased by other investors, the
23 city treasurer or town clerk shall deliver the bonds to the
24 purchaser upon receiving full payment therefor."

25 Section 7. Section 17-5-1502, MCA, is amended to read:

1 "17-5-1502. Legislative declaration. (1) It is the
2 policy of the state of Montana, in the interest of promoting
3 the health, safety, and general welfare of all the people of
4 the state, to increase job opportunities and to retain
5 existing jobs by making available, through the **economic**
6 **development board of investments**, funds for industrial,
7 commercial, manufacturing, natural resource, agricultural,
8 livestock, recreational, tourist, and health care
9 development.

10 (2) The legislature finds that:

11 (a) a vigorous, diversified, and growing economy is
12 the basic source of job opportunities;

13 (b) protection against unemployment and its economic
14 burdens and the spread of economic stagnation can best be
15 provided by promoting, attracting, stimulating, and
16 revitalizing a diversified economy with contributions from
17 industry, manufacturing, commerce, natural resource
18 development, agriculture, livestock, recreation, tourism,
19 and health care facilities; and

20 (c) the state of Montana has a responsibility to help
21 create a favorable climate for new and improved job
22 opportunities and a stable, growing, and healthy economy for
23 its citizens by encouraging the development of business."

24 Section 8. Section 17-5-1503, MCA, is amended to read:

25 "17-5-1503. Definitions. As used in this part, unless

1 the context requires otherwise, the following definitions
2 apply:

3 (1) "Board" means the ~~Montana--economic-development~~
4 board of investments created in ~~2-15-1805~~ [section 1].

5 (2) "Bond" means any bond, note, debenture, interim
6 certificate, or other evidence of financial indebtedness
7 issued by the board pursuant to this part.

8 (3) "Department" means the department of commerce
9 provided for in 2-15-1801.

10 (4) "Financial institution" means any bank, savings
11 and loan association, credit union, development credit
12 corporation, insurance company, investment company, trust
13 company, savings institution, or other financial institution
14 approved by the board and maintaining an office in the
15 state.

16 (5) "Local government" means the city in which the
17 project is located, if the project is located within an
18 incorporated municipality, or the county if the project is
19 located within the county but outside the boundaries of an
20 incorporated municipality.

21 (6) "Major project" means a project whose cost or
22 appraised value exceeds \$800,000.

23 (7) "Project" means a project as defined in 90-5-101.

24 (8) "Project costs" means the costs of acquiring or
25 improving any project, including the following:

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

3 (b) the actual cost of construction of all or any part
4 of a project, including architects' and engineers' fees;

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

8 (d) bond reserves and premiums for insurance or
9 guaranty of loan payments or lease rentals pledged to pay
10 the bonds; and

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

14 Section 9. Section 17-5-1604, MCA, is amended to read:

15 "17-5-1604. Definitions. As used in this part, the
16 following definitions apply:

17 (1) "Board" means the ~~Montana--economic-development~~
18 board of investments created in ~~2-15-1985~~ [section 1].

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

21 (3) "Local government unit" means any municipal
22 corporation or political subdivision of the state, including
23 without limitation any city, town, county, school district,
24 or other special taxing district.

25 (4) "Reserve fund" means the municipal finance

1 consolidation act reserve fund created in 17-5-1630."

2 Section 10. Section 17-5-1605, MCA, is amended to
3 read:

4 "17-5-1605. Montana ~~economic--development~~ board of
5 investments to implement. The Montana ~~economic--development~~
6 board of investments may make and enforce orders, rules, and
7 bylaws that are necessary or desirable for the
8 implementation of this part."

9 Section 11. Section 17-5-1630, MCA, is amended to
10 read:

11 "17-5-1630. Reserve fund. (i) The board shall
12 establish and maintain a municipal finance consolidation act
13 reserve fund, to which there shall be deposited or
14 transferred:

15 (a) all money appropriated by the legislature for the
16 purposes of the fund in accordance with the provisions of
17 subsection (4);

18 (b) all proceeds of bonds required to be deposited in
19 the fund by terms of a contract between the board and its
20 bondholders or a resolution of the board with respect to the
21 proceeds of bonds;

22 (c) the proceeds of any bond issue of the state that
23 is authorized for such purpose;

24 (d) all other money appropriated by the legislature to
25 the reserve fund; and

1 (e) any other money or funds of the board that it
2 decides to deposit in the fund.

3 (2) All money held in the reserve fund shall be used
4 solely for the payment of the principal of or interest on
5 the bonds or notes secured in whole or in part by the fund
6 or the debt service fund payments with respect to the bonds
7 or notes, the purchase or redemption of the bonds or notes,
8 the payment of interest on the bonds or notes, or the
9 payment of any redemption premium required to be paid when
10 the bonds or notes are redeemed prior to maturity. Money in
11 the reserve fund may not be withdrawn at any time in an
12 amount that reduces the fund to an amount less than the sum
13 of minimum reserve requirements established in the
14 resolutions or indentures of the board for the fund except,
15 with respect to bonds or notes secured in whole or in part
16 by the fund, for the purpose of making payment when due of
17 principal, interest, redemption premiums, and debt service
18 fund payments for the payment of which other money pledged
19 is not available.

20 (3) Money in the reserve fund in excess of the
21 required reserve may be withdrawn at any time by the board
22 and transferred to another fund or account of the board
23 established for purposes of this part, but not to any other
24 fund or account.

25 (4) Nothing in this section creates a debt or

1 liability of the state.

2 (5) Notwithstanding any provision of Title 17, chapter
3 6, the board of investments may lend money for deposit to
4 the reserve fund in an amount equal to any deficiency in the
5 required debt service reserve. The loans shall be made on
6 such reasonable terms and conditions as the board considers
7 proper ~~and--as-may-be-agreed-upon-between-the-board-and-the~~
8 ~~board-of-investments~~, including without limitation terms and
9 conditions providing that the loans need not be repaid until
10 the obligations of the board secured and to be secured by
11 the reserve fund are no longer outstanding."

12 Section 12. Section 17-6-201, MCA, is amended to read:
13 "17-6-201. Unified investment program -- general
14 provisions. (1) The unified investment program directed by
15 Article VIII, section 13, of the 1972 Montana constitution
16 to be provided for public funds shall be administered by the
17 board of investments ~~and-the--Montana--economic--development~~
18 ~~board~~ in accordance with ~~Article-VIII,-section-13,-of-the~~
19 ~~Montana-constitution-and~~ the prudent expert principle, which
20 requires any investment manager to:

21 (a) discharge his duties with the care, skill,
22 prudence, and diligence, under the circumstances then
23 prevailing, that a prudent person acting in a like capacity
24 with the same resources and familiar with like matters
25 exercises in the conduct of an enterprise of a like

1 character with like aims;

2 (b) diversify the holdings of each fund within the
3 unified investment program to minimize the risk of loss and
4 to maximize the rate of return, unless under the
5 circumstances it is clearly prudent not to do so; and

6 (c) discharge his duties solely in the interest of and
7 for the benefit of the funds forming the unified investment
8 program.

9 (2) Retirement funds may be invested in common stocks
10 of any corporation provided that no investment may be made
11 at any time which would cause the book value of such
12 investments in any retirement fund to exceed 50% of the book
13 value of such fund or would cause the stock of one
14 corporation to exceed 2% of the book value of such
15 retirement fund.

16 (3) Nothing contained in this section prevents the
17 investment in any business activity in Montana, including
18 activities that continue existing jobs or create new jobs in
19 Montana, if the investment meets the standard of care
20 required by this section. In discharging its duties, the
21 ~~board of investments and the Montana economic development~~
22 ~~board~~ shall consider the preservation of purchasing power of
23 capital during periods of high monetary inflation.

24 (4) The board ~~of investments~~ has the sole authority to
25 invest state funds ~~other than the Montana in state~~

1 ~~investment fund~~. No other agency may invest such state
2 funds. The board shall direct the investment of state funds
3 in accordance with the laws and constitution of this state.
4 The board has the power to veto any investments made under
5 its general supervision.

6 (5) The board ~~of investments~~ shall:

7 (a) assist agencies with public money to determine if,
8 when, and how much surplus cash is available for investment;

9 (b) determine the amount of surplus treasury cash to
10 be invested;

11 (c) determine the type of investment to be made;

12 (d) prepare the claim to pay for the investment; and

13 (e) keep an account of the total of each investment
14 fund and of all the investments belonging to such fund and a
15 record of the participation of each treasury fund account
16 therein.

17 (6) The board ~~of investments~~ may:

18 (a) execute deeds of conveyance transferring all real
19 property obtained through foreclosure of any investments
20 purchased under the provisions of 17-6-211 when full payment
21 has been received therefor;

22 (b) direct the withdrawal of any funds deposited by or
23 for the state treasurer pursuant to 17-6-101 and 17-6-105;

24 (c) direct the sale of any securities in the program
25 at their full and true value when found necessary to raise

1 money for payments due from the treasury funds for which the
2 securities have been purchased.

3 (7) The cost of administering and accounting for each
4 investment fund shall be deducted from the income therefrom,
5 except that such costs of the nonexpendable trust funds
6 shall be paid from income otherwise receivable from the
7 pooled investment fund, and the amounts required for this
8 purpose shall be appropriated by the legislature from the
9 respective investment funds."

10 Section 13. Section 17-6-302, MCA, is amended to read:

11 "17-6-302. Definitions. As used in this part, unless
12 the context requires otherwise, the following definitions
13 apply:

14 (1) "Board" means the ~~Montana--economic--development~~
15 ~~board of investments established--in-2-15-1805~~ created in
16 [section 1].

17 (2) "Clean and healthful environment" means an
18 environment that is relatively free from pollution which
19 threatens human health, including as a minimum, compliance
20 with federal and state environmental and health standards.

21 (3) "Employee-owned enterprise" means any enterprise
22 at least 51% of whose stock, partnership interests, or other
23 ownership interests is owned and controlled by residents of
24 Montana each of whose principal occupation is as an
25 employee, officer, or partner of the enterprise.

1 (4) "Financial institution" includes but is not
2 limited to a state- or federally chartered bank or a savings
3 and loan association, credit union, or development
4 corporation created pursuant to Title 32, chapter 4.

5 (5) "Loan participation" means loans or portions
6 thereof bought from a financial institution.

7 (6) "Locally owned enterprise" means any enterprise
8 51% of whose stock, partnership interests, or other
9 ownership interests are owned and controlled by residents of
10 Montana.

11 (7) "Long-term benefit to the Montana economy" means
12 an activity that strengthens the Montana economy and that
13 has the potential to maintain and create jobs, increase per
14 capita income, or increase Montana tax revenues in the
15 future to the people of Montana, either directly or
16 indirectly.

17 (8) "Montana economy" means any business activity in
18 the state of Montana, including those which continue
19 existing jobs or create new jobs in Montana.

20 (9) "Montana in-state investment fund" means the fund
21 established by 17-6-305.

22 (10) "Service fees" means the fees normally charged by
23 a financial institution for servicing a loan, including
24 amounts charged for collecting payments and remitting
25 amounts to the fund."

1 Section 14. Section 80-14-102, MCA, is amended to
2 read:

3 "80-14-102. (Temporary) Definitions. As used in this
4 chapter, the following definitions apply:

5 (1) "Board" means the board of investments established
6 under ~~2-15-1005~~ [section 1].

7 (2) "Eligible agricultural operation" means any
8 person, corporation, partnership, or other entity which is
9 engaged in the production of agricultural, livestock,
10 poultry, dairy, or fruit or other horticultural products and
11 which:

12 (a) derives at least 70% of its gross income from such
13 production; and

14 (b) has total financial liabilities exceeding 30% of
15 its total assets.

16 (3) "Eligible lending institution" means a financial
17 institution that:

18 (a) is eligible to make commercial loans;

19 (b) is a public depository of state funds; and

20 (c) agrees to participate in the linked deposit
21 program established by this chapter.

22 (4) "Linked deposit" means an agreement between the
23 board and an eligible financial institution whereby a
24 certificate of deposit for a term not exceeding 6 months is
25 placed by the board with an eligible lending institution at

1 a rate 1% below the current market rate for such a deposit,
2 as determined by the board, provided the institution agrees
3 to lend the value of such deposit, pursuant to the deposit
4 agreement provided in 80-14-202, to eligible agricultural
5 operations at an interest rate not exceeding 2 percentage
6 points greater than the rate payable on the certificate of
7 deposit. (Terminates March 15, 1987--sec. 9, Ch. 5, Sp. L.
8 March 1986.)"

9 Section 15. Section 90-6-104, MCA, is amended to read:

10 "90-6-104. General powers of the board. The board may:

11 (1) sue and be sued;

12 (2) have a seal;

13 (3) adopt all procedural and substantive rules
14 necessary for the administration of this part, including
15 rules concerning its mortgage, construction, and temporary
16 lending programs;

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

20 (5) enter into agreements or other transactions with
21 any federal, state, or local governmental agency, any
22 persons, and any domestic or foreign partnership,
23 corporation, association, or organization in carrying out
24 this part;

25 (6) enter into agreements under its rules with

1 sponsors, mortgagors, or lending institutions for the
 2 purpose of regulating the analysis, planning, development,
 3 and management of housing developments financed in whole or
 4 in part by the proceeds of its loans or securities and
 5 mortgage purchase programs;

6 (7) enter into agreements or other transactions with,
 7 and accept grants and the cooperation of, any governmental
 8 agency in furtherance of this part, including but not
 9 limited to the development, leasing, maintenance, operation,
 10 and financing of any housing development;

11 (8) accept services, appropriations, gifts, grants,
 12 bequests, and devise and utilize or dispose of them in
 13 carrying out this part;

14 (9) acquire real or personal property or any right,
 15 interest, or easement therein by gift, purchase, transfer,
 16 foreclosure, lease, or otherwise; hold, sell, assign, lease,
 17 encumber, mortgage, or otherwise dispose thereof; hold,
 18 sell, assign, or otherwise dispose of any mortgage or loan
 19 owned by it or in its control or custody; release or
 20 relinquish any right, title, claim, interest, easement, or
 21 demand, however acquired, including any equity or right of
 22 redemption; do any of the foregoing by public or private
 23 sale, with or without public bidding; commence any action to
 24 protect or enforce any right conferred upon it by any law,
 25 mortgage, contract, or other agreement; bid for and purchase

1 property at any foreclosure or other sale or acquire or take
 2 possession of it in lieu of foreclosure; and operate,
 3 manage, lease, dispose of, and otherwise deal with such
 4 property in any manner necessary or desirable to protect its
 5 interests and the holders of its bonds or notes and
 6 consistent with any agreement with such holders;

7 (10) service and contract and pay for the servicing of
 8 loans;

9 (11) provide general technical services in the
 10 analysis, planning, design, processing, construction,
 11 rehabilitation, and management of housing developments for
 12 persons and families of lower income where these services
 13 are not otherwise available;

14 (12) provide general consultative services to housing
 15 developments for persons and families of lower income and
 16 the residents thereof with respect to counseling and
 17 training in management, home ownership, and maintenance
 18 where these services are not otherwise available;

19 (13) invest any funds not required for immediate use,
 20 subject to any agreements with its bondholders and
 21 noteholders, as provided in Title 17, chapter 6, except all
 22 investment income from funds of the board less the cost for
 23 investment as prescribed by law shall be deposited in the
 24 housing authority enterprise fund;

25 (14) sell its loans or securities to the federal

1 national mortgage association or any other agency or
 2 instrumentality of the United States and invest in the
 3 capital stock issued by the association or other agency or
 4 instrumentality to the extent, if any, required as a
 5 condition of such sale;

6 (15) consent, whenever it deems it necessary or
 7 desirable in fulfilling its purposes, to the modification of
 8 the rate of interest, time, and payment of any installment
 9 of principal or interest, security, or any other term of any
 10 contract, mortgage, mortgage loan, mortgage loan commitment,
 11 construction loan, advance contract, or agreement of any
 12 kind, subject to any agreement with bondholders and
 13 noteholders;

14 (16) collect reasonable interest, fees, and charges in
 15 connection with making and servicing its loans, notes,
 16 bonds, commitments, and other evidences of indebtedness and
 17 in connection with providing technical, consultative, and
 18 project assistance services. Interest fees and charges shall
 19 be limited to the amounts required to pay the costs of the
 20 board, including operating and administrative expenses and
 21 reasonable allowances for losses which may be incurred.

