

SENATE BILL NO. 161

INTRODUCED BY JERGESON, BENEDICT, LARSON, HARPER, CRIPPEN,  
CHRISTIAENS, HALLIGAN, KADAS, WATERMAN, SQUIRES,  
ECK, B. BROWN, BIANCHI, S. RICE, SIMON, BARTLETT,  
BARNHART, HARP, FAGG, EWER

IN THE SENATE

JANUARY 15, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 26, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 27, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 28, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 45; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 22, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 24, 1993	THIRD READING, CONCURRED IN. AYES, 89; NOES, 10.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 1, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 161  
2 INTRODUCED BY Bergeson Barrett Lucas Hayes CP  
3 Be Brown Stacy Koch Thompson McGowan EBorn  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
5 MICROBUSINESS DEVELOPMENT ACT; REMOVING THE MINIMUM INTEREST  
6 RATE ON LOANS; REVISING MATCHING FUNDING; REMOVING TIME  
7 RESTRICTIONS ON ADDITIONAL LOANS; REMOVING COMMUNITY SUPPORT  
8 CERTIFICATION CRITERIA; ELIMINATING THE AUDIT AND EVALUATION  
9 REPORT FOR THE PROGRAM; AMENDING SECTIONS 17-6-406,  
10 17-6-407, AND 17-6-408, MCA; REPEALING SECTION 9, CHAPTER  
11 602, LAWS OF 1991; AND PROVIDING AN IMMEDIATE EFFECTIVE  
12 DATE."

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

15      **Section 1.** Section 17-6-406, MCA, is amended to read:

16       **"17-6-406. Microbusiness finance program -- powers and**  
17       **duties of department.** There is a microbusiness finance  
18       program administered by the department. The department shall  
19       adopt rules to implement the provisions of this part,  
20       including but not limited to:

21 (1) establishing criteria and procedures for certifying  
22 microbusiness development corporations;

23 (2) establishing criteria and procedures to select from  
24 competing development loan applications and to award  
25 development loans to certified microbusiness development

1 corporations;

2 (3) establishing criteria and procedures to be followed  
3 by certified microbusiness development corporations that  
4 administer revolving loan funds supported by the program;

5 (4) determining the amount and method of computation  
6 and payment of interest rates charged to recipients of  
7 development loans and specifying amortization schedules and  
8 other terms and conditions for development loans as may be  
9 necessary;--However,--the--rate--of--interest--may--not--be--less  
10 than-3%-a-year;

11 (5) establishing criteria for determining  
12 nonperformance and declaring default in the administration  
13 of development loans and requiring the refund of defaulted  
14 development loan funds to the microbusiness development loan  
15 account;

16 (6) establishing criteria for satisfactory performance  
17 in development loan administration to determine eligibility  
18 for renewal of development loans or for additional  
19 development loans;

20 (7) establishing guidelines for maximum and minimum  
21 interest rates that may be charged by certified  
22 microbusiness development corporations on microbusiness  
23 loans; and

24 (8) dividing the state into not more than 12  
25 multicounty service regions within each of which not more

1 than one microbusiness development corporation may be funded  
2 at any time. However, a corporation that is funded as a  
3 statewide microbusiness development corporation under  
4 17-6-408 may offer specialized services to constituents  
5 within regions having a funded regional microbusiness  
6 development corporation."

7 **Section 2.** Section 17-6-407, MCA, is amended to read:

8 "17-6-407. Microbusiness development loan account and  
9 finance program administrative account -- criteria --  
10 limitations. (1) There is in the state special revenue fund  
11 a microbusiness development loan account into which the  
12 funds appropriated pursuant to section 11, Chapter 602, Laws  
13 of 1991, and money received in repayment of the principal of  
14 development loans must be deposited. The department may make  
15 development loans from the account in amounts not to exceed  
16 \$250,000 a loan to a certified microbusiness development  
17 corporation.

18 (2) There is in the state special revenue fund a  
19 microbusiness finance program administrative account into  
20 which all interest received on development loans, service  
21 charges or fees received from certified microbusiness  
22 development corporations, grants, donations, and private or  
23 public income must be deposited. Money in the administrative  
24 account may be transferred to the development loan account  
25 or be used to pay the costs of the program, including

1 personnel, travel, equipment, supplies, consulting costs,  
2 and other operating expenses of the program.

