

House BILL NO. 581

INTRODUCED BY

Carey
McCullough *Spicer*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A HOUSING TRUST FUND; CREATING A HOUSING TRUST FUND ADVISORY COUNCIL; RAISING THE FEES COLLECTED BY A COUNTY CLERK; DEPOSITING \$1 OF EACH FEE COLLECTED BY A COUNTY CLERK INTO THE HOUSING TRUST FUND; AMENDING SECTIONS 7-4-2511 AND 7-4-2631, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 7] grants rulemaking authority to the board of housing for the implementation of the housing program provided for in [section 4].

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

NEW SECTION. Section 1. Legislative declaration. (1) The legislature finds that current economic conditions, federal housing policies, and declining resources at the federal, state, and local levels adversely affect the ability of low-income and moderate-income persons to obtain safe, decent, and affordable housing.

(2) The legislature further finds that the state will lose substantial sums allocated to it by the federal government for affordable housing for low-income and moderate-income households unless matching funds are provided.

(3) The legislature declares that it is in the public interest to establish a continuously renewable resource known as a housing trust fund to assist low- and moderate-income citizens in meeting their basic housing needs.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Advisory council" means the housing trust fund advisory council created in [section 5].

(2) "Low income" means households whose incomes do not exceed 80% of the median income for the area, as determined by the department of housing and urban development, with adjustments for

1 smaller or larger families.

2 (3) "Moderate income" means households whose incomes are between 81 and 95% of the median
3 income for the area, as determined by the department of housing and urban development, with adjustments
4 for smaller and larger families.

5 (4) "Trust fund account" means the housing trust fund account created in [section 3].

6

7 **NEW SECTION. Section 3. Housing trust fund -- administration.** (1) There is a housing trust fund
8 account in the state special revenue fund in the state treasury. The money in the trust fund account is
9 allocated to the board for the purpose of increasing the supply of decent affordable housing for low-income
10 and moderate-income residents of the state.

11 (2) Funds deposited in the trust fund account must be used for the program authorized in [section
12 4] and may not be used to pay the expenses of any other program or service administered by the board.

13 (3) The board may accept contributions, gifts, and grants for deposit into the trust fund account.
14 The money must be used in accordance with the provisions of [section 4].

15 (4) The costs incurred by the board in administering the trust fund housing program must be paid
16 from the trust fund account. The board shall keep costs to a minimum.

17

18 **NEW SECTION. Section 4. Housing program -- eligible applicants.** (1) The board shall, in
19 consultation with the advisory council, use money from the trust fund account to provide loans or grants
20 to eligible applicants for:

21 (a) matching funds for public or private money available from other sources for the development
22 of low-income and moderate-income housing;

23 (b) financing necessary to make a low-income or moderate-income housing project financially
24 feasible;

25 (c) acquisition of existing housing for the purpose of preservation of or conversion to low-income
26 or moderate-income housing; or

27 (d) preconstruction technical assistance to eligible recipients in rural areas and small cities and
28 towns.

29 (i) Technical assistance under this subsection (1)(d) may include but is not limited to:

30 (A) financial planning and packaging for housing projects;

- 1 (B) project design, architectural planning, and siting;
2 (C) compliance with planning and permitting requirements; or
3 (D) maximizing local government contributions to project development in the form of land donations,
4 infrastructure improvements, zoning variances, or creative local planning.

5 (ii) The board may contract with a nonprofit organization to provide this technical assistance.

6 (2) Money from the trust fund account may not be used to replace existing or available sources
7 of funding for eligible activities.

8 (3) Organizations eligible for loans or grants from the trust fund account are local governments,
9 tribal governments, local housing authorities, nonprofit community- or neighborhood-based organizations,
10 regional or statewide nonprofit housing assistance organizations, or for-profit housing developers.

11
12 **NEW SECTION. Section 5. Housing trust fund advisory council.** (1) There is a housing trust fund
13 advisory council composed of seven members appointed by the governor. Four members must be
14 experienced in housing or finance. Three members must represent low-income advocacy groups and
15 nonprofit housing developers.

16 (2) The council must be gender-balanced and proportionally representative of minorities in Montana.

17 (3) The advisory council shall advise the board on policies relating to the administration of the trust
18 fund housing program. The advisory council shall:

19 (a) establish priorities for the uses of the trust fund account;

20 (b) review applications for loans and grants and make recommendations to the board; and

21 (c) ensure that the trust fund account is being used to address critical housing needs in the state.

22 (4) The advisory council is allocated to the department of commerce for administrative purposes
23 only, as provided in 2-15-121.

24 (5) The provisions of 2-15-122(5) through (8) apply to the advisory council and its members.

25
26 **NEW SECTION. Section 6. Coordination with other programs.** The board shall ensure that all
27 housing assistance programs supported through the trust fund account are coordinated with other housing
28 assistance programs administered by the board, the federal government, state agencies, tribal governments,
29 local public housing authorities, and local governments.

