

*Handwritten notes:*  
Lundquist  
Boon  
Foster

SENATE BILL NO. 100  
*Handwritten signatures:* Burnett, Niemi, Swanson, Jacobson, Lynch, Sweeney, Leland, Carlson, Shea, Harrington, Wagoner, Cole, O'Regan, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOANS TO BUSINESSES ESTIMATED TO EMPLOY AT LEAST 2,000 PEOPLE; PROVIDING THAT LOANS MAY BE USED TO PROVIDE INFRASTRUCTURE FOR A BUSINESS; PROVIDING FOR REPAYMENT OF THE LOANS THROUGH INFRASTRUCTURE FEES; PROVIDING A TAX CREDIT FOR INFRASTRUCTURE FEES PAID; APPROVING THE FIRST PROJECT FOR A LOAN; AMENDING SECTIONS 17-6-308, 17-6-309, 17-6-311, AND 17-6-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
*Handwritten signatures:* Winters, Lash, L. Smith, Hertel, Jol, Schuty, Zastrow, Baker, Spink

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

Section 1. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) and (3) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes. The board shall make the loan provided for in [section 5].

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer \$15.5 million of the permanent coal tax trust fund for seed capital project loans and \$8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board of investments pursuant



1 to the provisions of 17-6-201.

2 (4) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance.  
 3 The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit  
 4 corporations."

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6 **Section 2.** Section 17-6-309, MCA, is amended to read:

7 "**17-6-309. Investment preferences.** ~~(1)~~ Subject to the provisions of subsection (2), in deciding  
 8 which of several investments of equal or comparable security and return are to be made when sufficient  
 9 funds are not available to fund all possible investments, the board shall give preference to the business  
 10 investments that:

11 ~~(1)(a)~~ assist employee-owned enterprises in providing new jobs or in preserving existing jobs for  
 12 Montana residents or in otherwise contributing to the long-term benefit of the Montana economy;

13 ~~(2)(b)~~ are for locally owned enterprises that are either expanding or establishing new operations;

14 ~~(3)(c)~~ provide jobs that will be substantially filled by current Montana residents as opposed to  
 15 providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

16 ~~(4)(d)~~ maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

17 ~~(5)(e)~~ encourage or benefit the processing, refining, marketing, and innovative use and promotion  
 18 of Montana's agricultural products; or

19 ~~(6)(f)~~ benefit small- and medium-sized businesses as defined in rules adopted by the board.

20 (2) The board shall make a loan to enhance economic development and create jobs if the loan will  
 21 result in the creation of a business estimated to employ at least 2,000 people in Montana."

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23 **Section 3.** Section 17-6-311, MCA, is amended to read:

24 "**17-6-311. Limitation on size of investments.** (1) Except as provided in subsections (2) ~~and (3)~~  
 25 through (4), ~~no~~ an investment may not be made that will result in any one business enterprise or person  
 26 receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current  
 27 accumulated amount of which exceeds 1% of the permanent coal tax trust fund.

28 (2) Subsection (1) does not limit the board's authority to make loans to the capital reserve account  
 29 as provided in 17-6-308(2).

30 (3) Subsection (1) does not apply to the purchase of debentures issued by a capital company;

1 however, the total amount of such debentures purchased by the board may not exceed 1% of the Montana  
2 permanent coal tax trust fund at the time of purchase.

3 (4) A loan made pursuant to 17-6-309(2) may not exceed \$20 million.  
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5 **Section 4.** Section 17-6-312, MCA, is amended to read:

6 "17-6-312. **State participation in loans.** (1) ~~State~~ Subject to 17-6-311(4), state participation in any  
7 loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80%  
8 of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the  
9 loan participation amount.

10 (2) The purchase of debentures issued by a capital company is not a loan participation and is not  
11 subject to subsection (1)."  
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13 NEW SECTION. **Section 5. Economic development loan -- infrastructure tax credit.** (1) A loan  
14 made pursuant to 17-6-309(2) may be used to build infrastructure, such as water systems, sewer systems,  
15 water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a  
16 business in Montana. The loan may be made to a local government that will create the necessary  
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18 loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for  
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27 the amount of the loan.  
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29 NEW SECTION. **Section 6. Approval of first project.** In order to expedite economic development  
30 in Montana, the legislature determines that the location of the MICRON project in Butte/Silver Bow meets

1 the criteria in 17-6-309(2). A loan of \$16 million is authorized for purposes of implementing the loan to  
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4 **NEW SECTION.** **Section 7. Codification instruction.** [Section 5] is intended to be codified as an  
5 integral part of Title 17, chapter 6, part 3, and the provisions of Title 17, chapter 6, part 3, apply to  
6 [section 5].

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8 **NEW SECTION.** **Section 8. Effective date.** [This act] is effective on passage and approval.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0100, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing loans to businesses estimated to employ at least 2,000 people; providing the loans may be used for infrastructure for a business; providing for the repayment of the loans through infrastructure fees; providing a tax credit for infrastructure fees paid; and approving the first project.