3 (3) Subject to subsection (1), a certified  
4 microbusiness development corporation that receives a  
5 development loan may apply for an additional loan ~~after-1~~  
6 ~~year--following--approval--of--the--previous--loan,~~ if the  
7 applicant meets the performance criteria established by the  
8 department.

9 (4) To establish the criteria for making development  
10 loans, the department shall consider:

11 (a) the plan for providing services to microbusinesses;

12 (b) the scope of services to be provided by the  
13 certified microbusiness development corporation;

14 (c) geographic representation of all regions of the  
15 state, including both urban and rural communities;

16 (d) the plan for providing service to minorities,  
17 women, and low-income persons;

18 (e) the ability of the corporation to provide business  
19 training and technical assistance to microbusiness clients;

20 (f) the ability of the corporation, with its plan, to:

21 (i) monitor and provide financial oversight of  
22 recipients of microbusiness loans;

23 (ii) administer a revolving loan fund; and

24 (iii) investigate and qualify financing proposals and to  
25 service credit accounts;

(g) sources and sufficiency of operating funds for the certified microbusiness development corporation; and

(h) the intent of the corporation, with its plan and written indications of local institutional support, to provide services to a designated multicounty region of the state.

(5) Development loan funds may be used by a certified microbusiness development corporation to:

(a) satisfy matching fund requirements for other state, federal, or private ~~grants; funding only if funding is intended and used for the purpose of providing or enhancing the certified microbusiness development corporation's ability to provide and administer loans, technical assistance, or management training to microbusinesses;~~

(b) establish a revolving loan fund from which the certified microbusiness development corporation may make loans to qualified microbusinesses, provided that a single loan does not exceed \$20,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share does not exceed \$20,000;

(c) establish a guarantee fund from which the certified microbusiness development corporation may guarantee loans made by financial institutions to qualified microbusinesses.

However, a single guarantee may not exceed \$20,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share may not exceed \$20,000.

(6) Development loan funds may not be:

(a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(b) used to:

(i) refinance a nonperforming loan held by a financial institution; or

(ii) pay the operating costs of a certified microbusiness development corporation. However, interest income earned from the proceeds of a development loan may be used to pay operating expenses.

(7) Certified microbusiness development corporations are required to match contribute cash from other sources to leverage and secure development loans from the program with contributions--to--their--revolving--loan--fund--from--other sources. Contributions provided by the corporation must be on a ratio of at least \$1 from other sources for each \$3 \$6 from the program. Matching These contributions may come from a public or private source other than the program and may be in the form of equity capital, loans, or grants.

(8) Development loans must be made pursuant to a development loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, be callable, and contain other terms and conditions considered appropriate by the department that are consistent with the purposes of and with rules promulgated to implement this part.

(9) (a) Unless subject to federal law or rule, each certified microbusiness development corporation that receives a development loan under this part shall pay the cost of an audit of its operations to be conducted at least once every 2 years. The department shall designate an auditor to conduct the audit.

(b) If an audit is performed under a requirement of federal law or rule, the department shall waive the audit required in subsection (9)(a) with respect to all issues addressed by the federal audit report. However, the department may require an audit of matters that are not, in the department's judgment, addressed by the federal report--for example, verification of compliance with requirements specific to the program, such as job-generation standards and reporting.

(10) A certified microbusiness development corporation that is in default for nonperformance under rules established by the department may be required to refund the

outstanding balance of development loans awarded prior to the default declaration. A development loan is secured by a first lien on the receivables of the corporation receiving the loan."

**Section 3.** Section 17-6-408, MCA, is amended to read:

"17-6-408. Certification of microbusiness development corporations. The department may certify:

(1) a microbusiness development corporation when it determines that the corporation:

(a) has developed a viable plan for providing training, access to financing, and technical assistance for qualified microbusinesses;

(b) has broad-based community support in a designated multicounty region of the state, as reflected, for example, by the membership of its board of directors; and

(c) has an adequate source of operating capital; or

(2) a statewide microbusiness development corporation when the department determines that the corporation meets the conditions under subsection subsections (1)(a) and (1)(c) and, in addition:

(a) has a viable plan to provide specialized services to constituents throughout the state; and

(b) does not preempt or duplicate efforts of microbusiness development corporations within local communities; and

1     ~~{c)--obtains--written--indications-of-support-from-local~~  
2     ~~development-organizations-in-the--communities--in--which--it~~  
3     ~~plans-to-offer-its-services."~~

4     NEW SECTION. **Section 4.** Repealer. Section 9, Chapter  
5     602, Laws of 1991, is repealed.

6     NEW SECTION. **Section 5.** Effective date. [This act] is  
7     effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0161, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act removing the minimum interest rate charged to certified microbusiness development corporations, revising the description, purpose, and amount of local matching funds required to obtain development loans; removing time restrictions on additional loans; removing community support certification criteria for statewide microbusiness development corporations; and eliminating the audit and evaluation report for the program.