30

1 NEW SECTION. **Section 7. Rulemaking.** The board shall adopt rules to implement [sections 1
2 through 6]. The rules must include:

- 3 (1) the development of eligibility criteria for applicants;
4 (2) the development of an application process for requesting financial assistance;
5 (3) the establishment of a procedure for disbursing financial assistance;
6 (4) the establishment of the terms and conditions of a loan;
7 (5) the establishment of the terms and conditions of a grant;
8 (6) the development of a process for awarding technical assistance contracts; and
9 (7) other matters necessary for the administration of [sections 1 through 6].

10

11 **Section 8.** Section 7-4-2511, MCA, is amended to read:

12 "**7-4-2511. Collection and disposal of fees.** (1) Each salaried county officer ~~must~~ shall charge and
13 collect for the use of ~~his~~ the county and pay into the county treasury by the 10th day in each month all
14 fees ~~now or hereafter~~ allowed by law, paid or chargeable in all cases, except as provided in 25-10-403.
15 ~~Nothing in this~~ This subsection ~~applies~~ does not apply to the compensation received by the sheriff as
16 mileage while in the performance of official duties or for the board of prisoners or other persons while in
17 ~~his~~ the sheriff's custody.

18 (2) ~~No~~ A salaried county officer may not receive for ~~his~~ the officer's own use any fees, penalties,
19 or emoluments of any kind, except the salary as provided by law, for any official service rendered by ~~him~~
20 the officer. Unless otherwise provided, all fees, penalties, and emoluments of every kind collected by a
21 salaried county officer are for the sole use of the county and must be accounted for and paid to the county
22 treasurer as provided by subsection (1) and credited to the general fund of the county.

23 (3) The county treasurer shall remit \$1 of each fee received under 7-4-2631 to the state treasurer
24 for deposit in the housing trust fund account in the state special revenue fund provided for in [section 3]."

25

26 **Section 9.** Section 7-4-2631, MCA, is amended to read:

27 "**7-4-2631. Fees of county clerk.** (1) Except as provided in 7-4-2632, the county clerks must
28 charge, for the use of their respective counties:

29 (a) for recording and indexing each certificate of location of a quartz or placer mining claim or
30 millsite claim, including a certificate that the instrument has been recorded with seal affixed, ~~\$6~~ \$7;

- 1 (b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate
2 that the instrument has been recorded with seal affixed:
- 3 (i) for the first mining claim in the affidavit, ~~3~~ 4; and
4 (ii) for each additional mining claim included in it, 50 cents;
- 5 (c) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other
6 instrument required by law to be filed and indexed, ~~5~~ 6;
- 7 (d) for filing of subdivision and townsite plats, ~~5~~ 6 plus:
- 8 (i) for each lot up to and including 100, 50 cents;
9 (ii) for each additional lot in excess of 100, 25 cents;
- 10 (e) for filing certificates of surveys and amendments thereto, ~~5~~ 6 plus 50 cents per tract or lot;
11 (f) for a copy of a record or paper:
- 12 (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
13 (ii) for each certification with seal affixed, ~~2~~ 3;
- 14 (g) for searching an index record of files of the office for each year when required in abstracting
15 or otherwise, 50 cents;
- 16 (h) for administering an oath with certificate and seal, no charge;
17 (i) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;
18 (j) for filing, indexing, or other services provided for by 30-9-401 through 30-9-407, the fees
19 prescribed under those sections;
- 20 (k) for recording each stock subscription and contract, stock certificate, and articles of
21 incorporation for water users' associations, ~~3~~ 4;
- 22 (l) for filing a copy of notarial commission and issuing a certificate of official character of such
23 notary public, ~~2~~ 3;
- 24 (m) for each certified copy of a birth certificate, ~~5~~ 6, and for each certified copy of a death
25 certificate, ~~3~~ 4;
- 26 (n) for filing, recording, or indexing any other instrument not expressly provided for in this section
27 or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.
- 28 (2) State agencies submitting documents to be put of record shall pay the fees provided for in this
29 section. If a state agency or political subdivision has requested an account with the county clerk, any
30 applicable fees must be paid on a periodic basis."

1 **NEW SECTION.** **Section 10. Notification of tribal governments.** The secretary of state shall send
2 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little
3 Shell band of Chippewa.

4
5 **NEW SECTION.** **Section 11. Codification instruction.** (1) [Sections 1 through 4, 6, and 7] are
6 intended to be codified as an integral part of Title 90, chapter 6, part 1, and the provisions of Title 90,
7 chapter 6, part 1, apply to [sections 1 through 4, 6, and 7].

8 (2) [Section 5] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the
9 provisions of Title 2, chapter 15, part 18, apply to [section 5].

10
11 **NEW SECTION.** **Section 12. Effective date.** [This act] is effective July 1, 1997.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0581, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act establishing a housing trust fund; creating a housing trust fund advisory council; raising the fees collected by a county clerk; depositing \$1 of each fee collected by a county clerk into the housing trust fund.