22 (17) procure insurance against any loss in connection
 23 with its mortgages and mortgage loans and other assets or
 24 property in amounts and from insurers as the board considers
 25 desirable or necessary;

1 (18) act as agent for governmental agencies concerning
 2 acquisition, construction, leasing, operation, or management
 3 of a housing development;

4 (19) issue notes and bonds and replace lost, destroyed,
 5 or mutilated notes and bonds;

6 (20) develop special programs for housing developments
 7 for veterans of the armed forces of the United States who
 8 are unable to acquire safe and sanitary housing through
 9 lending institutions by conventional means; and

10 (21) lend money to the ~~economic--development~~ board of
 11 investments to establish the Montana economic development
 12 guaranty fund created by 17-5-1520."

13 Section 16. Section 90-8-104, MCA, is amended to read:
 14 "90-8-104. Definitions. As used in this chapter,
 15 unless the context requires otherwise, the following
 16 definitions apply:

17 (1) "Board" means the ~~Montana--economic--development~~
 18 board of investments provided for in ~~2-15-1005~~ [section 1].

19 (2) "Capital base" means equity capital or net worth.

20 (3) "Certified Montana capital company" means:

21 (a) a development credit corporation created pursuant
 22 to Title 32, chapter 4; or

23 (b) a profit or nonprofit entity organized and
 24 existing under the laws of Montana, created for the purpose
 25 of making venture or risk capital available for qualified

1 investments and that has been certified by the board.

2 (4) "Montana business" means a business which is
3 located or principally based within Montana.

4 (5) "Qualified investment" means a debt or equity
5 financing of or a purchase and leaseback financing of a
6 Montana business that meets both of the following criteria:

7 (a) the business is engaged in one or more of the
8 following activities:

9 (i) manufacturing;

10 (ii) agricultural, fishery, or forestry production and
11 processing;

12 (iii) mineral production and processing, except for
13 conventional oil and gas exploration;

14 (iv) recognized nonfossil forms of energy generation as
15 defined in 15-32-102(5);

16 (v) transportation;

17 (vi) research and development of products or processes
18 associated with any of the activities enumerated in (i)
19 through (v) above;

20 (vii) wholesale or retail distribution activities for
21 which products produced in Montana comprise 50% or more of
22 the gross sales receipts;

23 (viii) any activity conducted in the state for which
24 50% or more of the gross receipts are derived from the sale
25 of products or services outside Montana; and

1 (ix) tourism; and

2 (b) the business is a small business as defined in
3 rules adopted by the board.

4 (6) "Qualified Montana capital company" means a
5 certified Montana capital company that has been designated a
6 qualified capital company under the provisions of 90-8-202
7 so that investors in the company may receive the tax credits
8 authorized in 90-8-202."

9 NEW SECTION. Section 17. Repealer. Sections
10 2-15-1005, 2-15-1805 through 2-15-1807, and 17-6-307, MCA,
11 are repealed.

12 NEW SECTION. Section 18. Codification instruction.
13 Section 1 is intended to be codified as an integral part of
14 Title 2, chapter 15, part 18, and the provisions of Title 2,
15 chapter 15, part 18, apply to section 1.

16 NEW SECTION. Section 19. Effective date. This act is
17 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB298, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate the present Board of Investments and the Montana Economic Development Board and create a new consolidated Board of Investments.

ASSUMPTIONS:

1. Merger is effective July 1, 1987.
2. The number of Board members will decrease from 14 to 9.
3. FTE will remain the same as proposed in the Governor's Budget. The total number of exempt positions will also remain the same. Salary levels will be increased to allow the new Board of Investments increased flexibility in obtaining high level financial expertise.
4. The staff of the MEDB will move to the present Board of Investment's facility. Adequate space to accommodate the two staffs is available.
5. Funding for the investment activity of MEDB will be provided by the current Board of Investment's proprietary account rather than the general fund.
6. Proprietary funding for investment operations has an impact on the general fund. 12.5% of funds appropriated for investment operations are considered lost general fund earnings.
7. The current MEDB general fund loan for the 87 biennium will be extended through the 89 biennium.

FISCAL IMPACT:

	FY88			FY89		
	Combined Original OBPP Requests	Proposed Combined Requests	Difference	Combined Original OBPP Requests	Proposed Combined Requests	Difference
FTE	26	26		26	26	
<u>Expenditures:</u>						
Personal Services	\$ 850,030	\$ 896,310	\$ 46,280	\$ 849,721	\$ 918,401	\$ 68,680
Operating	449,139	505,572	56,433	372,379	428,679	56,300
Equipment	5,259	12,259	7,000	1,759	1,759	0
Local Assistance	250,000	250,000	0	250,000	250,000	0
Debt Service	9,190	9,190	0	3,924	3,924	0
TOTAL	\$1,563,618	\$1,673,331	\$ 109,713	\$1,477,783	\$1,602,763	\$ 124,980

David L. Hunter DATE 2/9/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Ted Neuman
 TED NEUMAN, PRIMARY SPONSOR
 Feb 10, 1987
 Fiscal Note for SB298, as introduced.

Fiscal Note Request, SB298, as introduced.

Form BD-15

Page 2

<u>Funding:</u>						
General Fund	\$ 431,262	\$ 250,000	\$(181,262)	\$ 431,262	\$ 250,000	\$(181,262)
Proprietary	<u>1,132,356</u>	<u>1,423,331</u>	<u>290,975</u>	<u>1,046,521</u>	<u>1,352,763</u>	<u>306,242</u>
TOTAL	<u>\$1,563,618</u>	<u>\$1,673,331</u>	<u>\$ 109,713</u>	<u>\$1,477,783</u>	<u>\$1,602,763</u>	<u>\$ 124,980</u>
Lost General Fund Revenue		\$ 36,372			\$ 38,280	
General Fund Expenditure Savings		<u>181,262</u>			<u>181,262</u>	
NET GENERAL FUND SAVINGS		<u>\$ 144,890</u>			<u>\$ 142,982</u>	

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Section 1 (2) appears to exempt all professional staff from the classified pay system. To the extent that the number of exempt positions increase above the current number and the salaries are adjusted, fiscal impact will change.

SB 298

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

1 SENATE BILL NO. 298

2 INTRODUCED BY NEUMAN, HIMSL, BARDANOUE, JACOBSON,
3 M. WILLIAMS, HALLIGAN, MAZUREK, POULSEN, MANUEL, ADDY,
4 SPAETH, LYBECK, HARP, GRADY, GLASER
5 BY REQUEST OF THE GOVERNOR

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NEW BOARD OF
8 INVESTMENTS BY ABOLISHING THE MONTANA ECONOMIC DEVELOPMENT
9 BOARD AND THE BOARD OF INVESTMENTS; TRANSFERRING TO THE NEW
10 BOARD OF INVESTMENTS THE FUNCTIONS OF THE ABOLISHED BOARDS;
11 ALLOCATING THE NEW BOARD OF INVESTMENTS TO THE DEPARTMENT OF
12 COMMERCE; AMENDING SECTIONS 2-18-103, 7-6-1103, 7-7-2259,
13 7-7-4259, 17-5-1502, 17-5-1503, 17-5-1604, 17-5-1605,
14 17-5-1630, 17-6-201, 17-6-302, 80-14-102, 90-6-104, AND
15 90-8-104, MCA; REPEALING SECTIONS 2-15-1005 AND 2-15-1805
16 THROUGH 2-15-1807, AND 17-6-307, MCA; AND PROVIDING AN
17 EFFECTIVE DATE."
18

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

20 NEW SECTION. Section 1. Board of investments --
21 allocation -- composition -- quasi-judicial. (1) There is a
22 board of investments within the department of commerce.

23 (2) Except as otherwise provided in this subsection,
24 the board is allocated to the department for administrative
25 purposes as prescribed in 2-15-121. The board may employ an

1 investment officer, an assistant investment officer, and an
2 executive director who have general responsibility for
3 selection and management of the board's staff and for direct
4 investment and economic development activities. The
5 investment officer, assistant investment officer, and
6 executive director serve at the pleasure of the board. The
7 board shall prescribe the duties and annual salaries of ~~its~~
8 THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER,
9 EXECUTIVE DIRECTOR, AND THREE professional staff positions.

10 (3) The board is composed of nine members appointed by
11 the governor as prescribed in 2-15-124. The members are:

12 (a) one member from the public employees' retirement
13 board provided for in 2-15-1009 and one member from the
14 teachers' retirement board provided for in 2-15-1010. If
15 either member ceases to be a member of the retirement board,
16 the position of that member on the board of investments is
17 vacant, and the governor shall fill the vacancy in
18 accordance with 2-15-124.

19 (b) seven members who are informed and experienced in
20 the subject of investments and who are representative of the
21 financial community, small business, agriculture, and labor,
22 to provide a balance of professional expertise and public
23 interest and accountability.

24 (4) The board is designated as a quasi-judicial board
25 for the purposes of 2-15-124.

1 NEW SECTION. Section 2. Montana economic development
2 board abolished -- functions transferred. The Montana
3 economic development board, created by 2-15-1805, is
4 abolished, and its functions are transferred to the board of
5 investments created in section 1.

6 NEW SECTION. Section 3. Board of investments
7 abolished -- functions transferred. The board of
8 investments, created by 2-15-1005, is abolished, and its
9 functions are transferred to the board of investments
10 created in section 1.

11 Section 4. Section 7-6-1103, MCA, is amended to read:
12 "7-6-1103. Issuance and sale of short-term obligations
13 -- procedure. (1) The issuance of short-term obligations
14 must be authorized by an ordinance of the governing body
15 that fixes the maximum amount of the obligations to be
16 issued or, if applicable, the maximum amount which may be
17 outstanding at any time, the maximum term and interest rate
18 or rates to be borne thereby, the manner of sale, maximum
19 price, form including bearer or registered as provided in
20 Title 17, chapter 5, part 11, terms, conditions, and the
21 covenants of the obligations. Short-term obligations issued
22 under this section shall bear such fixed or variable rate or
23 rates of interest as the governing body considers to be in
24 the best interests of the local government. Variable rates
25 of interest may be fixed in relationship to such standard or

1 index as the governing body designates.

2 (2) The governing body may sell the short-term
3 obligations at par or at a discount:

4 (a) at private negotiated sale to the Montana-economic
5 development board of investments as provided in Title 17,
6 chapter 5, part 16; or

7 (b) at public sale to any other person. Any public
8 sale must be noticed as provided in 7-7-4434(2)."

9 Section 5. Section 7-7-2259, MCA, is amended to read:
10 "7-7-2259. Delivery of bonds. (1) If the board of
11 investments is the purchaser of the bonds, the county
12 treasurer shall forward the registered bonds to the
13 department of administration commerce. The department shall
14 deliver them to the state treasurer, and payment therefor
15 shall be made in the manner provided by law.

16 (2) If the bonds are purchased by other investors, the
17 county treasurer shall deliver the bonds to the purchaser
18 upon receiving full payment therefor."

19 Section 6. Section 7-7-4259, MCA, is amended to read:
20 "7-7-4259. Delivery of bonds. (1) If the board of
21 investments is the purchaser of the bonds, the city
22 treasurer or town clerk shall forward the registered bonds
23 to the department of administration commerce. The department
24 shall deliver them to the state treasurer, and payment
25 therefor shall be made in the manner provided by law.

1 (2) If the bonds are purchased by other investors, the
2 city treasurer or town clerk shall deliver the bonds to the
3 purchaser upon receiving full payment therefor."

4 Section 7. Section 17-5-1502, MCA, is amended to read:

5 "17-5-1502. Legislative declaration. (1) It is the
6 policy of the state of Montana, in the interest of promoting
7 the health, safety, and general welfare of all the people of
8 the state, to increase job opportunities and to retain
9 existing jobs by making available, through the economic
10 development board of investments, funds for industrial,
11 commercial, manufacturing, natural resource, agricultural,
12 livestock, recreational, tourist, and health care
13 development.

14 (2) The legislature finds that:

15 (a) a vigorous, diversified, and growing economy is
16 the basic source of job opportunities;

17 (b) protection against unemployment and its economic
18 burdens and the spread of economic stagnation can best be
19 provided by promoting, attracting, stimulating, and
20 revitalizing a diversified economy with contributions from
21 industry, manufacturing, commerce, natural resource
22 development, agriculture, livestock, recreation, tourism,
23 and health care facilities; and

24 (c) the state of Montana has a responsibility to help
25 create a favorable climate for new and improved job

1 opportunities and a stable, growing, and healthy economy for
2 its citizens by encouraging the development of business."

3 Section 8. Section 17-5-1503, MCA, is amended to read:

4 "17-5-1503. Definitions. As used in this part, unless
5 the context requires otherwise, the following definitions
6 apply:

7 (1) "Board" means the Montana--economic-development
8 board of investments created in 2-15-1805 [section 1].

9 (2) "Bond" means any bond, note, debenture, interim
10 certificate, or other evidence of financial indebtedness
11 issued by the board pursuant to this part.

12 (3) "Department" means the department of commerce
13 provided for in 2-15-1801.

14 (4) "Financial institution" means any bank, savings
15 and loan association, credit union, development credit
16 corporation, insurance company, investment company, trust
17 company, savings institution, or other financial institution
18 approved by the board and maintaining an office in the
19 state.

20 (5) "Local government" means the city in which the
21 project is located, if the project is located within an
22 incorporated municipality, or the county if the project is
23 located within the county but outside the boundaries of an
24 incorporated municipality.

25 (6) "Major project" means a project whose cost or

1 appraised value exceeds \$800,000.

2 (7) "Project" means a project as defined in 90-5-101.

3 (8) "Project costs" means the costs of acquiring or
4 improving any project, including the following:

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

7 (b) the actual cost of construction of all or any part
8 of a project, including architects' and engineers' fees;

9 (c) all expenses in connection with the authorization,
10 sale, and issuance of the bonds to finance such acquisition
11 or improvement;

12 (d) bond reserves and premiums for insurance or
13 guaranty of loan payments or lease rentals pledged to pay
14 the bonds; and

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

18 Section 9. Section 17-5-1604, MCA, is amended to read:

19 "17-5-1604. Definitions. As used in this part, the
20 following definitions apply:

21 (1) "Board" means the ~~Montana--economic-development~~
22 board of investments created in ~~2-15-1805~~ [section 1].

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

25 (3) "Local government unit" means any municipal

1 corporation or political subdivision of the state, including
2 without limitation any city, town, county, school district,
3 or other special taxing district.

4 (4) "Reserve fund" means the municipal finance
5 consolidation act reserve fund created in 17-5-1630."

6 Section 10. Section 17-5-1605, MCA, is amended to
7 read:

8 "17-5-1605. Montana ~~economic--development~~ board of
9 investments to implement. The Montana ~~economic--development~~
10 board of investments may make and enforce orders, rules, and
11 bylaws that are necessary or desirable for the
12 implementation of this part."

13 Section 11. Section 17-5-1630, MCA, is amended to
14 read:

15 "17-5-1630. Reserve fund. (1) The board shall
16 establish and maintain a municipal finance consolidation act
17 reserve fund, to which there shall be deposited or
18 transferred:

19 (a) all money appropriated by the legislature for the
20 purposes of the fund in accordance with the provisions of
21 subsection (4);

22 (b) all proceeds of bonds required to be deposited in
23 the fund by terms of a contract between the board and its
24 bondholders or a resolution of the board with respect to the
25 proceeds of bonds;

1 (c) the proceeds of any bond issue of the state that
2 is authorized for such purpose;

3 (d) all other money appropriated by the legislature to
4 the reserve fund; and

5 (e) any other money or funds of the board that it
6 decides to deposit in the fund.

7 (2) All money held in the reserve fund shall be used
8 solely for the payment of the principal of or interest on
9 the bonds or notes secured in whole or in part by the fund
10 or the debt service fund payments with respect to the bonds
11 or notes, the purchase or redemption of the bonds or notes,
12 the payment of interest on the bonds or notes, or the
13 payment of any redemption premium required to be paid when
14 the bonds or notes are redeemed prior to maturity. Money in
15 the reserve fund may not be withdrawn at any time in an
16 amount that reduces the fund to an amount less than the sum
17 of minimum reserve requirements established in the
18 resolutions or indentures of the board for the fund except,
19 with respect to bonds or notes secured in whole or in part
20 by the fund, for the purpose of making payment when due of
21 principal, interest, redemption premiums, and debt service
22 fund payments for the payment of which other money pledged
23 is not available.

24 (3) Money in the reserve fund in excess of the
25 required reserve may be withdrawn at any time by the board

1 and transferred to another fund or account of the board
2 established for purposes of this part, but not to any other
3 fund or account.