ASSUMPTIONS:

1. The act does not change the purpose or scope of the original legislation. The program retains authority to lend up to \$3,250,000 to certified microbusiness development corporations; this authority to make loans terminates on July 1, 1993.
2. Interest rates charged on development loans will be set so as to generate sufficient revenue to cover all costs of the program.
3. Audit and evaluation costs will be reduced by \$45,000 in FY94. The executive budget includes a general fund supplement of \$34,377 in FY94 to cover part of the cost of the audit and evaluation report. Elimination of the audit requirement will eliminate the use of any general fund in this program.

FISCAL IMPACT:Expenditures

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	48,699	48,699	0	48,748	48,748	0
Operating	72,475	27,475	(45,000)	27,589	27,589	0
Equipment	1,000	1,000	0	1,000	1,000	0
Grants	<u>105,000</u>	<u>105,000</u>	<u>0</u>	<u>45,000</u>	<u>45,000</u>	<u>0</u>
Total	227,174	182,174	(45,000)	122,337	122,337	0

Revenues:

Interest on development loans	87,797	77,174	(10,623)	77,337	77,377	0
US West Grant	105,000	105,000	0	45,000	45,000	0
General Fund	34,377	0	(34,377)	0	0	0

Net Impact:

General Fund	34,377	0	(34,377)	0	0	0
Proprietary Fund	<u>192,797</u>	<u>182,174</u>	<u>(10,623)</u>	<u>122,337</u>	<u>122,337</u>	<u>0</u>
Total	227,174	182,174	(45,000)	122,337	122,337	0

*David Lewis* 1-19-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Greg Jergeson* 1/20/93  
 GREG JERGESON, PRIMARY SPONSOR DATE

Fiscal Note for SB0161, as introduced

**SB 161**



APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

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CERTIFICATION-CRITERIA MODIFYING CERTIFICATION REQUIREMENTS  
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and payment of interest rates charged to recipients of  
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other terms and conditions for development loans as may be  
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~~than 3% a year;~~

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13 (4) To establish the criteria for making development  
14 loans, the department shall consider:

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1 20% equity share does not exceed \$20,000;

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 13 (a) satisfy matching fund requirements for other state,  
 14 federal, or private grants; funding only if funding is  
 15 intended and used for the purpose of providing or enhancing  
 16 the certified microbusiness development corporation's  
 17 ability to provide and administer loans, technical  
 18 assistance, or management training to microbusinesses;  
 19 (b) establish a revolving loan fund from which the  
 20 certified microbusiness development corporation may make  
 21 loans to qualified microbusinesses, provided that a single  
 22 loan does not exceed \$20,000 and the outstanding balance of  
 23 all loans to a microbusiness or a project participated in by  
 24 more than one microbusiness or to two or more  
 25 microbusinesses in which any one person holds more than a

1 20% equity share does not exceed \$20,000;  
 2 (c) establish a guarantee fund from which the certified  
 3 microbusiness development corporation may guarantee loans  
 4 made by financial institutions to qualified microbusinesses.  
 5 However, a single guarantee may not exceed \$20,000, and the  
 6 aggregate of all guarantees to a microbusiness or a project  
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 8 more microbusinesses in which any one person holds more than  
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 10 (6) Development loan funds may not be:  
 11 (a) loaned for relending or investment in stocks,  
 12 bonds, or other securities or for property not intended for  
 13 use in production by the recipient of the loan; or  
 14 (b) used to:  
 15 (i) refinance a nonperforming loan held by a financial  
 16 institution; or  
 17 (ii) pay the operating costs of a certified  
 18 microbusiness development corporation. However, interest  
 19 income earned from the proceeds of a development loan may be  
 20 used to pay operating expenses.  
 21 (7) Certified microbusiness development corporations  
 22 are required to match contribute cash from other sources to  
 23 leverage and secure development loans from the program with  
 24 contributions--to--their--revolving--loan--fund--from--other  
 25 sources. Contributions provided by the corporation must be



1 on a ratio of at least \$1 from other sources for each \$3 \$6  
 2 from the program. Matching These contributions may come from  
 3 a public or private source other than the program and may be  
 4 in the form of equity capital, loans, or grants.