ASSUMPTIONS:

Department of Commerce/Housing Division:

1. Projects financed through other housing programs typically have "gaps" of \$100,000 to \$200,000. This is the "gap" or "bridge" that HB 581 proposes to fill. The HOME program (federal funds) typically leverages \$3 to \$4 for each \$1 of HOME funds. The fiscal impact of this program would be to fund 5 to 10 projects out of each \$1 million in funding, and leverage \$3 to \$4 million for each \$1 million in funding.
2. The majority of projects financed by HB 581 will most likely be receiving funds from existing programs within the Department of Commerce (DOC) and would be monitored under those programs. Staff is needed to monitor the projects once they are completed. A 1.00 FTE program officer, grade 15, and 0.50 FTE program assistant, grade 9, would be required. This staffing level would be able process up to \$1.5 million in funding requests. For each additional \$1.5 million in funding requests, the program would require an additional 1.50 FTE plus operating expenses and startup equipment.
3. Estimated operating expenses (less board expenses) are \$17,000 in fiscal year 1998 and fiscal year 1999 and include other professional services, supplies and materials, communications, travel, rent, and other expenses. Equipment expenses are estimated to be \$12,000 in fiscal year 1998 and \$3,000 in fiscal year 1999.
4. The Board of Housing currently meets monthly. The addition of an advisory council would require frequent meetings to review and recommend applications to the board, as well as to set up the program. The most efficient way to make this program work and to complement the programs already in existence would be to have a monthly application cycle to provide the "gap" and "bridge" financing contemplated by HB 581. This would require monthly meetings of the advisory council prior to the Board of Housing monthly meetings. Monthly board meetings presently cost approximately \$2,150. The costs for the advisory council are estimated at \$25,800 annually.
5. It is extremely difficult to project the potential revenues of the housing trust fund. The DOC has found that existing databases do not include information that would contribute to defining the revenue related to HB 581. It is assumed that \$750,000 in revenue would be received by the housing trust fund in fiscal year 1998 and fiscal year 1999.

Department of Administration:

6. The Department of Administration will only need to make slight administrative changes to the county collection report and passage of the proposed legislation will have no fiscal impact.

FISCAL IMPACT:

Department of Commerce, Housing Division:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.50	1.50
Personal Services	45,422	45,422
Operating Expenses	42,800	42,800
Equipment	12,000	3,000
Grants	<u>649,778</u>	<u>658,778</u>
Total	750,000	750,000

(Continued)

Dave Lewis 2.20.97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Bill Carey
 BILL CAREY, PRIMARY SPONSOR DATE

Fiscal Note for HB0581, as introduced

HB 581

	<u>FY98</u>	<u>FY99</u>
<u>Revenues:</u>	<u>Difference</u>	<u>Difference</u>
Housing Trust Revenues	750,000	750,000

Net Impact on Fund Balance: (Revenue minus expense)

Housing Trust Fund SSR (02)	0	0
-----------------------------	---	---

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Additional fees proposed in HB 581 would be added to those already collected by counties. If the counties need to break out the fees to Department of Revenue, this may require additional work by the counties.

Local governments would be eligible applicants for this program and could benefit by creation of housing in the communities. The program would provide match funds to the federal programs currently in existence. Matching funds are difficult to come by for some projects such as housing rehabilitation.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

State funds provided for housing would be used to fill "gaps" in projects which local governments and non-profits are trying to make work. State funds provided would be leveraged with federal and private funds at the rate of \$3 to \$4 for each \$1 in state funds.

TECHNICAL NOTES:

The addition of an advisory council to report to the quasi-judicial Board of Housing adds another layer of cost and regulation to what could otherwise be performed by programs already in existence, and without the \$25,000 per year cost.

New subsection (3) of 7-4-2511, MCA, as written in Section 8 reads: "The county treasurer shall remit \$1 of each fee received under 7-4-2631 to the state treasurer for deposit in the housing trust fund in the state special revenue fund provided for in [section 3.]" Section 9 amends 7-4-2631, MCA, by increasing fees of the county clerk. However, in subsection (1) of the statute, fees are not increased for the services provided for in paragraphs (g), (j), or (n).

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

Yes, the increased fees proposed by HB 581 do not directly relate to the creation of affordable housing for low to moderate income families.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund? By placing the proceeds of increased fees into a state special revenue account the legislature is assured that the program is enacted and working as intended.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)

It is extremely difficult to project the potential revenues of the housing trust fund. The DOC has found that existing databases do not include information that would contribute to defining the revenue related to HB 581.

d) Does the need for this state special revenue provision still exist? Yes No (Explain)

HB 581 establishes a state special revenue account which is necessary to provide for the administration of the housing trust fund.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No, the dedicated revenue provision of HB 581 does not diminish the legislature's ability to control expenditures or establish priorities.

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?
(Please explain)

Yes, provided the legislature continues to mandate state responsibility for the housing trust fund.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
The dedicated revenue provision, which is required in the proposed legislation, would provide accounting efficiencies within the DOC. It would allow for the quick and accurate analysis of how effective and efficient the housing trust fund is operating. If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.