4 (4) Nothing in this section creates a debt or
5 liability of the state.

6 (5) Notwithstanding any provision of Title 17, chapter
7 6, the board of investments may lend money for deposit to
8 the reserve fund in an amount equal to any deficiency in the
9 required debt service reserve. The loans shall be made on
10 such reasonable terms and conditions as the board considers
11 proper ~~and--as-may-be-agreed-upon-between-the-board-and-the~~
12 ~~board-of-investments~~, including without limitation terms and
13 conditions providing that the loans need not be repaid until
14 the obligations of the board secured and to be secured by
15 the reserve fund are no longer outstanding."

16 Section 12. Section 17-6-201, MCA, is amended to read:

17 "17-6-201. Unified investment program -- general
18 provisions. (1) The unified investment program directed by
19 Article VIII, section 13, of the 1972 Montana constitution
20 to be provided for public funds shall be administered by the
21 board of investments ~~and-the--Montana--economic--development~~
22 ~~board~~ in accordance with ~~Article-VIII-section-13-of-the~~
23 ~~Montana-constitution-and~~ the prudent expert principle, which
24 requires any investment manager to:

25 (a) discharge his duties with the care, skill,

1 prudence, and diligence, under the circumstances then
 2 prevailing, that a prudent person acting in a like capacity
 3 with the same resources and familiar with like matters
 4 exercises in the conduct of an enterprise of a like
 5 character with like aims;

6 (b) diversify the holdings of each fund within the
 7 unified investment program to minimize the risk of loss and
 8 to maximize the rate of return, unless under the
 9 circumstances it is clearly prudent not to do so; and

10 (c) discharge his duties solely in the interest of and
 11 for the benefit of the funds forming the unified investment
 12 program.

13 (2) Retirement funds may be invested in common stocks
 14 of any corporation provided that no investment may be made
 15 at any time which would cause the book value of such
 16 investments in any retirement fund to exceed 50% of the book
 17 value of such fund or would cause the stock of one
 18 corporation to exceed 2% of the book value of such
 19 retirement fund.

20 (3) Nothing contained in this section prevents the
 21 investment in any business activity in Montana, including
 22 activities that continue existing jobs or create new jobs in
 23 Montana, if the investment meets the standard of care
 24 required by this section. In discharging its duties, the
 25 board of investments and the Montana economic development

1 board shall consider the preservation of purchasing power of
 2 capital during periods of high monetary inflation.

3 (4) The board of investments has the sole authority to
 4 invest state funds other than the Montana in-state
 5 investment fund. No other agency may invest such state
 6 funds. The board shall direct the investment of state funds
 7 in accordance with the laws and constitution of this state.
 8 The board has the power to veto any investments made under
 9 its general supervision.

10 (5) The board of investments shall:

11 (a) assist agencies with public money to determine if,
 12 when, and how much surplus cash is available for investment;

13 (b) determine the amount of surplus treasury cash to
 14 be invested;

15 (c) determine the type of investment to be made;

16 (d) prepare the claim to pay for the investment; and

17 (e) keep an account of the total of each investment
 18 fund and of all the investments belonging to such fund and a
 19 record of the participation of each treasury fund account
 20 therein.

21 (6) The board of investments may:

22 (a) execute deeds of conveyance transferring all real
 23 property obtained through foreclosure of any investments
 24 purchased under the provisions of 17-6-211 when full payment
 25 has been received therefor;

1 (b) direct the withdrawal of any funds deposited by or
2 for the state treasurer pursuant to 17-6-101 and 17-6-105;

3 (c) direct the sale of any securities in the program
4 at their full and true value when found necessary to raise
5 money for payments due from the treasury funds for which the
6 securities have been purchased.

7 (7) The cost of administering and accounting for each
8 investment fund shall be deducted from the income therefrom,
9 except that such costs of the nonexpendable trust funds
10 shall be paid from income otherwise receivable from the
11 pooled investment fund, and the amounts required for this
12 purpose shall be appropriated by the legislature from the
13 respective investment funds."

14 Section 13. Section 17-6-302, MCA, is amended to read:

15 "17-6-302. Definitions. As used in this part, unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Board" means the ~~Montana--economic--development~~
19 ~~board of investments established--in-2-15-1885 created in~~
20 [section 1].

21 (2) "Clean and healthful environment" means an
22 environment that is relatively free from pollution which
23 threatens human health, including as a minimum, compliance
24 with federal and state environmental and health standards.

25 (3) "Employee-owned enterprise" means any enterprise

1 at least 51% of whose stock, partnership interests, or other
2 ownership interests is owned and controlled by residents of
3 Montana each of whose principal occupation is as an
4 employee, officer, or partner of the enterprise.

5 (4) "Financial institution" includes but is not
6 limited to a state- or federally chartered bank or a savings
7 and loan association, credit union, or development
8 corporation created pursuant to Title 32, chapter 4.

9 (5) "Loan participation" means loans or portions
10 thereof bought from a financial institution.

11 (6) "Locally owned enterprise" means any enterprise
12 51% of whose stock, partnership interests, or other
13 ownership interests are owned and controlled by residents of
14 Montana.

15 (7) "Long-term benefit to the Montana economy" means
16 an activity that strengthens the Montana economy and that
17 has the potential to maintain and create jobs, increase per
18 capita income, or increase Montana tax revenues in the
19 future to the people of Montana, either directly or
20 indirectly.

21 (8) "Montana economy" means any business activity in
22 the state of Montana, including those which continue
23 existing jobs or create new jobs in Montana.

24 (9) "Montana in-state investment fund" means the fund
25 established by 17-6-305.

1 (10) "Service fees" means the fees normally charged by
2 a financial institution for servicing a loan, including
3 amounts charged for collecting payments and remitting
4 amounts to the fund."

5 Section 14. Section 80-14-102, MCA, is amended to
6 read:

7 "80-14-102. (Temporary) Definitions. As used in this
8 chapter, the following definitions apply:

9 (1) "Board" means the board of investments established
10 under ~~2-15-1005~~ [section 1].

11 (2) "Eligible agricultural operation" means any
12 person, corporation, partnership, or other entity which is
13 engaged in the production of agricultural, livestock,
14 poultry, dairy, or fruit or other horticultural products and
15 which:

16 (a) derives at least 70% of its gross income from such
17 production; and

18 (b) has total financial liabilities exceeding 30% of
19 its total assets.

20 (3) "Eligible lending institution" means a financial
21 institution that:

22 (a) is eligible to make commercial loans;

23 (b) is a public depository of state funds; and

24 (c) agrees to participate in the linked deposit
25 program established by this chapter.

1 (4) "Linked deposit" means an agreement between the
2 board and an eligible financial institution whereby a
3 certificate of deposit for a term not exceeding 6 months is
4 placed by the board with an eligible lending institution at
5 a rate 1% below the current market rate for such a deposit,
6 as determined by the board, provided the institution agrees
7 to lend the value of such deposit, pursuant to the deposit
8 agreement provided in 80-14-202, to eligible agricultural
9 operations at an interest rate not exceeding 2 percentage
10 points greater than the rate payable on the certificate of
11 deposit. (Terminates March 15, 1987--sec. 9, Ch. 5, Sp. L.
12 March 1986.)"

13 Section 15. Section 90-6-104, MCA, is amended to read:

14 "90-6-104. General powers of the board. The board may:

15 (1) sue and be sued;

16 (2) have a seal;

17 (3) adopt all procedural and substantive rules
18 necessary for the administration of this part, including
19 rules concerning its mortgage, construction, and temporary
20 lending programs;

21 (4) make contracts, agreements, and other instruments
22 necessary or convenient for the exercise of its powers under
23 this part;

24 (5) enter into agreements or other transactions with
25 any federal, state, or local governmental agency, any

1 persons, and any domestic or foreign partnership,
2 corporation, association, or organization in carrying out
3 this part;

4 (6) enter into agreements under its rules with
5 sponsors, mortgagors, or lending institutions for the
6 purpose of regulating the analysis, planning, development,
7 and management of housing developments financed in whole or
8 in part by the proceeds of its loans or securities and
9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,
11 and accept grants and the cooperation of, any governmental
12 agency in furtherance of this part, including but not
13 limited to the development, leasing, maintenance, operation,
14 and financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,
16 bequests, and devise and utilize or dispose of them in
17 carrying out this part;

18 (9) acquire real or personal property or any right,
19 interest, or easement therein by gift, purchase, transfer,
20 foreclosure, lease, or otherwise; hold, sell, assign, lease,
21 encumber, mortgage, or otherwise dispose thereof; hold,
22 sell, assign, or otherwise dispose of any mortgage or loan
23 owned by it or in its control or custody; release or
24 relinquish any right, title, claim, interest, easement, or
25 demand, however acquired, including any equity or right of

1 redemption; do any of the foregoing by public or private
2 sale, with or without public bidding; commence any action to
3 protect or enforce any right conferred upon it by any law,
4 mortgage, contract, or other agreement; bid for and purchase
5 property at any foreclosure or other sale or acquire or take
6 possession of it in lieu of foreclosure; and operate,
7 manage, lease, dispose of, and otherwise deal with such
8 property in any manner necessary or desirable to protect its
9 interests and the holders of its bonds or notes and
10 consistent with any agreement with such holders;

11 (10) service and contract and pay for the servicing of
12 loans;

13 (11) provide general technical services in the
14 analysis, planning, design, processing, construction,
15 rehabilitation, and management of housing developments for
16 persons and families of lower income where these services
17 are not otherwise available;

18 (12) provide general consultative services to housing
19 developments for persons and families of lower income and
20 the residents thereof with respect to counseling and
21 training in management, home ownership, and maintenance
22 where these services are not otherwise available;

23 (13) invest any funds not required for immediate use,
24 subject to any agreements with its bondholders and
25 noteholders, as provided in Title 17, chapter 6, except all

1 investment income from funds of the board less the cost for
2 investment as prescribed by law shall be deposited in the
3 housing authority enterprise fund;

4 (14) sell its loans or securities to the federal
5 national mortgage association or any other agency or
6 instrumentality of the United States and invest in the
7 capital stock issued by the association or other agency or
8 instrumentality to the extent, if any, required as a
9 condition of such sale;

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

18 (16) collect reasonable interest, fees, and charges in
19 connection with making and servicing its loans, notes,
20 bonds, commitments, and other evidences of indebtedness and
21 in connection with providing technical, consultative, and
22 project assistance services. Interest fees and charges shall
23 be limited to the amounts required to pay the costs of the
24 board, including operating and administrative expenses and
25 reasonable allowances for losses which may be incurred.

1 (17) procure insurance against any loss in connection
2 with its mortgages and mortgage loans and other assets or
3 property in amounts and from insurers as the board considers
4 desirable or necessary;

5 (18) act as agent for governmental agencies concerning
6 acquisition, construction, leasing, operation, or management
7 of a housing development;

8 (19) issue notes and bonds and replace lost, destroyed,
9 or mutilated notes and bonds;

10 (20) develop special programs for housing developments
11 for veterans of the armed forces of the United States who
12 are unable to acquire safe and sanitary housing through
13 lending institutions by conventional means; and

14 (21) lend money to the economic--development board of
15 investments to establish the Montana economic development
16 guaranty fund created by 17-5-1520."

17 Section 16. Section 90-8-104, MCA, is amended to read:
18 "90-8-104. Definitions. As used in this chapter,
19 unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Board" means the Montana--economic--development
22 board of investments provided for in 2-15-1885 [section 1].

23 (2) "Capital base" means equity capital or net worth.

24 (3) "Certified Montana capital company" means:

25 (a) a development credit corporation created pursuant

1 to Title 32, chapter 4; or

2 (b) a profit or nonprofit entity organized and
3 existing under the laws of Montana, created for the purpose
4 of making venture or risk capital available for qualified
5 investments and that has been certified by the board.

6 (4) "Montana business" means a business which is
7 located or principally based within Montana.

8 (5) "Qualified investment" means a debt or equity
9 financing of or a purchase and leaseback financing of a
10 Montana business that meets both of the following criteria:

11 (a) the business is engaged in one or more of the
12 following activities:

13 (i) manufacturing;

14 (ii) agricultural, fishery, or forestry production and
15 processing;

16 (iii) mineral production and processing, except for
17 conventional oil and gas exploration;

18 (iv) recognized nonfossil forms of energy generation as
19 defined in 15-32-102(5);

20 (v) transportation;

21 (vi) research and development of products or processes
22 associated with any of the activities enumerated in (i)
23 through (v) above;

24 (vii) wholesale or retail distribution activities for
25 which products produced in Montana comprise 50% or more of

1 the gross sales receipts;

2 (viii) any activity conducted in the state for which
3 50% or more of the gross receipts are derived from the sale
4 of products or services outside Montana; and

5 (ix) tourism; and

6 (b) the business is a small business as defined in
7 rules adopted by the board.

8 (6) "Qualified Montana capital company" means a
9 certified Montana capital company that has been designated a
10 qualified capital company under the provisions of 90-8-202
11 so that investors in the company may receive the tax credits
12 authorized in 90-8-202."

13 SECTION 17. SECTION 2-18-103, MCA, IS AMENDED TO READ:

14 "2-18-103. Officers and employees excepted. Parts 1
15 and 2 do not apply to the following positions in state
16 government:

17 (1) elected officials;

18 (2) county assessors and their chief deputy;

19 (3) officers and employees of the legislative branch;

20 (4) judges and employees of the judicial branch;

21 (5) members of boards and commissions appointed by the
22 governor, appointed by the legislature, or appointed by
23 other elected state officials;

24 (6) officers or members of the militia;

25 (7) agency heads appointed by the governor;

1 (8) academic and professional administrative personnel
2 with individual contracts under the authority of the board
3 of regents of higher education;

4 (9) academic and professional administrative personnel
5 and live-in houseparents who have entered into individual
6 contracts with the state school for the deaf and blind under
7 the authority of the state board of public education;

8 (10) teachers under the authority of the department of
9 institutions;

10 (11) investment officer and, assistant investment
11 officer, executive director, and three professional staff
12 positions of the board of investments; and

13 (12) four professional staff positions under the board
14 of oil and gas conservation."

15 NEW SECTION. Section 18. Repealer. Sections
16 2-15-1005, 2-15-1805 through 2-15-1807, and 17-6-307, MCA,
17 are repealed.

18 NEW SECTION. Section 19. Codification instruction.
19 Section 1 is intended to be codified as an integral part of
20 Title 2, chapter 15, part 18, and the provisions of Title 2,
21 chapter 15, part 18, apply to section 1.

22 NEW SECTION. Section 20. Effective date. This act is
23 effective July 1, 1987.

-End-

SENATE BILL NO. 298

INTRODUCED BY NEUMAN, HIMSL, BARDANOUE, JACOBSON,
M. WILLIAMS, HALLIGAN, MAZUREK, POULSEN, MANUEL, ADDY,
SPAETH, LYBECK, HARP, GRADY, GLASER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NEW BOARD OF INVESTMENTS BY ABOLISHING THE MONTANA ECONOMIC DEVELOPMENT BOARD AND THE BOARD OF INVESTMENTS; TRANSFERRING TO THE NEW BOARD OF INVESTMENTS THE FUNCTIONS OF THE ABOLISHED BOARDS; ALLOCATING THE NEW BOARD OF INVESTMENTS TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 2-18-103, 7-6-1103, 7-7-2259, 7-7-4259, 17-5-1502, 17-5-1503, 17-5-1604, 17-5-1605, 17-5-1630, 17-6-201, 17-6-302, 80-14-102, 90-6-104, AND 90-8-104, MCA; REPEALING SECTIONS 2-15-1005 AND 2-15-1805 THROUGH 2-15-1807, AND 17-6-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Board of investments -- allocation -- composition -- quasi-judicial. (1) There is a board of investments within the department of commerce.

(2) Except as otherwise provided in this subsection, the board is allocated to the department for administrative purposes as prescribed in 2-15-121. The board may employ an

investment officer, an assistant investment officer, and an executive director who have general responsibility for selection and management of the board's staff and for direct investment and economic development activities. The investment officer, assistant investment officer, and executive director serve at the pleasure of the board. The board shall prescribe the duties and annual salaries of its THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER, EXECUTIVE DIRECTOR, AND THREE professional staff positions.

(3) The board is composed of nine members appointed by the governor as prescribed in 2-15-124. The members are:

(a) one member from the public employees' retirement board provided for in 2-15-1009 and one member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member of the retirement board, the position of that member on the board of investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

(b) seven members who are informed and experienced in the subject of investments and who are representative of the financial community, small business, agriculture, and labor, to provide a balance of professional expertise and public interest and accountability.