5 (8) Development loans must be made pursuant to a  
 6 development loan agreement and may be amortization or term  
 7 loans, bear interest at less than the market rate, be  
 8 renewable, be callable, and contain other terms and  
 9 conditions considered appropriate by the department that are  
 10 consistent with the purposes of and with rules promulgated  
 11 to implement this part.

12 (9) (a) Unless subject to federal law or rule, each  
 13 certified microbusiness development corporation that  
 14 receives a development loan under this part shall pay the  
 15 cost of an audit of its operations to be conducted at least  
 16 once every 2 years. The department shall designate an  
 17 auditor to conduct the audit.

18 (b) If an audit is performed under a requirement of  
 19 federal law or rule, the department shall waive the audit  
 20 required in subsection (9)(a) with respect to all issues  
 21 addressed by the federal audit report. However, the  
 22 department may require an audit of matters that are not, in  
 23 the department's judgment, addressed by the federal  
 24 report--for example, verification of compliance with  
 25 requirements specific to the program, such as job-generation

1 standards and reporting.

2 (10) A certified microbusiness development corporation  
 3 that is in default for nonperformance under rules  
 4 established by the department may be required to refund the  
 5 outstanding balance of development loans awarded prior to  
 6 the default declaration. A development loan is secured by a  
 7 first lien on the receivables of the corporation receiving  
 8 the loan."

9 **Section 3.** Section 17-6-408, MCA, is amended to read:

10 "17-6-408. Certification of microbusiness development  
 11 corporations. The department may certify:

12 (1) a microbusiness development corporation when it  
 13 determines that the corporation:

14 (a) has developed a viable plan for providing training,  
 15 access to financing, and technical assistance for qualified  
 16 microbusinesses;

17 (b) has broad-based community support in a designated  
 18 multicounty region of the state, as reflected, for example,  
 19 by the membership of its board of directors; and

20 (c) has an adequate source of operating capital; or

21 (2) a statewide microbusiness development corporation  
 22 when the department determines that the corporation meets  
 23 the conditions under subsection subsections (1)(a) and  
 24 (1)(c) and, in addition:

25 (a) has a viable plan to provide specialized services

1 to constituents throughout the state; and

2 (b) does not preempt or duplicate efforts of  
3 microbusiness development corporations within local  
4 communities; ~~and~~

5 ~~(c) obtains written indications of support from local~~  
6 ~~development organizations in the communities in which it~~  
7 ~~plans to offer its services."~~

8 NEW SECTION. Section 4. Repealer. Section 9, Chapter  
9 602, Laws of 1991, is repealed.

10 NEW SECTION. Section 5. Effective date. [This act] is  
11 effective on passage and approval.

-End-

## 1 SENATE BILL NO. 161

2 INTRODUCED BY JERGESON, BENEDICT, LARSON, HARPER, CRIPPEN,  
3 CHRISTIAENS, HALLIGAN, KADAS, WATERMAN, SQUIRES,  
4 ECK, B. BROWN, BIANCHI, S. RICE, SIMON, BARTLETT,  
5 BARNHART, HARP, FAGG, EWER

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
8 MICROBUSINESS DEVELOPMENT ACT; REMOVING THE MINIMUM INTEREST  
9 RATE ON LOANS; REVISING MATCHING FUNDING; REMOVING TIME  
10 RESTRICTIONS ON ADDITIONAL LOANS; ~~REMOVING COMMUNITY-SUPPORT~~  
11 ~~CERTIFICATION-CRITERIA~~ MODIFYING CERTIFICATION REQUIREMENTS  
12 FOR A STATEWIDE MICROBUSINESS DEVELOPMENT CORPORATION;  
13 ELIMINATING THE AUDIT AND EVALUATION REPORT FOR THE PROGRAM;  
14 AMENDING SECTIONS 17-6-406, 17-6-407, AND 17-6-408, MCA;  
15 REPEALING SECTION 9, CHAPTER 602, LAWS OF 1991; AND  
16 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 17-6-406, MCA, is amended to read:

