

1 HOUSE BILL NO. 621

2 INTRODUCED BY C. EDMUNDS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE DEPARTMENT OF COMMERCE;
5 TRANSFERRING THE FUNCTIONS OF THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF
6 LABOR AND INDUSTRY; INCREASING THE REQUIRED DONATION FOR RENEWING A LEWIS AND CLARK
7 BICENTENNIAL LICENSE PLATE FROM \$20 TO \$25; TRANSFERRING RULEMAKING AUTHORITY FROM
8 THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF LABOR AND INDUSTRY; AMENDING
9 SECTIONS 1-1-512, 1-1-516, 1-1-517, 1-1-518, 1-1-519, 1-1-525, 1-1-526, 2-15-104, 2-15-149, 2-15-151,
10 2-15-1808, 2-15-1814, 2-15-1815, 2-15-1816, 2-15-1819, 2-15-1820, 2-15-1821, 2-15-1869, 2-15-3015,
11 2-15-3308, 2-17-1105, 5-5-223, 7-1-4121, 7-6-1501, 15-1-121, 15-31-903, 15-31-904, 15-31-906, 15-31-910,
12 15-31-911, 15-35-108, 15-65-121, 15-70-101, 16-4-420, 17-5-116, 17-5-820, 17-5-1503, 17-5-1604, 17-6-302,
13 17-6-403, 22-3-1002, 30-17-101, 30-17-102, 32-4-201, 39-11-103, 53-2-1216, 60-2-243, 60-11-120, 90-1-101,
14 90-1-102, 90-1-103, 90-1-104, 90-1-105, 90-1-107, 90-1-109, 90-1-115, 90-1-116, 90-1-117, 90-1-118, 90-1-119,
15 90-1-131, 90-1-132, 90-1-144, 90-1-145, 90-1-146, 90-1-147, 90-1-151, 90-1-175, 90-1-181, 90-1-182, 90-1-201,
16 90-1-501, 90-1-502, 90-1-503, 90-5-113, 90-5-305, 90-6-103, 90-6-112, 90-6-204, 90-6-207, 90-6-303, 90-6-604,
17 90-6-701, 90-6-703, 90-6-710, 90-6-803, 90-7-203, AND 90-9-201, MCA; REPEALING SECTION 2-15-1801,
18 MCA; AND PROVIDING AN EFFECTIVE DATE."

19

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

21

22 **NEW SECTION. Section 1. Department of commerce abolished -- functions transferred to**
23 **department of labor and industry.** (1) The department of commerce is abolished, and its functions are
24 transferred to the department of labor and industry, as established in 2-15-1701.

25 (2) (a) Unless inconsistent with [this act], any reference in the Montana Code Annotated or in legislation
26 enacted by the 2013 legislature to the "department of commerce" or "department" (of commerce) or "director of
27 commerce" or "director" (of commerce) is changed to the "department of labor and industry" or "department" (of
28 labor and industry) or "director of labor and industry" or "director" (of labor and industry) or "commissioner of labor
29 and industry" or "commissioner" (of labor and industry).

30 (b) The code commissioner shall conform internal references and grammar to these changes.

1
2 **NEW SECTION. Section 2. Functions of director of commerce transferred to director of labor and**
3 **industry.** The department of commerce functions of the director of commerce are transferred to the director of
4 the department of labor and industry as appropriate, including but not limited to the functions of:

- 5 (1) the business resources division;
6 (2) the community development division;
7 (3) the energy promotion and development division;
8 (4) the housing division;
9 (5) the Montana promotion division;
10 (6) the board of investments;
11 (7) the Montana facility finance authority; and
12 (8) the Montana heritage preservation and development commission.

13
14 **Section 3.** Section 1-1-512, MCA, is amended to read:
15 **"1-1-512. State Vietnam veterans' memorial.** (1) The memorial located in Rose Park, Missoula,
16 Montana, dedicated to the individuals who served the United States in the Republic of Vietnam, is the official state
17 Vietnam veterans' memorial.

18 (2) The department of ~~commerce~~ labor and industry and the department of transportation are directed
19 to reference the location of the official state Vietnam veterans' memorial in Rose Park, Missoula, Montana, on
20 official state maps."

21
22 **Section 4.** Section 1-1-516, MCA, is amended to read:
23 **"1-1-516. State Korean war veterans' memorial -- Butte.** (1) The Korean war veterans' memorial
24 located in Stodden Park, Butte, Montana, dedicated to the individuals who served the United States in the
25 Republic of Korea, is an official state Korean war veterans' memorial.

26 (2) The department of ~~commerce~~ labor and industry and the department of transportation are directed
27 to reference the location of the state Korean war veterans' memorial on official state maps."