(4) The board is designated as a quasi-judicial board for the purposes of 2-15-124.



1 NEW SECTION. Section 2. Montana economic development
2 board abolished -- functions transferred. The Montana
3 economic development board, created by 2-15-1805, is
4 abolished, and its functions are transferred to the board of
5 investments created in section 1.

6 NEW SECTION. Section 3. Board of investments
7 abolished -- functions transferred. The board of
8 investments, created by 2-15-1005, is abolished, and its
9 functions are transferred to the board of investments
10 created in section 1.

11 Section 4. Section 7-6-1103, MCA, is amended to read:

12 "7-6-1103. Issuance and sale of short-term obligations
13 -- procedure. (1) The issuance of short-term obligations
14 must be authorized by an ordinance of the governing body
15 that fixes the maximum amount of the obligations to be
16 issued or, if applicable, the maximum amount which may be
17 outstanding at any time, the maximum term and interest rate
18 or rates to be borne thereby, the manner of sale, maximum
19 price, form including bearer or registered as provided in
20 Title 17, chapter 5, part 11, terms, conditions, and the
21 covenants of the obligations. Short-term obligations issued
22 under this section shall bear such fixed or variable rate or
23 rates of interest as the governing body considers to be in
24 the best interests of the local government. Variable rates
25 of interest may be fixed in relationship to such standard or

1 index as the governing body designates.

2 (2) The governing body may sell the short-term
3 obligations at par or at a discount:

4 (a) at private negotiated sale to the Montana-economic
5 development board of investments as provided in Title 17,
6 chapter 5, part 16; or

7 (b) at public sale to any other person. Any public
8 sale must be noticed as provided in 7-7-4434(2)."

9 Section 5. Section 7-7-2259, MCA, is amended to read:

10 "7-7-2259. Delivery of bonds. (1) If the board of
11 investments is the purchaser of the bonds, the county
12 treasurer shall forward the registered bonds to the
13 department of administration commerce. The department shall
14 deliver them to the state treasurer, and payment therefor
15 shall be made in the manner provided by law.

16 (2) If the bonds are purchased by other investors, the
17 county treasurer shall deliver the bonds to the purchaser
18 upon receiving full payment therefor."

19 Section 6. Section 7-7-4259, MCA, is amended to read:

20 "7-7-4259. Delivery of bonds. (1) If the board of
21 investments is the purchaser of the bonds, the city
22 treasurer or town clerk shall forward the registered bonds
23 to the department of administration commerce. The department
24 shall deliver them to the state treasurer, and payment
25 therefor shall be made in the manner provided by law.

1 (2) If the bonds are purchased by other investors, the
2 city treasurer or town clerk shall deliver the bonds to the
3 purchaser upon receiving full payment therefor."

4 Section 7. Section 17-5-1502, MCA, is amended to read:

5 "17-5-1502. Legislative declaration. (1) It is the
6 policy of the state of Montana, in the interest of promoting
7 the health, safety, and general welfare of all the people of
8 the state, to increase job opportunities and to retain
9 existing jobs by making available, through the economic
10 development board of investments, funds for industrial,
11 commercial, manufacturing, natural resource, agricultural,
12 livestock, recreational, tourist, and health care
13 development.

14 (2) The legislature finds that:

15 (a) a vigorous, diversified, and growing economy is
16 the basic source of job opportunities;

17 (b) protection against unemployment and its economic
18 burdens and the spread of economic stagnation can best be
19 provided by promoting, attracting, stimulating, and
20 revitalizing a diversified economy with contributions from
21 industry, manufacturing, commerce, natural resource
22 development, agriculture, livestock, recreation, tourism,
23 and health care facilities; and

24 (c) the state of Montana has a responsibility to help
25 create a favorable climate for new and improved job

1 opportunities and a stable, growing, and healthy economy for
2 its citizens by encouraging the development of business."

3 Section 8. Section 17-5-1503, MCA, is amended to read:

4 "17-5-1503. Definitions. As used in this part, unless
5 the context requires otherwise, the following definitions
6 apply:

7 (1) "Board" means the Montana--economic-development
8 board of investments created in 2-15-1805 [section 1].

9 (2) "Bond" means any bond, note, debenture, interim
10 certificate, or other evidence of financial indebtedness
11 issued by the board pursuant to this part.

12 (3) "Department" means the department of commerce
13 provided for in 2-15-1801.

14 (4) "Financial institution" means any bank, savings
15 and loan association, credit union, development credit
16 corporation, insurance company, investment company, trust
17 company, savings institution, or other financial institution
18 approved by the board and maintaining an office in the
19 state.

20 (5) "Local government" means the city in which the
21 project is located, if the project is located within an
22 incorporated municipality, or the county if the project is
23 located within the county but outside the boundaries of an
24 incorporated municipality.

25 (6) "Major project" means a project whose cost or

1 appraised value exceeds \$800,000.

2 (7) "Project" means a project as defined in 90-5-101.

3 (8) "Project costs" means the costs of acquiring or
4 improving any project, including the following:

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

7 (b) the actual cost of construction of all or any part
8 of a project, including architects' and engineers' fees;

9 (c) all expenses in connection with the authorization,
10 sale, and issuance of the bonds to finance such acquisition
11 or improvement;

12 (d) bond reserves and premiums for insurance or
13 guaranty of loan payments or lease rentals pledged to pay
14 the bonds; and

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

18 Section 9. Section 17-5-1604, MCA, is amended to read:

19 "17-5-1604. Definitions. As used in this part, the
20 following definitions apply:

21 (1) "Board" means the ~~Montana--economic--development~~
22 board of investments created in ~~2-15-1605~~ [section 1].

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

25 (3) "Local government unit" means any municipal

1 corporation or political subdivision of the state, including
2 without limitation any city, town, county, school district,
3 or other special taxing district.

4 (4) "Reserve fund" means the municipal finance
5 consolidation act reserve fund created in 17-5-1630."

6 Section 10. Section 17-5-1605, MCA, is amended to
7 read:

8 "17-5-1605. Montana ~~economic--development~~ board of
9 investments to implement. The Montana ~~economic--development~~
10 board of investments may make and enforce orders, rules, and
11 bylaws that are necessary or desirable for the
12 implementation of this part."

13 Section 11. Section 17-5-1630, MCA, is amended to
14 read:

15 "17-5-1630. Reserve fund. (1) The board shall
16 establish and maintain a municipal finance consolidation act
17 reserve fund, to which there shall be deposited or
18 transferred:

19 (a) all money appropriated by the legislature for the
20 purposes of the fund in accordance with the provisions of
21 subsection (4);

22 (b) all proceeds of bonds required to be deposited in
23 the fund by terms of a contract between the board and its
24 bondholders or a resolution of the board with respect to the
25 proceeds of bonds;

1 (c) the proceeds of any bond issue of the state that
2 is authorized for such purpose;

3 (d) all other money appropriated by the legislature to
4 the reserve fund; and

5 (e) any other money or funds of the board that it
6 decides to deposit in the fund.

7 (2) All money held in the reserve fund shall be used
8 solely for the payment of the principal of or interest on
9 the bonds or notes secured in whole or in part by the fund
10 or the debt service fund payments with respect to the bonds
11 or notes, the purchase or redemption of the bonds or notes,
12 the payment of interest on the bonds or notes, or the
13 payment of any redemption premium required to be paid when
14 the bonds or notes are redeemed prior to maturity. Money in
15 the reserve fund may not be withdrawn at any time in an
16 amount that reduces the fund to an amount less than the sum
17 of minimum reserve requirements established in the
18 resolutions or indentures of the board for the fund except,
19 with respect to bonds or notes secured in whole or in part
20 by the fund, for the purpose of making payment when due of
21 principal, interest, redemption premiums, and debt service
22 fund payments for the payment of which other money pledged
23 is not available.

24 (3) Money in the reserve fund in excess of the
25 required reserve may be withdrawn at any time by the board

1 and transferred to another fund or account of the board
2 established for purposes of this part, but not to any other
3 fund or account.

4 (4) Nothing in this section creates a debt or
5 liability of the state.

6 (5) Notwithstanding any provision of Title 17, chapter
7 6, the board of investments may lend money for deposit to
8 the reserve fund in an amount equal to any deficiency in the
9 required debt service reserve. The loans shall be made on
10 such reasonable terms and conditions as the board considers
11 proper and--as-may-be-agreed-upon-between-the-board-and-the
12 board-of-investments, including without limitation terms and
13 conditions providing that the loans need not be repaid until
14 the obligations of the board secured and to be secured by
15 the reserve fund are no longer outstanding."

16 Section 12. Section 17-6-201, MCA, is amended to read:

17 "17-6-201. Unified investment program -- general
18 provisions. (1) The unified investment program directed by
19 Article VIII, section 13, of the 1972 Montana constitution
20 to be provided for public funds shall be administered by the
21 board of investments and the--Montana--economic--development
22 board in accordance with Article-VIII, section-13, of the
23 Montana-constitution-and the prudent expert principle, which
24 requires any investment manager to:

25 (a) discharge his duties with the care, skill,

1 prudence, and diligence, under the circumstances then
 2 prevailing, that a prudent person acting in a like capacity
 3 with the same resources and familiar with like matters
 4 exercises in the conduct of an enterprise of a like
 5 character with like aims;

6 (b) diversify the holdings of each fund within the
 7 unified investment program to minimize the risk of loss and
 8 to maximize the rate of return, unless under the
 9 circumstances it is clearly prudent not to do so; and

10 (c) discharge his duties solely in the interest of and
 11 for the benefit of the funds forming the unified investment
 12 program.

13 (2) Retirement funds may be invested in common stocks
 14 of any corporation provided that no investment may be made
 15 at any time which would cause the book value of such
 16 investments in any retirement fund to exceed 50% of the book
 17 value of such fund or would cause the stock of one
 18 corporation to exceed 2% of the book value of such
 19 retirement fund.

20 (3) Nothing contained in this section prevents the
 21 investment in any business activity in Montana, including
 22 activities that continue existing jobs or create new jobs in
 23 Montana, if the investment meets the standard of care
 24 required by this section. In discharging its duties, the
 25 ~~board of investments and the Montana economic development~~

1 board shall consider the preservation of purchasing power of
 2 capital during periods of high monetary inflation.

3 (4) The board of investments has the sole authority to
 4 invest state funds ~~other than the Montana in state~~
 5 ~~investment fund~~. No other agency may invest such state
 6 funds. The board shall direct the investment of state funds
 7 in accordance with the laws and constitution of this state.
 8 The board has the power to veto any investments made under
 9 its general supervision.

10 (5) The board of investments shall:

11 (a) assist agencies with public money to determine if,
 12 when, and how much surplus cash is available for investment;

13 (b) determine the amount of surplus treasury cash to
 14 be invested;

15 (c) determine the type of investment to be made;

16 (d) prepare the claim to pay for the investment; and

17 (e) keep an account of the total of each investment
 18 fund and of all the investments belonging to such fund and a
 19 record of the participation of each treasury fund account
 20 therein.

21 (6) The board of investments may:

22 (a) execute deeds of conveyance transferring all real
 23 property obtained through foreclosure of any investments
 24 purchased under the provisions of 17-6-211 when full payment
 25 has been received therefor;

1 (b) direct the withdrawal of any funds deposited by or
2 for the state treasurer pursuant to 17-6-101 and 17-6-105;

3 (c) direct the sale of any securities in the program
4 at their full and true value when found necessary to raise
5 money for payments due from the treasury funds for which the
6 securities have been purchased.

7 (7) The cost of administering and accounting for each
8 investment fund shall be deducted from the income therefrom,
9 except that such costs of the nonexpendable trust funds
10 shall be paid from income otherwise receivable from the
11 pooled investment fund, and the amounts required for this
12 purpose shall be appropriated by the legislature from the
13 respective investment funds."

14 Section 13. Section 17-6-302, MCA, is amended to read:

15 "17-6-302. Definitions. As used in this part, unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Board" means the Montana--economic--development
19 board of investments established--in-2-15-1985 created in
20 [section 1].

21 (2) "Clean and healthful environment" means an
22 environment that is relatively free from pollution which
23 threatens human health, including as a minimum, compliance
24 with federal and state environmental and health standards.

25 (3) "Employee-owned enterprise" means any enterprise

1 at least 51% of whose stock, partnership interests, or other
2 ownership interests is owned and controlled by residents of
3 Montana each of whose principal occupation is as an
4 employee, officer, or partner of the enterprise.

5 (4) "Financial institution" includes but is not
6 limited to a state- or federally chartered bank or a savings
7 and loan association, credit union, or development
8 corporation created pursuant to Title 32, chapter 4.

9 (5) "Loan participation" means loans or portions
10 thereof bought from a financial institution.

11 (6) "Locally owned enterprise" means any enterprise
12 51% of whose stock, partnership interests, or other
13 ownership interests are owned and controlled by residents of
14 Montana.

15 (7) "Long-term benefit to the Montana economy" means
16 an activity that strengthens the Montana economy and that
17 has the potential to maintain and create jobs, increase per
18 capita income, or increase Montana tax revenues in the
19 future to the people of Montana, either directly or
20 indirectly.

21 (8) "Montana economy" means any business activity in
22 the state of Montana, including those which continue
23 existing jobs or create new jobs in Montana.

24 (9) "Montana in-state investment fund" means the fund
25 established by 17-6-305:

1 (10) "Service fees" means the fees normally charged by
2 a financial institution for servicing a loan, including
3 amounts charged for collecting payments and remitting
4 amounts to the fund."

5 Section 14. Section 80-14-102, MCA, is amended to
6 read:

7 "80-14-102. (Temporary) Definitions. As used in this
8 chapter, the following definitions apply:

9 (1) "Board" means the board of investments established
10 under ~~2-15-1985~~ [section 1].

11 (2) "Eligible agricultural operation" means any
12 person, corporation, partnership, or other entity which is
13 engaged in the production of agricultural, livestock,
14 poultry, dairy, or fruit or other horticultural products and
15 which:

16 (a) derives at least 70% of its gross income from such
17 production; and

18 (b) has total financial liabilities exceeding 30% of
19 its total assets.

20 (3) "Eligible lending institution" means a financial
21 institution that:

22 (a) is eligible to make commercial loans;

23 (b) is a public depository of state funds; and

24 (c) agrees to participate in the linked deposit
25 program established by this chapter.

1 (4) "Linked deposit" means an agreement between the
2 board and an eligible financial institution whereby a
3 certificate of deposit for a term not exceeding 6 months is
4 placed by the board with an eligible lending institution at
5 a rate 1% below the current market rate for such a deposit,
6 as determined by the board, provided the institution agrees
7 to lend the value of such deposit, pursuant to the deposit
8 agreement provided in 80-14-202, to eligible agricultural
9 operations at an interest rate not exceeding 2 percentage
10 points greater than the rate payable on the certificate of
11 deposit. (Terminates March 15, 1987--sec. 9, Ch. 5, Sp. L.
12 March 1986.)"