20 "17-6-406. Microbusiness finance program -- powers and  
21 duties of department. There is a microbusiness finance  
22 program administered by the department. The department shall  
23 adopt rules to implement the provisions of this part,  
24 including but not limited to:

25 (1) establishing criteria and procedures for certifying

1 microbusiness development corporations;

2 (2) establishing criteria and procedures to select from  
3 competing development loan applications and to award  
4 development loans to certified microbusiness development  
5 corporations;

6 (3) establishing criteria and procedures to be followed  
7 by certified microbusiness development corporations that  
8 administer revolving loan funds supported by the program;

9 (4) determining the amount and method of computation  
10 and payment of interest rates charged to recipients of  
11 development loans and specifying amortization schedules and  
12 other terms and conditions for development loans as may be  
13 necessary--~~However, the rate of interest may not be less~~  
14 ~~than 3% a year.~~;

15 (5) establishing criteria for determining  
16 nonperformance and declaring default in the administration  
17 of development loans and requiring the refund of defaulted  
18 development loan funds to the microbusiness development loan  
19 account;

20 (6) establishing criteria for satisfactory performance  
21 in development loan administration to determine eligibility  
22 for renewal of development loans or for additional  
23 development loans;

24 (7) establishing guidelines for maximum and minimum  
25 interest rates that may be charged by certified

1 microbusiness development corporations on microbusiness  
2 loans; and

3 (8) dividing the state into not more than 12  
4 multicounty service regions within each of which not more  
5 than one microbusiness development corporation may be funded  
6 at any time. However, a corporation that is funded as a  
7 statewide microbusiness development corporation under  
8 17-6-408 may offer specialized services to constituents  
9 within regions having a funded regional microbusiness  
10 development corporation."

11 **Section 2.** Section 17-6-407, MCA, is amended to read:

12 "17-6-407. Microbusiness development loan account and  
13 finance program administrative account -- criteria --  
14 limitations. (1) There is in the state special revenue fund  
15 a microbusiness development loan account into which the  
16 funds appropriated pursuant to section 11, Chapter 602, Laws  
17 of 1991, and money received in repayment of the principal of  
18 development loans must be deposited. The department may make  
19 development loans from the account in amounts not to exceed  
20 \$250,000 a loan to a certified microbusiness development  
21 corporation.

22 (2) There is in the state special revenue fund a  
23 microbusiness finance program administrative account into  
24 which all interest received on development loans, service  
25 charges or fees received from certified microbusiness

1 development corporations, grants, donations, and private or  
2 public income must be deposited. Money in the administrative  
3 account may be transferred to the development loan account  
4 or be used to pay the costs of the program, including  
5 personnel, travel, equipment, supplies, consulting costs,  
6 and other operating expenses of the program.

7 (3) Subject to subsection (1), a certified  
8 microbusiness development corporation that receives a  
9 development loan may apply for an additional loan ~~after--1~~  
10 ~~year--following--approval--of--the--previous--loan;~~ if the  
11 applicant meets the performance criteria established by the  
12 department.

13 (4) To establish the criteria for making development  
14 loans, the department shall consider:

15 (a) the plan for providing services to microbusinesses;

16 (b) the scope of services to be provided by the  
17 certified microbusiness development corporation;

18 (c) geographic representation of all regions of the  
19 state, including both urban and rural communities;

20 (d) the plan for providing service to minorities,  
21 women, and low-income persons;

22 (e) the ability of the corporation to provide business  
23 training and technical assistance to microbusiness clients;

24 (f) the ability of the corporation, with its plan, to:

25 (i) monitor and provide financial oversight of

1 recipients of microbusiness loans;

2 (ii) administer a revolving loan fund; and

3 (iii) investigate and qualify financing proposals and to

4 service credit accounts;

5 (g) sources and sufficiency of operating funds for the

6 certified microbusiness development corporation; and

7 (h) the intent of the corporation, with its plan and

8 written indications of local institutional support, to

9 provide services to a designated multicounty region of the

10 state.

11 (5) Development loan funds may be used by a certified

12 microbusiness development corporation to:

13 (a) satisfy matching fund requirements for other state,

14 federal, or private grants; funding only if funding is

15 intended and used for the purpose of providing or enhancing

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