

1 Heavy Runner Fisher Julius Slater
 2 INTRODUCED BY *Naom Mills* *Forbes* *Kador Larson*
 3 *Barnett Swanson* *Elk Knox* *Emer* *John ORR* *Hard*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING MICROBUSINESS
 5 DEVELOPMENT; INCREASING THE ALLOWABLE AMOUNT OF A MICROBUSINESS LOAN; REVISING THE
 6 MEMBERSHIP OF THE MICROBUSINESS DEVELOPMENT COUNCIL; APPROPRIATING MONEY FROM THE
 7 COAL SEVERANCE TAX PERMANENT FUND TO THE DEPARTMENT OF COMMERCE FOR MICROBUSINESS
 8 DEVELOPMENT; AMENDING SECTIONS 17-6-407 AND 17-6-411, MCA; AND PROVIDING AN EFFECTIVE
 9 DATE." *Bob Brown* *Franklin* *Benedict* *Bill* *Wilson*
 10 *Martinez* *Spitz* *Wesman* *Ellison* *Clark*
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *M. D. Carey*

Section 1. Section 17-6-407, MCA, is amended to read:

"17-6-407. Microbusiness development loan account and finance program administrative account

-- criteria -- limitations. (1) There is in the state special revenue fund a microbusiness development loan account into which the funds appropriated pursuant to section 11, Chapter 602, Laws of 1991, money appropriated pursuant to [section 3], and money received in repayment of the principal of development loans must be deposited. The department may make development loans from the account in amounts not to exceed \$250,000 a loan to a certified microbusiness development corporation.

(2) There is in the state special revenue fund a microbusiness finance program administrative account into which all interest received on development loans, service charges or fees received from certified microbusiness development corporations, grants, donations, and private or public income must be deposited. Money in the administrative account may be transferred to the development loan account or be used to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other operating expenses of the program.

(3) Subject to subsection (1), a certified microbusiness development corporation that receives a development loan may apply for an additional loan if the applicant meets the performance criteria established by the department.

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

(a) the plan for providing services to microbusinesses;



- 1 (b) the scope of services to be provided by the certified microbusiness development corporation;
- 2 (c) geographic representation of all regions of the state, including both urban and rural
- 3 communities;
- 4 (d) the plan for providing service to minorities, women, and low-income persons;
- 5 (e) the ability of the corporation to provide business training and technical assistance to
- 6 microbusiness clients;
- 7 (f) the ability of the corporation, with its plan, to:
- 8 (i) monitor and provide financial oversight of recipients of microbusiness loans;
- 9 (ii) administer a revolving loan fund; and
- 10 (iii) investigate and qualify financing proposals and to service credit accounts;
- 11 (g) sources and sufficiency of operating funds for the certified microbusiness development
- 12 corporation; and
- 13 (h) the intent of the corporation, with its plan and written indications of local institutional support,
- 14 to provide services to a designated multicounty region of the state.

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

16 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding

17 is intended and used for the purpose of providing or enhancing the certified microbusiness development

18 corporation's ability to provide and administer loans, technical assistance, or management training to

19 microbusinesses;

20 (b) establish a revolving loan fund from which the certified microbusiness development corporation

21 may make loans to qualified microbusinesses, provided that a single loan does not exceed ~~\$20,000~~

22 \$35,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more

23 than one microbusiness or to two or more microbusinesses in which any one person holds more than a

24 20% equity share does not exceed ~~\$20,000~~ \$35,000;

25 (c) establish a guarantee fund from which the certified microbusiness development corporation may

26 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee

27 may not exceed ~~\$20,000~~ \$35,000, and the aggregate of all guarantees to a microbusiness or a project

28 participated in by more than one microbusiness or to two or more microbusinesses in which any one person

29 holds more than a 20% equity share may not exceed ~~\$20,000~~ \$35,000.

30 (6) Development loan funds may not be:

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

3 (b) used to:

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

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

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

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

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

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

24 (10) A certified microbusiness development corporation that is in default for nonperformance under
25 rules established by the department may be required to refund the outstanding balance of development
26 loans awarded prior to the default declaration. A development loan is secured by a first lien on the
27 receivables of the corporation receiving the loan."