13 Section 15. Section 90-6-104, MCA, is amended to read:

14 "90-6-104. General powers of the board. The board may:

15 (1) sue and be sued;

16 (2) have a seal;

17 (3) adopt all procedural and substantive rules
18 necessary for the administration of this part, including
19 rules concerning its mortgage, construction, and temporary
20 lending programs;

21 (4) make contracts, agreements, and other instruments
22 necessary or convenient for the exercise of its powers under
23 this part;

24 (5) enter into agreements or other transactions with
25 any federal, state, or local governmental agency, any

1 persons, and any domestic or foreign partnership,
2 corporation, association, or organization in carrying out
3 this part;

4 (6) enter into agreements under its rules with
5 sponsors, mortgagors, or lending institutions for the
6 purpose of regulating the analysis, planning, development,
7 and management of housing developments financed in whole or
8 in part by the proceeds of its loans or securities and
9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,
11 and accept grants and the cooperation of, any governmental
12 agency in furtherance of this part, including but not
13 limited to the development, leasing, maintenance, operation,
14 and financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,
16 bequests, and devises and utilize or dispose of them in
17 carrying out this part;

18 (9) acquire real or personal property or any right,
19 interest, or easement therein by gift, purchase, transfer,
20 foreclosure, lease, or otherwise; hold, sell, assign, lease,
21 encumber, mortgage, or otherwise dispose thereof; hold,
22 sell, assign, or otherwise dispose of any mortgage or loan
23 owned by it or in its control or custody; release or
24 relinquish any right, title, claim, interest, easement, or
25 demand, however acquired, including any equity or right of

1 redemption; do any of the foregoing by public or private
2 sale, with or without public bidding; commence any action to
3 protect or enforce any right conferred upon it by any law,
4 mortgage, contract, or other agreement; bid for and purchase
5 property at any foreclosure or other sale or acquire or take
6 possession of it in lieu of foreclosure; and operate,
7 manage, lease, dispose of, and otherwise deal with such
8 property in any manner necessary or desirable to protect its
9 interests and the holders of its bonds or notes and
10 consistent with any agreement with such holders;

11 (10) service and contract and pay for the servicing of
12 loans;

13 (11) provide general technical services in the
14 analysis, planning, design, processing, construction,
15 rehabilitation, and management of housing developments for
16 persons and families of lower income where these services
17 are not otherwise available;

18 (12) provide general consultative services to housing
19 developments for persons and families of lower income and
20 the residents thereof with respect to counseling and
21 training in management, home ownership, and maintenance
22 where these services are not otherwise available;

23 (13) invest any funds not required for immediate use,
24 subject to any agreements with its bondholders and
25 noteholders, as provided in Title 17, chapter 6, except all

1 investment income from funds of the board less the cost for
2 investment as prescribed by law shall be deposited in the
3 housing authority enterprise fund;

4 (14) sell its loans or securities to the federal
5 national mortgage association or any other agency or
6 instrumentality of the United States and invest in the
7 capital stock issued by the association or other agency or
8 instrumentality to the extent, if any, required as a
9 condition of such sale;

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

18 (16) collect reasonable interest, fees, and charges in
19 connection with making and servicing its loans, notes,
20 bonds, commitments, and other evidences of indebtedness and
21 in connection with providing technical, consultative, and
22 project assistance services. Interest fees and charges shall
23 be limited to the amounts required to pay the costs of the
24 board, including operating and administrative expenses and
25 reasonable allowances for losses which may be incurred.

1 (17) procure insurance against any loss in connection
2 with its mortgages and mortgage loans and other assets or
3 property in amounts and from insurers as the board considers
4 desirable or necessary;

5 (18) act as agent for governmental agencies concerning
6 acquisition, construction, leasing, operation, or management
7 of a housing development;

8 (19) issue notes and bonds and replace lost, destroyed,
9 or mutilated notes and bonds;

10 (20) develop special programs for housing developments
11 for veterans of the armed forces of the United States who
12 are unable to acquire safe and sanitary housing through
13 lending institutions by conventional means; and

14 (21) lend money to the economic--development board of
15 investments to establish the Montana economic development
16 guaranty fund created by 17-5-1520."

17 Section 16. Section 90-8-104, MCA, is amended to read:

18 "90-8-104. Definitions. As used in this chapter,
19 unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Board" means the Montana--economic--development
22 board of investments provided for in 2-15-1005 [section 1].

23 (2) "Capital base" means equity capital or net worth.

24 (3) "Certified Montana capital company" means:

25 (a) a development credit corporation created pursuant

1 to Title 32, chapter 4; or

2 (b) a profit or nonprofit entity organized and

3 existing under the laws of Montana, created for the purpose

4 of making venture or risk capital available for qualified

5 investments and that has been certified by the board.

6 (4) "Montana business" means a business which is

7 located or principally based within Montana.

8 (5) "Qualified investment" means a debt or equity

9 financing of or a purchase and leaseback financing of a

10 Montana business that meets both of the following criteria:

11 (a) the business is engaged in one or more of the

12 following activities:

13 (i) manufacturing;

14 (ii) agricultural, fishery, or forestry production and

15 processing;

16 (iii) mineral production and processing, except for

17 conventional oil and gas exploration;

18 (iv) recognized nonfossil forms of energy generation as

19 defined in 15-32-102(5);

20 (v) transportation;

21 (vi) research and development of products or processes

22 associated with any of the activities enumerated in (i)

23 through (v) above;

24 (vii) wholesale or retail distribution activities for

25 which products produced in Montana comprise 50% or more of

1 the gross sales receipts;

2 (viii) any activity conducted in the state for which

3 50% or more of the gross receipts are derived from the sale

4 of products or services outside Montana; and

5 (ix) tourism; and

6 (b) the business is a small business as defined in

7 rules adopted by the board.

8 (6) "Qualified Montana capital company" means a

9 certified Montana capital company that has been designated a

10 qualified capital company under the provisions of 90-8-202

11 so that investors in the company may receive the tax credits

12 authorized in 90-8-202."

13 SECTION 17. SECTION 2-18-103, MCA, IS AMENDED TO READ:

14 "2-18-103. Officers and employees excepted. Parts 1

15 and 2 do not apply to the following positions in state

16 government:

17 (1) elected officials;

18 (2) county assessors and their chief deputy;

19 (3) officers and employees of the legislative branch;

20 (4) judges and employees of the judicial branch;

21 (5) members of boards and commissions appointed by the

22 governor, appointed by the legislature, or appointed by

23 other elected state officials;

24 (6) officers or members of the militia;

25 (7) agency heads appointed by the governor;

1 (8) academic and professional administrative personnel
2 with individual contracts under the authority of the board
3 of regents of higher education;

4 (9) academic and professional administrative personnel
5 and live-in houseparents who have entered into individual
6 contracts with the state school for the deaf and blind under
7 the authority of the state board of public education;

8 (10) teachers under the authority of the department of
9 institutions;

10 (11) investment officer and, assistant investment
11 officer, executive director, and three professional staff
12 positions of the board of investments; and

13 (12) four professional staff positions under the board
14 of oil and gas conservation."

15 NEW SECTION. Section 18. Repealer. Sections
16 2-15-1005, 2-15-1805 through 2-15-1807, and 17-6-307, MCA,
17 are repealed.

18 NEW SECTION. Section 19. Codification instruction.
19 Section 1 is intended to be codified as an integral part of
20 Title 2, chapter 15, part 18, and the provisions of Title 2,
21 chapter 15, part 18, apply to section 1.

22 NEW SECTION. Section 20. Effective date. This act is
23 effective July 1, 1987.

-End-

SENATE BILL NO. 298

INTRODUCED BY NEUMAN, HIMSL, BARDANOUVE, JACOBSON,
M. WILLIAMS, HALLIGAN, MAZUREK, POULSEN, MANUEL, ADDY,
SPAETH, LYBECK, HARP, GRADY, GLASER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NEW BOARD OF INVESTMENTS BY ABOLISHING THE MONTANA ECONOMIC DEVELOPMENT BOARD AND THE BOARD OF INVESTMENTS; TRANSFERRING TO THE NEW BOARD OF INVESTMENTS THE FUNCTIONS OF THE ABOLISHED BOARDS; ALLOCATING THE NEW BOARD OF INVESTMENTS TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 2-18-103, 7-6-1103, 7-7-2259, 7-7-4259, 17-5-1502, 17-5-1503, 17-5-1604, 17-5-1605, 17-5-1630, 17-6-201, 17-6-302, 80-14-102, 90-6-104, AND 90-8-104, MCA; REPEALING SECTIONS 2-15-1005 AND 2-15-1805 THROUGH 2-15-1807, AND 17-6-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Board of investments -- allocation -- composition -- quasi-judicial. (1) There is a board of investments within the department of commerce.

(2) Except as otherwise provided in this subsection, the board is allocated to the department for administrative purposes as prescribed in 2-15-121. The board may employ an

investment officer, an assistant investment officer, and an executive director who have general responsibility for selection and management of the board's staff and for direct investment and economic development activities. The investment officer, assistant investment officer, and executive director serve at the pleasure of the board. The board shall prescribe the duties and annual salaries of its THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER, EXECUTIVE DIRECTOR, AND THREE professional staff positions.

(3) The board is composed of nine members appointed by the governor as prescribed in 2-15-124. The members are:

(a) one member from the public employees' retirement board provided for in 2-15-1009 and one member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member of the retirement board, the position of that member on the board of investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

(b) seven members WHO WILL PROVIDE A BALANCE OF PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND ACCOUNTABILITY AND who are informed and experienced in the subject of investments and who are representative of:

(I) the financial community;

(II) small business;

(III) agriculture; and

1 ~~(IV) labor,---to---provide---a---balance---of---professional~~
2 ~~expertise-and-public-interest-and-accountability.~~

3 (4) The board is designated as a quasi-judicial board
4 for the purposes of 2-15-124.

5 NEW SECTION. SECTION 2. ADVISORY BOARD. (1) THERE IS
6 AN INVESTMENT ADVISORY BOARD WITHIN THE DEPARTMENT OF
7 COMMERCE.

8 (2) THE ADVISORY BOARD SHALL PROVIDE NONFINANCIAL
9 ADVICE TO THE BOARD OF INVESTMENTS CREATED IN [SECTION 1].
10 THE ADVISORY BOARD SHALL CONSIDER LONG-TERM GOALS AND
11 METHODS OF IMPLEMENTING THOSE GOALS FROM THE VIEWPOINT OF
12 AFFECTED PARTIES, RATHER THAN INVESTMENT SPECIALISTS, AND
13 REPORT ITS CONCLUSIONS TO THE BOARD OF INVESTMENTS. THE
14 BOARD OF INVESTMENTS MUST CONSIDER REPORTS OF THE ADVISORY
15 BOARD AND REPORT TO THE ADVISORY BOARD WHETHER IT APPROVES,
16 DISAPPROVES, OR WILL FURTHER EXAMINE THE ADVISORY BOARD'S
17 ADVICE.

18 (3) THE ADVISORY BOARD CONSISTS OF FIVE MEMBERS
19 APPOINTED BY THE GOVERNOR. A MEMBER SERVES A TERM OF 4 YEARS
20 AND MAY NOT BE REAPPOINTED. THE MEMBERS SHALL NOT BE
21 APPOINTED BASED ON FINANCIAL EXPERTISE, BUT ONE MEMBER SHALL
22 BE APPOINTED FROM EACH OF THE FOLLOWING AREAS:

- 23 (A) SMALL BUSINESS;
- 24 (B) AGRICULTURE;
- 25 (C) LABOR;

1 (D) ECONOMICS; AND

2 (E) LOCAL GOVERNMENT.

3 (4) THE MEMBERS OF THE ADVISORY BOARD SHALL ELECT A
4 CHAIRMAN FROM ITS MEMBERS. THE ADVISORY BOARD SHALL MEET AT
5 LEAST TWO BUT NOT MORE THAN FOUR TIMES A YEAR. THE ADVISORY
6 BOARD MAY MEET ANYPLACE WITHIN THE STATE. MEMBERS OF THE
7 ADVISORY BOARD ARE ENTITLED TO MILEAGE, LODGING, AND MEALS,
8 AS PROVIDED IN 2-18-501, FOR MEETINGS.

9 (5) THE BOARD OF INVESTMENTS SHALL PROVIDE CLERICAL
10 ASSISTANCE TO THE ADVISORY BOARD AND SHALL PAY NECESSARY
11 COSTS OF MEETING ROOMS AND MEMBERS' TRAVEL COSTS.

12 NEW SECTION. Section 3. Montana economic development
13 board abolished -- functions transferred. The Montana
14 economic development board, created by 2-15-1805, is
15 abolished, and its functions are transferred to the board of
16 investments created in section 1.

17 NEW SECTION. Section 4. Board of investments
18 abolished -- functions transferred. The board of
19 investments, created by 2-15-1005, is abolished, and its
20 functions are transferred to the board of investments
21 created in section 1.

22 Section 5. Section 7-6-1103, MCA, is amended to read:
23 "7-6-1103. Issuance and sale of short-term obligations
24 -- procedure. (1) The issuance of short-term obligations
25 must be authorized by an ordinance of the governing body

1 that fixes the maximum amount of the obligations to be
 2 issued or, if applicable, the maximum amount which may be
 3 outstanding at any time, the maximum term and interest rate
 4 or rates to be borne thereby, the manner of sale, maximum
 5 price, form including bearer or registered as provided in
 6 Title 17, chapter 5, part 11, terms, conditions, and the
 7 covenants of the obligations. Short-term obligations issued
 8 under this section shall bear such fixed or variable rate or
 9 rates of interest as the governing body considers to be in
 10 the best interests of the local government. Variable rates
 11 of interest may be fixed in relationship to such standard or
 12 index as the governing body designates.

13 (2) The governing body may sell the short-term
 14 obligations at par or at a discount:

15 (a) at private negotiated sale to the Montana-economic
 16 development board of investments as provided in Title 17,
 17 chapter 5, part 16; or

18 (b) at public sale to any other person. Any public
 19 sale must be noticed as provided in 7-7-4434(2)."

20 Section 6. Section 7-7-2259, MCA, is amended to read:

21 "7-7-2259. Delivery of bonds. (1) If the board of
 22 investments is the purchaser of the bonds, the county
 23 treasurer shall forward the registered bonds to the
 24 department of administration commerce. The department shall
 25 deliver them to the state treasurer, and payment therefor

1 shall be made in the manner provided by law.

2 (2) If the bonds are purchased by other investors, the
 3 county treasurer shall deliver the bonds to the purchaser
 4 upon receiving full payment therefor."

5 Section 7. Section 7-7-4259, MCA, is amended to read:

6 "7-7-4259. Delivery of bonds. (1) If the board of
 7 investments is the purchaser of the bonds, the city
 8 treasurer or town clerk shall forward the registered bonds
 9 to the department of administration commerce. The department
 10 shall deliver them to the state treasurer, and payment
 11 therefor shall be made in the manner provided by law.

12 (2) If the bonds are purchased by other investors, the
 13 city treasurer or town clerk shall deliver the bonds to the
 14 purchaser upon receiving full payment therefor."

15 Section 8. Section 17-5-1502, MCA, is amended to read:

16 "17-5-1502. Legislative declaration. (1) It is the
 17 policy of the state of Montana, in the interest of promoting
 18 the health, safety, and general welfare of all the people of
 19 the state, to increase job opportunities and to retain
 20 existing jobs by making available, through the economic
 21 development board of investments, funds for industrial,
 22 commercial, manufacturing, natural resource, agricultural,
 23 livestock, recreational, tourist, and health care
 24 development.

25 (2) The legislature finds that:

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

3 (b) protection against unemployment and its economic
4 burdens and the spread of economic stagnation can best be
5 provided by promoting, attracting, stimulating, and
6 revitalizing a diversified economy with contributions from
7 industry, manufacturing, commerce, natural resource
8 development, agriculture, livestock, recreation, tourism,
9 and health care facilities; and

10 (c) the state of Montana has a responsibility to help
11 create a favorable climate for new and improved job
12 opportunities and a stable, growing, and healthy economy for
13 its citizens by encouraging the development of business."

14 Section 9. Section 17-5-1503, MCA, is amended to read:

15 "17-5-1503. Definitions. As used in this part, unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Board" means the ~~Montana--economic--development~~
19 board of investments created in 2-15-1805 [section 1].

20 (2) "Bond" means any bond, note, debenture, interim
21 certificate, or other evidence of financial indebtedness
22 issued by the board pursuant to this part.

23 (3) "Department" means the department of commerce
24 provided for in 2-15-1801.

25 (4) "Financial institution" means any bank, savings

1 and loan association, credit union, development credit
2 corporation, insurance company, investment company, trust
3 company, savings institution, or other financial institution
4 approved by the board and maintaining an office in the
5 state.

6 (5) "Local government" means the city in which the
7 project is located, if the project is located within an
8 incorporated municipality, or the county if the project is
9 located within the county but outside the boundaries of an
10 incorporated municipality.

11 (6) "Major project" means a project whose cost or
12 appraised value exceeds \$800,000.

13 (7) "Project" means a project as defined in 90-5-101.

14 (8) "Project costs" means the costs of acquiring or
15 improving any project, including the following:

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

18 (b) the actual cost of construction of all or any part
19 of a project, including architects' 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 or
24 guaranty of loan payments or lease rentals pledged to pay
25 the bonds; and

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

4 Section 10. Section 17-5-1604, MCA, is amended to
5 read:

6 "17-5-1604. Definitions. As used in this part, the
7 following definitions apply:

8 (1) "Board" means the ~~Montana--economic-development~~
9 board of investments created in ~~2-15-1805~~ [section 1].

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

12 (3) "Local government unit" means any municipal
13 corporation or political subdivision of the state, including
14 without limitation any city, town, county, school district,
15 or other special taxing district.

16 (4) "Reserve fund" means the municipal finance
17 consolidation act reserve fund created in 17-5-1630."