ASSUMPTIONS:

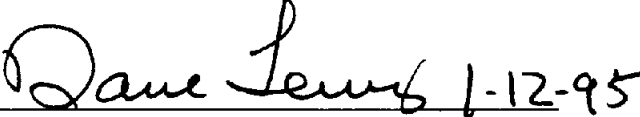
- 1) The only project that will qualify for loans authorized under the proposal in the near future is the proposed MICRON plant in Butte-Silver Bow.
- 2) No loan can be made until Butte-Silver Bow certifies that the construction of the plant has commenced.
- 3) The rate of interest and other terms charged on the loan to Butte Silver Bow will be equal to the expected return on the coal trust, hence, the proposal will not affect earnings from the trust.
- 4) Butte-Silver Bow will set fees for the use of the infrastructure created with the loan at a level that will allow repayment within three years. At worse, these credits may offset their entire tax during this period but will not reduce corporate income tax collections relative to estimates adopted by the Revenue Oversight Committee (ROC).
- 5) The corporate income tax liabilities of the end user of the infrastructure will be sufficient to absorb the tax credit over a three year period.
- 6) The revenue estimates adopted by the ROC do not contemplate the construction of any facility of the size targeted by the proposal. Therefore, any revenue resulting from the construction and use of the facility will be over and above these estimates.

FISCAL IMPACT:

The proposal is part of a financial package aimed at attracting the MICRON plant to Butte-Silver Bow. If the firm selects Montana for the new plant, the state would receive increased revenue from property taxes on the facility, corporation taxes from the income generated by the firm and income taxes from its employees who receive wages greater than they normally would without the construction of the facility. The corporate tax credit contained in the proposal would, at worse, delay the potential increase in revenue from this source until the infrastructure loan is repaid and have no affect on the ROC estimate.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Taxing jurisdictions of Butte-Silver Bow would enjoy a significant increase in property tax revenues should it be successful in attracting the facility.

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

  
TOM BECK, PRIMARY SPONSOR      DATE

Fiscal Note for SB0100, as introduced

**SB 100**

1 *engled* *Boon* *oster* *Carlovich* *Shir* *Harrington* *W. Ryan* *W. Ryan* *W. Ryan* *W. Ryan*  
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 5 to the provisions of 17-6-201.

6 (4) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance.  
 7 The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit  
 8 corporations."

9

10 **Section 2.** Section 17-6-309, MCA, is amended to read:

11 "**17-6-309. Investment preferences.** (1) ~~Is~~ Subject to the provisions of subsection (2), in deciding  
 12 which of several investments of equal or comparable security and return are to be made when sufficient  
 13 funds are not available to fund all possible investments, the board shall give preference to the business  
 14 investments that:

15 ~~(1)(a)~~ assist employee-owned enterprises in providing new jobs or in preserving existing jobs for  
 16 Montana residents or in otherwise contributing to the long-term benefit of the Montana economy;

17 ~~(2)(b)~~ are for locally owned enterprises that are either expanding or establishing new operations;

18 ~~(3)(c)~~ provide jobs that will be substantially filled by current Montana residents as opposed to  
 19 providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

20 ~~(4)(d)~~ maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

21 ~~(5)(e)~~ encourage or benefit the processing, refining, marketing, and innovative use and promotion  
 22 of Montana's agricultural products; or

23 ~~(6)(f)~~ benefit small- and medium-sized businesses as defined in rules adopted by the board.

24 (2) The board ~~shall~~ MAY make a loan to enhance economic development and create jobs if the loan  
 25 will result in the creation of a business estimated to employ at least 2,000 people in Montana."

26

27 **Section 3.** Section 17-6-311, MCA, is amended to read:

28 "**17-6-311. Limitation on size of investments.** (1) Except as provided in subsections (2) ~~and (3)~~  
 29 through (4), ~~no~~ an investment may not be made that will result in any one business enterprise or person  
 30 receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current

1 accumulated amount of which exceeds 1% of the permanent coal tax trust fund.

2 (2) Subsection (1) does not limit the board's authority to make loans to the capital reserve account  
3 as provided in 17-6-308(2).

4 (3) Subsection (1) does not apply to the purchase of debentures issued by a capital company;  
5 however, the total amount of such debentures purchased by the board may not exceed 1% of the Montana  
6 permanent coal tax trust fund at the time of purchase.

7 (4) A loan made pursuant to 17-6-309(2) may not exceed \$20 million.

8

9 **Section 4.** Section 17-6-312, MCA, is amended to read:

10 **"17-6-312. State participation in loans.** (1) ~~State~~ Subject to 17-6-311(4), state participation in  
11 any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80%  
12 of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the  
13 loan participation amount.

14 (2) The purchase of debentures issued by a capital company is not a loan participation and is not  
15 subject to subsection (1)."

16

17 **NEW SECTION. Section 5. Economic development loan -- infrastructure tax credit.** (1) A loan  
18 made pursuant to 17-6-309(2) may be used to build infrastructure, such as water systems, sewer systems,  
19 water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a  
20 business in Montana. The loan may be made to a local government that will create the necessary  
21 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the  
22 loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for  
23 repayment of the loan from the entity authorized to charge fees for the use of the services of the  
24 infrastructure.

25 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied  
26 that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any  
27 credits received pursuant to subsection (3) must be returned to the state.

28 (3) A business that is created as the result of a loan made pursuant to 17-6-309(2) and subsection  
29 (1) of this section is entitled to a credit against taxes due under Title 15, chapter 31, for the portion of the  
30 fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed



1 the amount of the loan.

2

3 ~~**NEW SECTION. Section 6. Approval of first project.** In order to expedite economic development~~  
4 ~~in Montana, the legislature determines that the location of the MICRON project in Butte/Silver Bow meets~~  
5 ~~the criteria in 17-6-309(2). A loan of \$16 million is authorized for purposes of implementing the loan to~~  
6 ~~MICRON.~~

7

8 **NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an  
9 integral part of Title 17, chapter 6, part 3, and the provisions of Title 17, chapter 6, part 3, apply to  
10 [section 5].

11

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

13

-END-