28
29 **Section 2.** Section 17-6-411, MCA, is amended to read:

30 **"17-6-411. Microbusiness advisory council -- appointment of members -- organization -- nonvoting**

1 **legislative consulting panel.** (1) Subject to the provisions of subsection (5), there is a microbusiness
2 advisory council composed of 13 members appointed by the governor from a list of candidates submitted
3 by the director of the department after the department provides by rule for a process of requesting and
4 receiving nominations from the public. No more than seven of the council members may live in the same
5 congressional district as the congressional districts existed on December 31, 1990. At least three members
6 must be representatives of certified community lead organizations. At least two of the three community
7 representatives shall reside in communities with a population of less than 15,000. At least three members
8 must be owners of qualified microbusinesses as defined in 17-6-403. At least two members must ~~have~~
9 ~~expertise in administering revolving loan funds that primarily serve microbusinesses~~ be microbusiness
10 development corporation representatives. The membership must include representation of minorities,
11 women, and low-income persons.

12 (2) ~~(a) At the first meeting of the council, members shall draw lots to determine six members~~
13 ~~whose terms expire June 30, 1992, and seven members whose terms expire June 30, 1993.~~

14 ~~(b) Members serving terms beginning after the expiration of the terms set in subsection (2)(a) shall~~
15 ~~serve 2-year~~ Members shall serve 4-year terms.

16 ~~(c)~~ A member appointed to fill an unexpired term shall serve until the term expires.

17 (3) The members of the council shall elect a ~~chairman~~ presiding officer and other officers as they
18 determine necessary.

19 (4) The council shall meet at least once each quarter and more often as the ~~chairman~~ presiding
20 officer or a majority of the members determine necessary.

21 (5) (a) There is a legislative consulting panel of four members. The panel:

22 (i) shall meet with the council, participate in deliberations of the council, and advise the council in
23 performance of its functions under subsection (7) but may not vote on any motion before the council; and

24 (ii) consists of:

25 (A) two representatives, including one from each party, appointed by the speaker of the house of
26 representatives; and

27 (B) two senators, including one from each party, appointed by the committee on committees.

28 (b) The members:

29 (i) must be appointed on or before the 10th day of each regular session of the legislature and shall
30 serve until the convening of the next regular session of the legislature. If a vacancy on the panel occurs

1 during a legislative interim, that vacancy must be filled in the same manner as the original appointment.

2 (ii) are entitled to compensation in the same manner as members of the council, as provided in
3 subsection (6).

4 (6) Members of the council are not entitled to compensation for their services except for
5 reimbursement of expenses as provided in 2-18-501 through 2-18-503.

6 (7) The function of the council is to advise the department regarding the creation, operation, and
7 maintenance of the program and the policies and operations affecting the certified microbusiness
8 development corporations."

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10 **NEW SECTION. Section 3. Appropriation.** (1) There is appropriated \$3,250,000 to the department
11 of commerce from the coal severance tax permanent fund provided for in 17-5-703 for the microbusiness
12 finance program provided for in Title 17, chapter 6, part 4. Funds must be used to make loans pursuant
13 to 17-6-407.

14 (2) The funds appropriated in subsection (1) must remain in the coal severance tax permanent fund
15 until the department has decided to make a loan to a certified microbusiness development corporation.
16 When the department has decided to make a loan, the director of the department shall notify the state
17 treasurer, who shall transfer the requested funds to the microbusiness development loan account.

18
19 **NEW SECTION. Section 4. Three-fourths vote required.** Because [section 3] appropriates money
20 from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote
21 of three-fourths of the members of each house of the legislature for passage.

22
23 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 1995.

24 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0354, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws governing microbusiness development; increasing the allowable amount of a microbusiness loan; revising the membership of the Microbusiness Development Council; appropriating money from the Coal Severance Tax Permanent Fund to the Department of Commerce for microbusiness development; and providing an effective date.

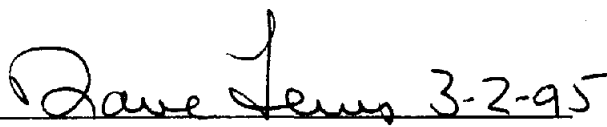
ASSUMPTIONS:

1. The Department of Commerce Microbusiness Finance Program will absorb all administrative costs related to the proposed legislation in the Economic Development Division recommended Executive Budget for the 1997 biennium.
2. Coal tax trust opportunity cost earnings which are currently an 8% return on investment, will continue over next biennium.
3. Funds will remain in the coal tax trust fund until such time as the Department of Commerce disburses loan funds to a certified microbusiness development corporation.
4. Loan Funds of \$400,000 will be disbursed for the quarter beginning July 1995, followed by quarterly loan disbursements of \$150,000 except the fourth quarter of FY97, when the Department of Commerce expects to distribute \$400,000 in loans. All loan recipients will be certified Microbusiness Development Corporations (MBDCs) only.
5. MBDC loan interest rate levels may be decreased in order to generate no more revenue than is necessary to cover the administrative costs of the program.