18 Section 11. Section 17-5-1605, MCA, is amended to
19 read:

20 "17-5-1605. Montana ~~economic--development~~ board of
21 investments to implement. The Montana ~~economic--development~~
22 board of investments may make and enforce orders, rules, and
23 bylaws that are necessary or desirable for the
24 implementation of this part."

25 Section 12. Section 17-5-1630, MCA, is amended to

1 read:

2 "17-5-1630. Reserve fund. (1) The board shall
3 establish and maintain a municipal finance consolidation act
4 reserve fund, to which there shall be deposited or
5 transferred:

6 (a) all money appropriated by the legislature for the
7 purposes of the fund in accordance with the provisions of
8 subsection (4);

9 (b) all proceeds of bonds required to be deposited in
10 the fund by terms of a contract between the board and its
11 bondholders or a resolution of the board with respect to the
12 proceeds of bonds;

13 (c) the proceeds of any bond issue of the state that
14 is authorized for such purpose;

15 (d) all other money appropriated by the legislature to
16 the reserve fund; and

17 (e) any other money or funds of the board that it
18 decides to deposit in the fund.

19 (2) All money held in the reserve fund shall be used
20 solely for the payment of the principal of or interest on
21 the bonds or notes secured in whole or in part by the fund
22 or the debt service fund payments with respect to the bonds
23 or notes, the purchase or redemption of the bonds or notes,
24 the payment of interest on the bonds or notes, or the
25 payment of any redemption premium required to be paid when

1 the bonds or notes are redeemed prior to maturity. Money in
 2 the reserve fund may not be withdrawn at any time in an
 3 amount that reduces the fund to an amount less than the sum
 4 of minimum reserve requirements established in the
 5 resolutions or indentures of the board for the fund except,
 6 with respect to bonds or notes secured in whole or in part
 7 by the fund, for the purpose of making payment when due of
 8 principal, interest, redemption premiums, and debt service
 9 fund payments for the payment of which other money pledged
 10 is not available.

11 (3) Money in the reserve fund in excess of the
 12 required reserve may be withdrawn at any time by the board
 13 and transferred to another fund or account of the board
 14 established for purposes of this part, but not to any other
 15 fund or account.

16 (4) Nothing in this section creates a debt or
 17 liability of the state.

18 (5) Notwithstanding any provision of Title 17, chapter
 19 6, the board of investments may lend money for deposit to
 20 the reserve fund in an amount equal to any deficiency in the
 21 required debt service reserve. The loans shall be made on
 22 such reasonable terms and conditions as the board considers
 23 proper and as may be agreed upon between the board and the
 24 board of investments, including without limitation terms and
 25 conditions providing that the loans need not be repaid until

1 the obligations of the board secured and to be secured by
 2 the reserve fund are no longer outstanding."

3 Section 13. Section 17-6-201, MCA, is amended to read:

4 "17-6-201. Unified investment program -- general
 5 provisions. (1) The unified investment program directed by
 6 Article VIII, section 13, of the 1972 Montana constitution
 7 to be provided for public funds shall be administered by the
 8 board of investments and the Montana economic development
 9 board in accordance with Article VIII, section 13, of the
 10 Montana constitution and the prudent expert principle, which
 11 requires any investment manager to:

12 (a) discharge his duties with the care, skill,
 13 prudence, and diligence, under the circumstances then
 14 prevailing, that a prudent person acting in a like capacity
 15 with the same resources and familiar with like matters
 16 exercises in the conduct of an enterprise of a like
 17 character with like aims;

18 (b) diversify the holdings of each fund within the
 19 unified investment program to minimize the risk of loss and
 20 to maximize the rate of return, unless under the
 21 circumstances it is clearly prudent not to do so; and

22 (c) discharge his duties solely in the interest of and
 23 for the benefit of the funds forming the unified investment
 24 program.

25 (2) Retirement funds may be invested in common stocks

1 of any corporation provided that no investment may be made
 2 at any time which would cause the book value of such
 3 investments in any retirement fund to exceed 50% of the book
 4 value of such fund or would cause the stock of one
 5 corporation to exceed 2% of the book value of such
 6 retirement fund.

7 (3) Nothing contained in this section prevents the
 8 investment in any business activity in Montana, including
 9 activities that continue existing jobs or create new jobs in
 10 Montana, if the investment meets the standard of care
 11 required by this section. In discharging its duties, the
 12 ~~board of investments and the Montana economic development~~
 13 ~~board~~ shall consider the preservation of purchasing power of
 14 capital during periods of high monetary inflation.

15 (4) The board ~~of investments~~ has the sole authority to
 16 invest state funds ~~other than the Montana in-state~~
 17 ~~investment fund~~. No other agency may invest such state
 18 funds. The board shall direct the investment of state funds
 19 in accordance with the laws and constitution of this state.
 20 The board has the power to veto any investments made under
 21 its general supervision.

22 (5) The board ~~of investments~~ shall:

- 23 (a) assist agencies with public money to determine if,
 24 when, and how much surplus cash is available for investment;
 25 (b) determine the amount of surplus treasury cash to

1 be invested;

2 (c) determine the type of investment to be made;

3 (d) prepare the claim to pay for the investment; and

4 (e) keep an account of the total of each investment
 5 fund and of all the investments belonging to such fund and a
 6 record of the participation of each treasury fund account
 7 therein.

8 (6) The board ~~of investments~~ may:

9 (a) execute deeds of conveyance transferring all real
 10 property obtained through foreclosure of any investments
 11 purchased under the provisions of 17-6-211 when full payment
 12 has been received therefor;

13 (b) direct the withdrawal of any funds deposited by or
 14 for the state treasurer pursuant to 17-6-101 and 17-6-105;

15 (c) direct the sale of any securities in the program
 16 at their full and true value when found necessary to raise
 17 money for payments due from the treasury funds for which the
 18 securities have been purchased.

19 (7) The cost of administering and accounting for each
 20 investment fund shall be deducted from the income therefrom,
 21 except that such costs of the nonexpendable trust funds
 22 shall be paid from income otherwise receivable from the
 23 pooled investment fund, and the amounts required for this
 24 purpose shall be appropriated by the legislature from the
 25 respective investment funds."

1 Section 14. Section 17-6-302, MCA, is amended to read:

2 "17-6-302. Definitions. As used in this part, unless
3 the context requires otherwise, the following definitions
4 apply:

5 (1) "Board" means the ~~Montana--economic--development~~
6 board of investments established--in-2-15-1005 created in
7 [section 1].

8 (2) "Clean and healthful environment" means an
9 environment that is relatively free from pollution which
10 threatens human health, including as a minimum, compliance
11 with federal and state environmental and health standards.

12 (3) "Employee-owned enterprise" means any enterprise
13 at least 51% of whose stock, partnership interests, or other
14 ownership interests is owned and controlled by residents of
15 Montana each of whose principal occupation is as an
16 employee, officer, or partner of the enterprise.

17 (4) "Financial institution" includes but is not
18 limited to a state- or federally chartered bank or a savings
19 and loan association, credit union, or development
20 corporation created pursuant to Title 32, chapter 4.

21 (5) "Loan participation" means loans or portions
22 thereof bought from a financial institution.

23 (6) "Locally owned enterprise" means any enterprise
24 51% of whose stock, partnership interests, or other
25 ownership interests are owned and controlled by residents of

1 Montana.

2 (7) "Long-term benefit to the Montana economy" means
3 an activity that strengthens the Montana economy and that
4 has the potential to maintain and create jobs, increase per
5 capita income, or increase Montana tax revenues in the
6 future to the people of Montana, either directly or
7 indirectly.

8 (8) "Montana economy" means any business activity in
9 the state of Montana, including those which continue
10 existing jobs or create new jobs in Montana.

11 (9) "Montana in-state investment fund" means the fund
12 established by 17-6-305.

13 (10) "Service fees" means the fees normally charged by
14 a financial institution for servicing a loan, including
15 amounts charged for collecting payments and remitting
16 amounts to the fund."

17 Section 15. Section 80-14-102, MCA, is amended to
18 read:

19 "80-14-102. (Temporary) Definitions. As used in this
20 chapter, the following definitions apply:

21 (1) "Board" means the board of investments established
22 under ~~2-15-1005~~ [section 1].

23 (2) "Eligible agricultural operation" means any
24 person, corporation, partnership, or other entity which is
25 engaged in the production of agricultural, livestock,

1 poultry, dairy, or fruit or other horticultural products and
2 which:

3 (a) derives at least 70% of its gross income from such
4 production; and

5 (b) has total financial liabilities exceeding 30% of
6 its total assets.

7 (3) "Eligible lending institution" means a financial
8 institution that:

9 (a) is eligible to make commercial loans;

10 (b) is a public depository of state funds; and

11 (c) agrees to participate in the linked deposit
12 program established by this chapter.

13 (4) "Linked deposit" means an agreement between the
14 board and an eligible financial institution whereby a
15 certificate of deposit for a term not exceeding 6 months is
16 placed by the board with an eligible lending institution at
17 a rate 1% below the current market rate for such a deposit,
18 as determined by the board, provided the institution agrees
19 to lend the value of such deposit, pursuant to the deposit
20 agreement provided in 80-14-202, to eligible agricultural
21 operations at an interest rate not exceeding 2 percentage
22 points greater than the rate payable on the certificate of
23 deposit. (Terminates March 15, 1987--sec. 9, Ch. 5, Sp. L.
24 March 1986.)"

25 Section 16. Section 90-6-104, MCA, is amended to read:

1 "90-6-104. General powers of the board. The board may:

2 (1) sue and be sued;

3 (2) have a seal;

4 (3) adopt all procedural and substantive rules
5 necessary for the administration of this part, including
6 rules concerning its mortgage, construction, and temporary
7 lending programs;

8 (4) make contracts, agreements, and other instruments
9 necessary or convenient for the exercise of its powers under
10 this part;

11 (5) enter into agreements or other transactions with
12 any federal, state, or local governmental agency, any
13 persons, and any domestic or foreign partnership,
14 corporation, association, or organization in carrying out
15 this part;

16 (6) enter into agreements under its rules with
17 sponsors, mortgagors, or lending institutions for the
18 purpose of regulating the analysis, planning, development,
19 and management of housing developments financed in whole or
20 in part by the proceeds of its loans or securities and
21 mortgage purchase programs;

22 (7) enter into agreements or other transactions with,
23 and accept grants and the cooperation of, any governmental
24 agency in furtherance of this part, including but not
25 limited to the development, leasing, maintenance, operation,

1 and financing of any housing development;

2 (8) accept services, appropriations, gifts, grants,
3 bequests, and devise and utilize or dispose of them in
4 carrying out this part;

5 (9) acquire real or personal property or any right,
6 interest, or easement therein by gift, purchase, transfer,
7 foreclosure, lease, or otherwise; hold, sell, assign, lease,
8 encumber, mortgage, or otherwise dispose thereof; hold,
9 sell, assign, or otherwise dispose of any mortgage or loan
10 owned by it or in its control or custody; release or
11 relinquish any right, title, claim, interest, easement, or
12 demand, however acquired, including any equity or right of
13 redemption; do any of the foregoing by public or private
14 sale, with or without public bidding; commence any action to
15 protect or enforce any right conferred upon it by any law,
16 mortgage, contract, or other agreement; bid for and purchase
17 property at any foreclosure or other sale or acquire or take
18 possession of it in lieu of foreclosure; and operate,
19 manage, lease, dispose of, and otherwise deal with such
20 property in any manner necessary or desirable to protect its
21 interests and the holders of its bonds or notes and
22 consistent with any agreement with such holders;

23 (10) service and contract and pay for the servicing of
24 loans;

25 (11) provide general technical services in the

1 analysis, planning, design, processing, construction,
2 rehabilitation, and management of housing developments for
3 persons and families of lower income where these services
4 are not otherwise available;

5 (12) provide general consultative services to housing
6 developments for persons and families of lower income and
7 the residents thereof with respect to counseling and
8 training in management, home ownership, and maintenance
9 where these services are not otherwise available;

10 (13) invest any funds not required for immediate use,
11 subject to any agreements with its bondholders and
12 noteholders, as provided in Title 17, chapter 6, except all
13 investment income from funds of the board less the cost for
14 investment as prescribed by law shall be deposited in the
15 housing authority enterprise fund;

16 (14) sell its loans or securities to the federal
17 national mortgage association or any other agency or
18 instrumentality of the United States and invest in the
19 capital stock issued by the association or other agency or
20 instrumentality to the extent, if any, required as a
21 condition of such sale;

22 (15) consent, whenever it deems it necessary or
23 desirable in fulfilling its purposes, to the modification of
24 the rate of interest, time, and payment of any installment
25 of principal or interest, security, or any other term of any

1 contract, mortgage, mortgage loan, mortgage loan commitment,
2 construction loan, advance contract, or agreement of any
3 kind, subject to any agreement with bondholders and
4 noteholders;

5 (16) collect reasonable interest, fees, and charges in
6 connection with making and servicing its loans, notes,
7 bonds, commitments, and other evidences of indebtedness and
8 in connection with providing technical, consultative, and
9 project assistance services. Interest fees and charges shall
10 be limited to the amounts required to pay the costs of the
11 board, including operating and administrative expenses and
12 reasonable allowances for losses which may be incurred.

13 (17) procure insurance against any loss in connection
14 with its mortgages and mortgage loans and other assets or
15 property in amounts and from insurers as the board considers
16 desirable or necessary;

17 (18) act as agent for governmental agencies concerning
18 acquisition, construction, leasing, operation, or management
19 of a housing development;

20 (19) issue notes and bonds and replace lost, destroyed,
21 or mutilated notes and bonds;

22 (20) develop special programs for housing developments
23 for veterans of the armed forces of the United States who
24 are unable to acquire safe and sanitary housing through
25 lending institutions by conventional means; and

1 (21) lend money to the economic--development board of
2 investments to establish the Montana economic development
3 guaranty fund created by 17-5-1520."

4 Section 17. Section 90-8-104, MCA, is amended to read:
5 "90-8-104. Definitions. As used in this chapter,
6 unless the context requires otherwise, the following
7 definitions apply:

8 (1) "Board" means the Montana--economic--development
9 board of investments provided for in 2-15-1005 [section 1].

10 (2) "Capital base" means equity capital or net worth.

11 (3) "Certified Montana capital company" means:

12 (a) a development credit corporation created pursuant
13 to Title 32, chapter 4; or

14 (b) a profit or nonprofit entity organized and
15 existing under the laws of Montana, created for the purpose
16 of making venture or risk capital available for qualified
17 investments and that has been certified by the board.

18 (4) "Montana business" means a business which is
19 located or principally based within Montana.

20 (5) "Qualified investment" means a debt or equity
21 financing of or a purchase and leaseback financing of a
22 Montana business that meets both of the following criteria:

23 (a) the business is engaged in one or more of the
24 following activities:

25 (i) manufacturing;

1 (ii) agricultural, fishery, or forestry production and
2 processing;

3 (iii) mineral production and processing, except for
4 conventional oil and gas exploration;

5 (iv) recognized nonfossil forms of energy generation as
6 defined in 15-32-102(5);

7 (v) transportation;

8 (vi) research and development of products or processes
9 associated with any of the activities enumerated in (i)
10 through (v) above;

11 (vii) wholesale or retail distribution activities for
12 which products produced in Montana comprise 50% or more of
13 the gross sales receipts;

14 (viii) any activity conducted in the state for which
15 50% or more of the gross receipts are derived from the sale
16 of products or services outside Montana; and

17 (ix) tourism; and

18 (b) the business is a small business as defined in
19 rules adopted by the board.

20 (6) "Qualified Montana capital company" means a
21 certified Montana capital company that has been designated a
22 qualified capital company under the provisions of 90-8-202
23 so that investors in the company may receive the tax credits
24 authorized in 90-8-202."

25 SECTION 18. SECTION 2-18-103, MCA, IS AMENDED TO READ:

1 "2-18-103. Officers and employees excepted. Parts 1
2 and 2 do not apply to the following positions in state
3 government:

4 (1) elected officials;

5 (2) county assessors and their chief deputy;

6 (3) officers and employees of the legislative branch;

7 (4) judges and employees of the judicial branch;

8 (5) members of boards and commissions appointed by the
9 governor, appointed by the legislature, or appointed by
10 other elected state officials;

11 (6) officers or members of the militia;

12 (7) agency heads appointed by the governor;

13 (8) academic and professional administrative personnel
14 with individual contracts under the authority of the board
15 of regents of higher education;

16 (9) academic and professional administrative personnel
17 and live-in houseparents who have entered into individual
18 contracts with the state school for the deaf and blind under
19 the authority of the state board of public education;

20 (10) teachers under the authority of the department of
21 institutions;

22 (11) investment officer and, assistant investment
23 officer, executive director, and three professional staff
24 positions of the board of investments; and

25 (12) four professional staff positions under the board

1 of oil and gas conservation."