FISCAL IMPACT:

| | <u>FY96</u> | <u>FY97</u> |
|---------------------------------------|-------------------|-------------------|
| | <u>Difference</u> | <u>Difference</u> |
| <u>Expenditures</u> | | |
| Transfers Out | 850,000 | 850,000 |
| <u>Funding</u> | | |
| Coal Tax Trust (09) | 850,000 | 850,000 |
| <u>Revenues - Coal Trust Earnings</u> | | |
| General Fund | (42,500) | (87,550) |
| School Equalization Account | (7,500) | (15,450) |

(continued on page 2)


 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 NORM MILLS, PRIMARY SPONSOR DATE

Fiscal Note for HB0354, as introduced

HB 354

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The business expansion and job creating aspects of this proposal, while difficult to quantify, are beneficial to any locality.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Department of Commerce does not anticipate disbursing the total \$3.25 million in loans for microbusiness development until the 1999 biennium. Approximately \$1,550,00 will be available for loans in the 1999 biennium. When the legislation is fully implemented, the coal tax opportunity cost would be \$260,000 annually based on the assumption that the 8% return on investment continues.

1 *McLean*
 1 *Heavy Runner* *Fisher* *Inch* *Sliter* *Pipinich*
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6 microbusiness clients;
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20 from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote
21 of three-fourths of the members of each house of the legislature for passage.

22

23 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 1995.

24

-END-

1 *Att McLean*
Heavy Runner *Fisher* *Inchis* *Sliter* *Pipinich*
 HOUSE BILL NO. 354 *Jacobson* *Balliga*

2 INTRODUCED BY *James Mills* *Forbes* *Kados* *Larson*
 3 *Barnett* *Swanson* *Ek* *Knox* *Emer* *Job* *ORR* *Hard*
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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *M. Lee* *Carry*

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 354 (third reading copy -- blue), respectfully report that HB 354 be amended as follows and as so amended be concurred in.

Signed: 
Senator Gary Aklestad, Chair

That such amendments read:

1. Title, lines 5 and 6.

Following: ";" on line 5.

Strike: remainder of line 5 through "COUNCIL;" on line 6


2. Page 4, lines 9 and 10.

Strike: "be microbusiness development corporation
representatives"

Insert: "have expertise in administering loan funds"

-END-

CORRECTED STANDING COMMITTEE REPORT


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB 354
SENATE

1 HOUSE BILL NO. 354

2 INTRODUCED BY MILLS, FORBES, KADAS, LARSON, MCCANN, HEAVY RUNNER, FISHER, FUCHS,
 3 SLITER, PIPINICH, JACOBSON, HALLIGAN, BARNETT, MILLER, HERTEL, BROOKE, SWANSON, ECK,
 4 KNOX, JERGESON, EWER, JABS, ORR, HIBBARD, GRIMES, MESAROS, WELDON. T. NELSON,
 5 WATERMAN, MENAHAN, BROWN, FRANKLIN, BENEDICT, WILSON, MARTINEZ, SPRAGUE, SQUIRES,
 6 SOMERVILLE, MOLNAR, ELLINGSON, CLARK, WISEMAN, MCGEE, CAREY, HARRINGTON, COBB,
 7 COCCHIARELLA, KEENAN, TUSS, FORRESTER, PECK

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23 corporation's ability to provide and administer loans, technical assistance, or management training to
24 microbusinesses;

25 (b) establish a revolving loan fund from which the certified microbusiness development corporation
26 may make loans to qualified microbusinesses, provided that a single loan does not exceed ~~\$20,000~~
27 \$35,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more
28 than one microbusiness or to two or more microbusinesses in which any one person holds more than a
29 20% equity share does not exceed ~~\$20,000~~ \$35,000;

30 (c) establish a guarantee fund from which the certified microbusiness development corporation may

1 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee
2 may not exceed ~~\$20,000~~ \$35,000, and the aggregate of all guarantees to a microbusiness or a project
3 participated in by more than one microbusiness or to two or more microbusinesses in which any one person
4 holds more than a 20% equity share may not exceed ~~\$20,000~~ \$35,000.