2 NEW SECTION. Section 19. Repealer. Sections
3 2-15-1005, 2-15-1805 through 2-15-1807, and 17-6-307, MCA,
4 are repealed.

5 NEW SECTION. Section 20. Codification instruction.
6 Section SECTIONS 1 is AND 2 ARE intended to be codified as
7 an integral part of Title 2, chapter 15, part 18, and the
8 provisions of Title 2, chapter 15, part 18, apply to section
9 SECTIONS 1 AND 2.

10 NEW SECTION. Section 21. Effective date. This act is
11 effective July 1, 1987.

-End-

CONFERENCE COMMITTEE REPORT

April 15, 1987

MR. PRESIDENT

We, your _____ Conference Committee on

SENATE BILL 298

met and considered House Business and Labor Standing Committee amendments
to Senate Bill 298, dated March 20, 1987.

We recommend as follows:

THAT SENATE BILL 298, reference copy salmon, BE AMENDED AS FOLLOWS:

1. Page 3, line 5 through page 4, line 11.
Strike: Section 2 in its entirety.
Re-number: subsequent sections.

2. Page 25, line 6.
Strike: " SECTIONS "
Insert: "Section"
Strike: "AND 2 ARE"
Insert: "is"

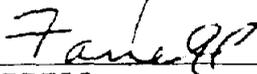
3. Page 25, line 9.
Strike: " SECTIONS "
Insert: "section"
Strike: "AND 2"

And that this Conference Committee report be adopted.

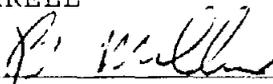
FOR THE SENATE



NEUMAN, CHAIRMAN



FARRELL



WILLIAMS

FOR THE HOUSE



KITSELMAN



GLASER



BARDANOUE

ADOPT REJECT



STANDING COMMITTEE REPORT

SENATE BILL NO. 298

March 20 19 87

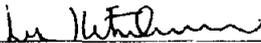
Page 2 of 2

HOUSE

MARCH 20 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR
report SENATE BILL NO. 298

- do pass be concurred in as amended
 do not pass be not concurred in statement of intent attached


REP. LES KITSELMAN Chairman

AMENDMENTS AS FOLLOWS:

- 1) Page 2, line 19
Following: "members"
Insert: "that will provide a balance of professional expertise and public interest and accountability"
- 2) Page 2, line 20
Following: "representative of"
Insert: ": (a)"
- 3) Page 2, line 21
Following: "community"
Strike: ", "
Insert: "; (b)"
Following: "business"
Strike: ", "
Insert: "; (c)"
Following: "agriculture"
Strike: ", "
Insert: ";"
Following: "and"
Insert: "(d)"
- 4) Page 2, lines 21 through 23
Following: "labor" on line 21
Strike: the remainder of line 21, line 22 in its entirety, and line 23 through "accountability"
- 5) Page 3, line 1
Following: line 25 on page 2
Insert: "NEW SECTION". Section 2. Advisory board. (1)
There is an investment advisory board within the department of commerce.
(2) The advisory board shall provide nonfinancial advice to the board of investments created in [section 1]. The advisory board shall consider long-term goals and methods of implementing those goals from the viewpoint of affected parties rather than investment

specialists and report their conclusions to the board of investments. The board of investments must consider reports of the advisory board and report to the advisory board whether it approves, disapproves, or will further examine their advice.

(3) The advisory board consists of 5 members appointed by the governor. A member serves a term of 4 years and may not be reappointed. The members shall not be appointed based on financial expertise but one member shall be appointed from each of the following areas:

- (a) small business;
- (b) agriculture;
- (c) labor;
- (d) economics; and
- (e) local government.

(4) The members of the advisory board shall elect a chairman from its members. The advisory board shall meet at least two but not more than four times a year. The advisory board may meet anyplace within the state. Members of the advisory board are entitled to mileage, lodging, and meals as provided in 2-18-501 for meetings.

(5) The board of investments shall provide clerical assistance to the advisory board and shall pay necessary costs of meeting rooms and member's travel costs."

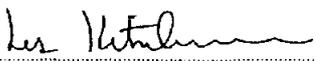
Renumber: subsequent sections

6) Page 23, line 19
Strike: "Section"
Insert: "Sections"
Following: "1"
Strike: "is"
Insert: "and 2 are"

7) Page 23, line 21
Strike: "section"
Insert: "sections"
Following: "1"
Insert: "and 2"

ms Rep. Bardanoue will sponsor
THIRD reading copy (BLUE color)

ms
STATE PUB. CO.
Helena, Mont.


Chairman.

SENATE BILL NO. 298

INTRODUCED BY NEUMAN, HIMSL, BARDANOUE, JACOBSON, M. WILLIAMS, HALLIGAN, MAZUREK, POULSEN, MANUEL, ADDY, SPAETH, LYBECK, HARP, GRADY, GLASER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NEW BOARD OF INVESTMENTS BY ABOLISHING THE MONTANA ECONOMIC DEVELOPMENT BOARD AND THE BOARD OF INVESTMENTS; TRANSFERRING TO THE NEW BOARD OF INVESTMENTS THE FUNCTIONS OF THE ABOLISHED BOARDS; ALLOCATING THE NEW BOARD OF INVESTMENTS TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 2-18-103, 7-6-1103, 7-7-2259, 7-7-4259, 17-5-1502, 17-5-1503, 17-5-1604, 17-5-1605, 17-5-1630, 17-6-201, 17-6-302, 80-14-102, 90-6-104, AND 90-8-104, MCA; REPEALING SECTIONS 2-15-1005 AND 2-15-1805 THROUGH 2-15-1807, AND 17-6-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Board of investments -- allocation -- composition -- quasi-judicial. (1) There is a board of investments within the department of commerce.

(2) Except as otherwise provided in this subsection, the board is allocated to the department for administrative purposes as prescribed in 2-15-121. The board may employ an

investment officer, an assistant investment officer, and an executive director who have general responsibility for selection and management of the board's staff and for direct investment and economic development activities. The investment officer, assistant investment officer, and executive director serve at the pleasure of the board. The board shall prescribe the duties and annual salaries of its THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER, EXECUTIVE DIRECTOR, AND THREE professional staff positions.

(3) The board is composed of nine members appointed by the governor as prescribed in 2-15-124. The members are:

(a) one member from the public employees' retirement board provided for in 2-15-1009 and one member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member of the retirement board, the position of that member on the board of investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

(b) seven members WHO WILL PROVIDE A BALANCE OF PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND ACCOUNTABILITY AND who are informed and experienced in the subject of investments and who are representative of:

- (I) the financial community;
(II) small business;
(III) agriculture; and



1 (IV) labor, to provide a balance of professional
2 expertise and public interest and accountability.

3 (4) The board is designated as a quasi-judicial board
4 for the purposes of 2-15-124.

5 NEW SECTION. SECTION 2. ADVISORY BOARD. (1) THERE IS
6 AN INVESTMENT ADVISORY BOARD WITHIN THE DEPARTMENT OF
7 COMMERCE.

8 (2) THE ADVISORY BOARD SHALL PROVIDE NONFINANCIAL
9 ADVICE TO THE BOARD OF INVESTMENTS CREATED IN (SECTION 1).
10 THE ADVISORY BOARD SHALL CONSIDER LONG TERM GOALS AND
11 METHODS OF IMPLEMENTING THOSE GOALS FROM THE VIEWPOINT OF
12 AFFECTED PARTIES, RATHER THAN INVESTMENT SPECIALISTS, AND
13 REPORT ITS CONCLUSIONS TO THE BOARD OF INVESTMENTS. THE
14 BOARD OF INVESTMENTS MUST CONSIDER REPORTS OF THE ADVISORY
15 BOARD AND REPORT TO THE ADVISORY BOARD WHETHER IT APPROVES,
16 DISAPPROVES, OR WILL FURTHER EXAMINE THE ADVISORY BOARD'S
17 ADVICE.

18 (3) THE ADVISORY BOARD CONSISTS OF FIVE MEMBERS
19 APPOINTED BY THE GOVERNOR. A MEMBER SERVES A TERM OF 4 YEARS
20 AND MAY NOT BE REAPPOINTED. THE MEMBERS SHALL NOT BE
21 APPOINTED BASED ON FINANCIAL EXPERTISE, BUT ONE MEMBER SHALL
22 BE APPOINTED FROM EACH OF THE FOLLOWING AREAS:

- 23 (A) SMALL BUSINESS;
- 24 (B) AGRICULTURE;
- 25 (C) LABOR;

1 (D) ECONOMICS; AND
2 (E) LOCAL GOVERNMENT;
3 (4) THE MEMBERS OF THE ADVISORY BOARD SHALL ELECT A
4 CHAIRMAN FROM ITS MEMBERS. THE ADVISORY BOARD SHALL MEET AT
5 LEAST TWO BUT NOT MORE THAN FOUR TIMES A YEAR. THE ADVISORY
6 BOARD MAY MEET ANY PLACE WITHIN THE STATE. MEMBERS OF THE
7 ADVISORY BOARD ARE ENTITLED TO MILEAGE, LODGING, AND MEALS,
8 AS PROVIDED IN 2-10-501, FOR MEETINGS.

9 (5) THE BOARD OF INVESTMENTS SHALL PROVIDE CLERICAL
10 ASSISTANCE TO THE ADVISORY BOARD AND SHALL PAY NECESSARY
11 COSTS OF MEETING ROOMS AND MEMBERS' TRAVEL COSTS.

12 NEW SECTION. Section 2. Montana economic development
13 board abolished -- functions transferred. The Montana
14 economic development board, created by 2-15-1805, is
15 abolished, and its functions are transferred to the board of
16 investments created in section 1.

17 NEW SECTION. Section 3. Board of investments
18 abolished -- functions transferred. The board of
19 investments, created by 2-15-1005, is abolished, and its
20 functions are transferred to the board of investments
21 created in section 1.

22 Section 4. Section 7-6-1103, MCA, is amended to read:
23 "7-6-1103. Issuance and sale of short-term obligations
24 -- procedure. (1) The issuance of short-term obligations
25 must be authorized by an ordinance of the governing body

1 that fixes the maximum amount of the obligations to be
 2 issued or, if applicable, the maximum amount which may be
 3 outstanding at any time, the maximum term and interest rate
 4 or rates to be borne thereby, the manner of sale, maximum
 5 price, form including bearer or registered as provided in
 6 Title 17, chapter 5, part 11, terms, conditions, and the
 7 covenants of the obligations. Short-term obligations issued
 8 under this section shall bear such fixed or variable rate or
 9 rates of interest as the governing body considers to be in
 10 the best interests of the local government. Variable rates
 11 of interest may be fixed in relationship to such standard or
 12 index as the governing body designates.

13 (2) The governing body may sell the short-term
 14 obligations at par or at a discount:

15 (a) at private negotiated sale to the Montana-economic
 16 development board of investments as provided in Title 17,
 17 chapter 5, part 16; or

18 (b) at public sale to any other person. Any public
 19 sale must be noticed as provided in 7-7-4434(2)."

20 Section 5. Section 7-7-2259, MCA, is amended to read:

21 "7-7-2259. Delivery of bonds. (1) If the board of
 22 investments is the purchaser of the bonds, the county
 23 treasurer shall forward the registered bonds to the
 24 department of administration commerce. The department shall
 25 deliver them to the state treasurer, and payment therefor

1 shall be made in the manner provided by law.

2 (2) If the bonds are purchased by other investors, the
 3 county treasurer shall deliver the bonds to the purchaser
 4 upon receiving full payment therefor."

5 Section 6. Section 7-7-4259, MCA, is amended to read:

6 "7-7-4259. Delivery of bonds. (1) If the board of
 7 investments is the purchaser of the bonds, the city
 8 treasurer or town clerk shall forward the registered bonds
 9 to the department of administration commerce. The department
 10 shall deliver them to the state treasurer, and payment
 11 therefor shall be made in the manner provided by law.

12 (2) If the bonds are purchased by other investors, the
 13 city treasurer or town clerk shall deliver the bonds to the
 14 purchaser upon receiving full payment therefor."

15 Section 7. Section 17-5-1502, MCA, is amended to read:

16 "17-5-1502. Legislative declaration. (1) It is the
 17 policy of the state of Montana, in the interest of promoting
 18 the health, safety, and general welfare of all the people of
 19 the state, to increase job opportunities and to retain
 20 existing jobs by making available, through the economic
 21 development board of investments, funds for industrial,
 22 commercial, manufacturing, natural resource, agricultural,
 23 livestock, recreational, tourist, and health care
 24 development.

25 (2) The legislature finds that:

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

3 (b) protection against unemployment and its economic
4 burdens and the spread of economic stagnation can best be
5 provided by promoting, attracting, stimulating, and
6 revitalizing a diversified economy with contributions from
7 industry, manufacturing, commerce, natural resource
8 development, agriculture, livestock, recreation, tourism,
9 and health care facilities; and

10 (c) the state of Montana has a responsibility to help
11 create a favorable climate for new and improved job
12 opportunities and a stable, growing, and healthy economy for
13 its citizens by encouraging the development of business."

14 Section 8. Section 17-5-1503, MCA, is amended to read:

15 "17-5-1503. Definitions. As used in this part, unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Board" means the ~~Montana--economic--development~~
19 board of investments created in ~~2-15-1805~~ [section 1].

20 (2) "Bond" means any bond, note, debenture, interim
21 certificate, or other evidence of financial indebtedness
22 issued by the board pursuant to this part.

23 (3) "Department" means the department of commerce
24 provided for in 2-15-1801.

25 (4) "Financial institution" means any bank, savings

1 and loan association, credit union, development credit
2 corporation, insurance company, investment company, trust
3 company, savings institution, or other financial institution
4 approved by the board and maintaining an office in the
5 state.

6 (5) "Local government" means the city in which the
7 project is located, if the project is located within an
8 incorporated municipality, or the county if the project is
9 located within the county but outside the boundaries of an
10 incorporated municipality.

11 (6) "Major project" means a project whose cost or
12 appraised value exceeds \$800,000.

13 (7) "Project" means a project as defined in 90-5-101.

14 (8) "Project costs" means the costs of acquiring or
15 improving any project, including the following:

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

18 (b) the actual cost of construction of all or any part
19 of a project, including architects' 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 or
24 guaranty of loan payments or lease rentals pledged to pay
25 the bonds; and

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

4 Section 9. Section 17-5-1604, MCA, is amended to read:

5 "17-5-1604. Definitions. As used in this part, the
6 following definitions apply:

7 (1) "Board" means the Montana--economic--development
8 board of investments created in 2-15-1995 [section 1].

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

11 (3) "Local government unit" means any municipal
12 corporation or political subdivision of the state, including
13 without limitation any city, town, county, school district,
14 or other special taxing district.

15 (4) "Reserve fund" means the municipal finance
16 consolidation act reserve fund created in 17-5-1630."

17 Section 10. Section 17-5-1605, MCA, is amended to
18 read:

19 "17-5-1605. Montana ~~economic--development~~ board of
20 investments to implement. The Montana ~~economic-development~~
21 board of investments may make and enforce orders, rules, and
22 bylaws that are necessary or desirable for the
23 implementation of this part."

24 Section 11. Section 17-5-1630, MCA, is amended to
25 read:

1 "17-5-1630. Reserve fund. (1) The board shall
2 establish and maintain a municipal finance consolidation act
3 reserve fund, to which there shall be deposited or
4 transferred:

5 (a) all money appropriated by the legislature for the
6 purposes of the fund in accordance with the provisions of
7 subsection (4);

8 (b) all proceeds of bonds required to be deposited in
9 the fund by terms of a contract between the board and its
10 bondholders or a resolution of the board with respect to the
11 proceeds of bonds;

12 (c) the proceeds of any bond issue of the state that
13 is authorized for such purpose;

14 (d) all other money appropriated by the legislature to
15 the reserve fund; and

16 (e) any other money or funds of the board that it
17 decides to deposit in the fund.

18 (2) All money held in the reserve fund shall be used
19 solely for the payment of the principal of or interest on
20 the bonds or notes secured in whole or in part by the fund
21 or the debt service fund payments with respect to the bonds
22 or notes, the purchase or redemption of the bonds or notes,
23 the payment of interest on the bonds or notes, or the
24 payment of any redemption premium required to be paid when
25 the bonds or notes are redeemed prior to maturity. Money in

1 the reserve fund may not be withdrawn at any time in an
 2 amount that reduces the fund to an amount less than the sum
 3 of minimum reserve requirements established in the
 4 resolutions or indentures of the board for the fund except,
 5 with respect to bonds or notes secured in whole or in part
 6 by the fund, for the purpose of making payment when due of
 7 principal, interest, redemption premiums, and debt service
 8 fund payments for the payment of which other money pledged
 9 is not available.

10 (3) Money in the reserve fund in excess of the
 11 required reserve may be withdrawn at any time by the board
 12 and transferred to another fund or account of the board
 13 established for purposes of this part, but not to any other
 14 fund or account.

15 (4) Nothing in this section creates a debt or
 16 liability of the state.

17 (5) Notwithstanding any provision of Title 17, chapter
 18 6, the board ~~of investments~~ may lend money for deposit to
 19 the reserve fund in an amount equal to any deficiency in the
 20 required debt service reserve. The loans shall be made on
 21 such reasonable terms and conditions as the board considers
 22 proper ~~and as may be agreed upon between the board and the~~
 23 ~~board of investments~~, including without limitation terms and
 24 conditions providing that the loans need not be repaid until
 25 the obligations of the board secured and to be secured by

1 the reserve fund are no longer outstanding."

2 Section 12. Section 17-6-201, MCA, is amended to read:

3 "17-6-201. Unified investment program -- general
 4 provisions. (1) The unified investment program directed by
 5 Article VIII, section 13, of the 1972 Montana constitution
 6 to be provided for public funds shall be administered by the
 7 board of investments ~~and the Montana economic development~~
 8 ~~board~~ in accordance with ~~Article VIII, section 13, of the~~
 9 ~~Montana constitution~~ and the prudent expert principle, which
 10 requires any investment manager to:

11 (a) discharge his duties with the care, skill,
 12 prudence, and diligence, under the circumstances then
 13 prevailing, that a prudent person acting in a like capacity
 14 with the same resources and familiar with like matters
 15 exercises in the conduct of an enterprise of a like
 16 character with like aims;

17 (b) diversify the holdings of each fund within the
 18 unified investment program to minimize the risk of loss and
 19 to maximize the rate of return, unless under the
 20 circumstances it is clearly prudent not to do so; and

21 (c) discharge his duties solely in the interest of and
 22 for the benefit of the funds forming the unified investment
 23 program.

24 (2) Retirement funds may be invested in common stocks
 25 of any corporation provided that no investment may be made

1 at any time which would cause the book value of such
 2 investments in any retirement fund to exceed 50% of the book
 3 value of such fund or would cause the stock of one
 4 corporation to exceed 2% of the book value of such
 5 retirement fund.

6 (3) Nothing contained in this section prevents the
 7 investment in any business activity in Montana, including
 8 activities that continue existing jobs or create new jobs in
 9 Montana, if the investment meets the standard of care
 10 required by this section. In discharging its duties, the
 11 board ~~of--investments--and-the-Montana-economic-development~~
 12 ~~board~~ shall consider the preservation of purchasing power of
 13 capital during periods of high monetary inflation.

14 (4) The board ~~of-investments~~ has the sole authority to
 15 invest state funds ~~other--than---the---Montana---in-state~~
 16 ~~investment--fund~~. No other agency may invest such state
 17 funds. The board shall direct the investment of state funds
 18 in accordance with the laws and constitution of this state.
 19 The board has the power to veto any investments made under
 20 its general supervision.

21 (5) The board ~~of-investments~~ shall:

- 22 (a) assist agencies with public money to determine if,
 23 when, and how much surplus cash is available for investment;
 24 (b) determine the amount of surplus treasury cash to
 25 be invested;

- 1 (c) determine the type of investment to be made;
 2 (d) prepare the claim to pay for the investment; and
 3 (e) keep an account of the total of each investment
 4 fund and of all the investments belonging to such fund and a
 5 record of the participation of each treasury fund account
 6 therein.

7 (6) The board ~~of-investments~~ may:

8 (a) execute deeds of conveyance transferring all real
 9 property obtained through foreclosure of any investments
 10 purchased under the provisions of 17-6-211 when full payment
 11 has been received therefor;

12 (b) direct the withdrawal of any funds deposited by or
 13 for the state treasurer pursuant to 17-6-101 and 17-6-105;

14 (c) direct the sale of any securities in the program
 15 at their full and true value when found necessary to raise
 16 money for payments due from the treasury funds for which the
 17 securities have been purchased.

18 (7) The cost of administering and accounting for each
 19 investment fund shall be deducted from the income therefrom,
 20 except that such costs of the nonexpendable trust funds
 21 shall be paid from income otherwise receivable from the
 22 pooled investment fund, and the amounts required for this
 23 purpose shall be appropriated by the legislature from the
 24 respective investment funds."

25 Section 13. Section 17-6-302, MCA, is amended to read:

1 "17-6-302. Definitions. As used in this part, unless
2 the context requires otherwise, the following definitions
3 apply:

4 (1) "Board" means the ~~Montana--economic-development~~
5 ~~board of investments established--in--2-15-1005~~ created in
6 [section 1].

7 (2) "Clean and healthful environment" means an
8 environment that is relatively free from pollution which
9 threatens human health, including as a minimum, compliance
10 with federal and state environmental and health standards.

11 (3) "Employee-owned enterprise" means any enterprise
12 at least 51% of whose stock, partnership interests, or other
13 ownership interests is owned and controlled by residents of
14 Montana each of whose principal occupation is as an
15 employee, officer, or partner of the enterprise.

16 (4) "Financial institution" includes but is not
17 limited to a state- or federally chartered bank or a savings
18 and loan association, credit union, or development
19 corporation created pursuant to Title 32, chapter 4.

20 (5) "Loan participation" means loans or portions
21 thereof bought from a financial institution.

22 (6) "Locally owned enterprise" means any enterprise
23 51% of whose stock, partnership interests, or other
24 ownership interests are owned and controlled by residents of
25 Montana.

1 (7) "Long-term benefit to the Montana economy" means
2 an activity that strengthens the Montana economy and that
3 has the potential to maintain and create jobs, increase per
4 capita income, or increase Montana tax revenues in the
5 future to the people of Montana, either directly or
6 indirectly.

7 (8) "Montana economy" means any business activity in
8 the state of Montana, including those which continue
9 existing jobs or create new jobs in Montana.

10 (9) "Montana in-state investment fund" means the fund
11 established by 17-6-305.

12 (10) "Service fees" means the fees normally charged by
13 a financial institution for servicing a loan, including
14 amounts charged for collecting payments and remitting
15 amounts to the fund."

16 Section 14. Section 80-14-102, MCA, is amended to
17 read:

18 "80-14-102. (Temporary) Definitions. As used in this
19 chapter, the following definitions apply:

20 (1) "Board" means the board of investments established
21 under ~~2-15-1005~~ [section 1].

22 (2) "Eligible agricultural operation" means any
23 person, corporation, partnership, or other entity which is
24 engaged in the production of agricultural, livestock,
25 poultry, dairy, or fruit or other horticultural products and

1 which:

2 (a) derives at least 70% of its gross income from such
3 production; and

4 (b) has total financial liabilities exceeding 30% of
5 its total assets.

6 (3) "Eligible lending institution" means a financial
7 institution that:

8 (a) is eligible to make commercial loans;

9 (b) is a public depository of state funds; and

10 (c) agrees to participate in the linked deposit
11 program established by this chapter.

12 (4) "Linked deposit" means an agreement between the
13 board and an eligible financial institution whereby a
14 certificate of deposit for a term not exceeding 6 months is
15 placed by the board with an eligible lending institution at
16 a rate 1% below the current market rate for such a deposit,
17 as determined by the board, provided the institution agrees
18 to lend the value of such deposit, pursuant to the deposit
19 agreement provided in 80-14-202, to eligible agricultural
20 operations at an interest rate not exceeding 2 percentage
21 points greater than the rate payable on the certificate of
22 deposit. (Terminates March 15, 1987--sec. 9, Ch. 5, Sp. L.
23 March 1986.)"

24 Section 15. Section 90-6-104, MCA, is amended to read:

25 "90-6-104. General powers of the board. The board may:

1 (1) sue and be sued;

2 (2) have a seal;

3 (3) adopt all procedural and substantive rules
4 necessary for the administration of this part, including
5 rules concerning its mortgage, construction, and temporary
6 lending programs;

7 (4) make contracts, agreements, and other instruments
8 necessary or convenient for the exercise of its powers under
9 this part;

10 (5) enter into agreements or other transactions with
11 any federal, state, or local governmental agency, any
12 persons, and any domestic or foreign partnership,
13 corporation, association, or organization in carrying out
14 this part;

15 (6) enter into agreements under its rules with
16 sponsors, mortgagors, or lending institutions for the
17 purpose of regulating the analysis, planning, development,
18 and management of housing developments financed in whole or
19 in part by the proceeds of its loans or securities and
20 mortgage purchase programs;

21 (7) enter into agreements or other transactions with,
22 and accept grants and the cooperation of, any governmental
23 agency in furtherance of this part, including but not
24 limited to the development, leasing, maintenance, operation,
25 and financing of any housing development;

1 (8) accept services, appropriations, gifts, grants,
2 bequests, and devise and utilize or dispose of them in
3 carrying out this part;

4 (9) acquire real or personal property or any right,
5 interest, or easement therein by gift, purchase, transfer,
6 foreclosure, lease, or otherwise; hold, sell, assign, lease,
7 encumber, mortgage, or otherwise dispose thereof; hold,
8 sell, assign, or otherwise dispose of any mortgage or loan
9 owned by it or in its control or custody; release or
10 relinquish any right, title, claim, interest, easement, or
11 demand, however acquired, including any equity or right of
12 redemption; do any of the foregoing by public or private
13 sale, with or without public bidding; commence any action to
14 protect or enforce any right conferred upon it by any law,
15 mortgage, contract, or other agreement; bid for and purchase
16 property at any foreclosure or other sale or acquire or take
17 possession of it in lieu of foreclosure; and operate,
18 manage, lease, dispose of, and otherwise deal with such
19 property in any manner necessary or desirable to protect its
20 interests and the holders of its bonds or notes and
21 consistent with any agreement with such holders;

22 (10) service and contract and pay for the servicing of
23 loans;

24 (11) provide general technical services in the
25 analysis, planning, design, processing, construction,

1 rehabilitation, and management of housing developments for
2 persons and families of lower income where these services
3 are not otherwise available;

4 (12) provide general consultative services to housing
5 developments for persons and families of lower income and
6 the residents thereof with respect to counseling and
7 training in management, home ownership, and maintenance
8 where these services are not otherwise available;

9 (13) invest any funds not required for immediate use,
10 subject to any agreements with its bondholders and
11 noteholders, as provided in Title 17, chapter 6, except all
12 investment income from funds of the board less the cost for
13 investment as prescribed by law shall be deposited in the
14 housing authority enterprise fund;

15 (14) sell its loans or securities to the federal
16 national mortgage association or any other agency or
17 instrumentality of the United States and invest in the
18 capital stock issued by the association or other agency or
19 instrumentality to the extent, if any, required as a
20 condition of such sale;

21 (15) consent, whenever it deems it necessary or
22 desirable in fulfilling its purposes, to the modification of
23 the rate of interest, time, and payment of any installment
24 of principal or interest, security, or any other term of any
25 contract, mortgage, mortgage loan, mortgage loan commitment,

1 construction loan, advance contract, or agreement of any
2 kind, subject to any agreement with bondholders and
3 noteholders;

4 (16) collect reasonable interest, fees, and charges in
5 connection with making and servicing its loans, notes,
6 bonds, commitments, and other evidences of indebtedness and
7 in connection with providing technical, consultative, and
8 project assistance services. Interest fees and charges shall
9 be limited to the amounts required to pay the costs of the
10 board, including operating and administrative expenses and
11 reasonable allowances for losses which may be incurred.

12 (17) procure insurance against any loss in connection
13 with its mortgages and mortgage loans and other assets or
14 property in amounts and from insurers as the board considers
15 desirable or necessary;

16 (18) act as agent for governmental agencies concerning
17 acquisition, construction, leasing, operation, or management
18 of a housing development;

19 (19) issue notes and bonds and replace lost, destroyed,
20 or mutilated notes and bonds;

21 (20) develop special programs for housing developments
22 for veterans of the armed forces of the United States who
23 are unable to acquire safe and sanitary housing through
24 lending institutions by conventional means; and

25 (21) lend money to the economic-development board of

1 investments to establish the Montana economic development
2 guaranty fund created by 17-5-1520."

3 Section 16. Section 90-8-104, MCA, is amended to read:
4 "90-8-104. Definitions. As used in this chapter,
5 unless the context requires otherwise, the following
6 definitions apply:

7 (1) "Board" means the ~~Montana--economic-development~~
8 board of investments provided for in ~~2-15-1005~~ [section 1].

9 (2) "Capital base" means equity capital or net worth.

10 (3) "Certified Montana capital company" means:

11 (a) a development credit corporation created pursuant
12 to Title 32, chapter 4; or

13 (b) a profit or nonprofit entity organized and
14 existing under the laws of Montana, created for the purpose
15 of making venture or risk capital available for qualified
16 investments and that has been certified by the board.

17 (4) "Montana business" means a business which is
18 located or principally based within Montana.

19 (5) "Qualified investment" means a debt or equity
20 financing of or a purchase and leaseback financing of a
21 Montana business that meets both of the following criteria:

22 (a) the business is engaged in one or more of the
23 following activities:

24 (i) manufacturing;

25 (ii) agricultural, fishery, or forestry production and

1 processing;

2 (iii) mineral production and processing, except for

3 conventional oil and gas exploration;

4 (iv) recognized nonfossil forms of energy generation as

5 defined in 15-32-102(5);

6 (v) transportation;

7 (vi) research and development of products or processes

8 associated with any of the activities enumerated in (i)

9 through (v) above;

10 (vii) wholesale or retail distribution activities for

11 which products produced in Montana comprise 50% or more of

12 the gross sales receipts;

13 (viii) any activity conducted in the state for which

14 50% or more of the gross receipts are derived from the sale

15 of products or services outside Montana; and

16 (ix) tourism; and

17 (b) the business is a small business as defined in

18 rules adopted by the board.

19 (6) "Qualified Montana capital company" means a

20 certified Montana capital company that has been designated a

21 qualified capital company under the provisions of 90-8-202

22 so that investors in the company may receive the tax credits

23 authorized in 90-8-202."

24 SECTION 17. SECTION 2-18-103, MCA, IS AMENDED TO READ:

25 "2-18-103. Officers and employees excepted. Parts 1

1 and 2 do not apply to the following positions in state

2 government:

3 (1) elected officials;

4 (2) county assessors and their chief deputy;

5 (3) officers and employees of the legislative branch;

6 (4) judges and employees of the judicial branch;

7 (5) members of boards and commissions appointed by the

8 governor, appointed by the legislature, or appointed by

9 other elected state officials;

10 (6) officers or members of the militia;

11 (7) agency heads appointed by the governor;

12 (8) academic and professional administrative personnel

13 with individual contracts under the authority of the board

14 of regents of higher education;

15 (9) academic and professional administrative personnel

16 and live-in houseparents who have entered into individual

17 contracts with the state school for the deaf and blind under

18 the authority of the state board of public education;

19 (10) teachers under the authority of the department of

20 institutions;

21 (11) investment officer and, assistant investment

22 officer, executive director, and three professional staff

23 positions of the board of investments; and

24 (12) four professional staff positions under the board

25 of oil and gas conservation."

1 NEW SECTION. Section 18. Repealer. Sections
2 2-15-1005, 2-15-1805 through 2-15-1807, and 17-6-307, MCA,
3 are repealed.

4 NEW SECTION. Section 19. Codification instruction.
5 Section ~~SECTIONS~~ SECTION 1 is ~~AND-2-ARE~~ IS intended to be
6 codified as an integral part of Title 2, chapter 15, part
7 18, and the provisions of Title 2, chapter 15, part 18,
8 apply to section ~~SECTIONS~~ SECTION 1 ~~AND-2~~.

9 NEW SECTION. Section 20. Effective date. This act is
10 effective July 1, 1987.

-End-