5 (6) Development loan funds may not be:

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

8 (b) used to:

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

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

12 (7) Certified microbusiness development corporations are required to contribute cash from other
13 sources to leverage and secure development loans from the program. Contributions provided by the
14 corporation must be on a ratio of at least \$1 from other sources for each \$6 from the program. These
15 contributions may come from a public or private source other than the program and may be in the form of
16 equity capital, loans, or grants.

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

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

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

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

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

3
 4 **Section 2.** Section 17-6-411, MCA, is amended to read:

5 **"17-6-411. Microbusiness advisory council -- appointment of members -- organization -- nonvoting**
 6 **legislative consulting panel.** (1) Subject to the provisions of subsection (5), there is a microbusiness
 7 advisory council composed of 13 members appointed by the governor from a list of candidates submitted
 8 by the director of the department after the department provides by rule for a process of requesting and
 9 receiving nominations from the public. No more than seven of the council members may live in the same
 10 congressional district as the congressional districts existed on December 31, 1990. At least three members
 11 must be representatives of certified community lead organizations. At least two of the three community
 12 representatives shall reside in communities with a population of less than 15,000. At least three members
 13 must be owners of qualified microbusinesses as defined in 17-6-403. At least two members must ~~have~~
 14 ~~expertise in administering revolving loan funds that primarily serve microbusinesses~~ be microbusiness
 15 development corporation representatives **HAVE EXPERTISE IN ADMINISTERING LOAN FUNDS.** The
 16 membership must include representation of minorities, women, and low-income persons.

17 (2) ~~(a) At the first meeting of the council, members shall draw lots to determine six members~~
 18 ~~whose terms expire June 30, 1992, and seven members whose terms expire June 30, 1993.~~

19 ~~(b) Members serving terms beginning after the expiration of the terms set in subsection (2)(a) shall~~
 20 ~~serve 2-year~~ Members shall serve 4-year terms.

21 ~~(c)~~ A member appointed to fill an unexpired term shall serve until the term expires.

22 (3) The members of the council shall elect a ~~chairman~~ presiding officer and other officers as they
 23 determine necessary.

24 (4) The council shall meet at least once each quarter and more often as the ~~chairman~~ presiding
 25 officer or a majority of the members determine necessary.

26 (5) (a) There is a legislative consulting panel of four members. The panel:

27 (i) shall meet with the council, participate in deliberations of the council, and advise the council in
 28 performance of its functions under subsection (7) but may not vote on any motion before the council; and

29 (ii) consists of:

30 (A) two representatives, including one from each party, appointed by the speaker of the house of

1 representatives; and

2 (B) two senators, including one from each party, appointed by the committee on committees.

3 (b) The members:

4 (i) must be appointed on or before the 10th day of each regular session of the legislature and shall
5 serve until the convening of the next regular session of the legislature. If a vacancy on the panel occurs
6 during a legislative interim, that vacancy must be filled in the same manner as the original appointment.

7 (ii) are entitled to compensation in the same manner as members of the council, as provided in
8 subsection (6).

9 (6) Members of the council are not entitled to compensation for their services except for
10 reimbursement of expenses as provided in 2-18-501 through 2-18-503.

11 (7) The function of the council is to advise the department regarding the creation, operation, and
12 maintenance of the program and the policies and operations affecting the certified microbusiness
13 development corporations."

14

15 **NEW SECTION. Section 3. Appropriation.** (1) There is appropriated \$3,250,000 to the department
16 of commerce from the coal severance tax permanent fund provided for in 17-5-703 for the microbusiness
17 finance program provided for in Title 17, chapter 6, part 4. Funds must be used to make loans pursuant
18 to 17-6-407.

19 (2) The funds appropriated in subsection (1) must remain in the coal severance tax permanent fund
20 until the department has decided to make a loan to a certified microbusiness development corporation.
21 When the department has decided to make a loan, the director of the department shall notify the state
22 treasurer, who shall transfer the requested funds to the microbusiness development loan account.

23

24 **NEW SECTION. Section 4. Three-fourths vote required.** Because [section 3] appropriates money
25 from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote
26 of three-fourths of the members of each house of the legislature for passage.

27

28 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 1995.

29

-END-