28
29 **Section 5.** Section 1-1-517, MCA, is amended to read:
30 **"1-1-517. State Korean war veterans' memorial -- Missoula.** (1) The Missoula memorial rose garden,

1 located in Missoula, Montana, is officially designated as a state Korean war veterans' memorial.

2 (2) The department of ~~commerce~~ labor and industry and the department of transportation shall identify
3 the Missoula memorial rose garden on official state maps as a state Korean war veterans' memorial."

4

5 **Section 6.** Section 1-1-518, MCA, is amended to read:

6 **"1-1-518. State veterans' memorial rose garden.** (1) The Missoula memorial rose garden, located in
7 Missoula, Montana, is officially designated as a state veterans' memorial rose garden.

8 (2) In addition to the reference required under 1-1-512, the department of ~~commerce~~ labor and industry
9 and the department of transportation shall identify the Missoula memorial rose garden on official state maps as
10 a state veterans' memorial rose garden."

11

12 **Section 7.** Section 1-1-519, MCA, is amended to read:

13 **"1-1-519. Montana state firefighters' memorial.** (1) The site chosen by the city of Laurel, Montana,
14 as "firefighters' memorial park" is officially designated as the location of the Montana state firefighters' memorial.

15 (2) The department of ~~commerce~~ labor and industry and the department of transportation shall identify
16 the memorial in Laurel on official state maps and, where appropriate, on state highway signs as the official state
17 firefighters' memorial."

18

19 **Section 8.** Section 1-1-525, MCA, is amended to read:

20 **"1-1-525. Montana cowboy hall of fame.** (1) There is a Montana cowboy hall of fame. Once the
21 recipient of the grant for site development and project planning authorized pursuant to section 4(7), Chapter 3,
22 Special Laws of May 2007, determines the location of the Montana cowboy hall of fame, the grant recipient shall
23 notify the department of ~~commerce~~ labor and industry and the department of transportation.

24 (2) Once notified that the location of the Montana cowboy hall of fame is determined, the department of
25 ~~commerce~~ labor and industry and the department of transportation shall identify the site as the location of the
26 Montana cowboy hall of fame on official state maps. When existing road signs need replacement, the department
27 of transportation shall provide appropriate markers to recognize the site."

28

29 **Section 9.** Section 1-1-526, MCA, is amended to read:

30 **"1-1-526. Official home of Evelyn Cameron gallery -- Terry.** (1) The town of Terry is designated the

1 "official home of the Evelyn Cameron gallery".

2 (2) The department of ~~commerce~~ labor and industry and the department of transportation shall identify
3 the town of Terry as the official home of the Evelyn Cameron gallery on official state maps.

4 (3) The department of transportation shall erect and maintain signs designating the town of Terry as the
5 official home of the Evelyn Cameron gallery along highways in the vicinity of Terry and shall accomplish the
6 signing changes in accordance with the department's normal sign maintenance and replacement schedule."

7

8 **Section 10.** Section 2-15-104, MCA, is amended to read:

9 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
10 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state
11 government and their respective functions are allocated by this chapter among and within the following
12 departments or entities:

13 (a) department of administration;

14 (b) department of military affairs;

15 (c) department of revenue;

16 (d) state board of education;

17 (e) department of labor and industry;

18 ~~(f) department of commerce;~~

19 ~~(g)~~(f) department of justice;

20 ~~(h)~~(g) department of public health and human services;

21 ~~(i)~~(h) department of corrections;

22 ~~(j)~~(i) department of transportation;

23 ~~(k)~~(j) department of public service regulation;

24 ~~(l)~~(k) department of agriculture;

25 ~~(m)~~(l) department of livestock;

26 ~~(n)~~(m) department of natural resources and conservation;

27 ~~(o)~~(n) department of fish, wildlife, and parks;

28 ~~(p)~~(o) department of environmental quality.

29 (2) For its internal structure, each department shall adhere to the following standard terms:

30 (a) The principal unit of a department is a division. Each division is headed by an administrator.

1 (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.

2 (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

3

4 **Section 11.** Section 2-15-149, MCA, is amended to read:

5 **"2-15-149. Naming of sites and geographic features -- replacement of word "squaw" -- advisory**

6 **group.** (1) The state director of Indian affairs shall appoint an advisory group that will serve on a volunteer basis
7 to consult with local agencies, organizations, and individuals in developing names to replace present site or
8 geographic names that contain the word "squaw".

9 (2) Each agency of state government that owns or manages public land in the state shall identify any
10 features or places under its jurisdiction that contain the word "squaw" and inform the advisory group of the
11 agency's identification of features or places containing that word. The agency shall ensure that whenever the
12 agency updates a map or replaces a sign, interpretive marker, or any other marker because of wear or vandalism,
13 the word "squaw" is removed and replaced with the name chosen by the advisory group.

14 (3) The advisory group shall:

15 (a) notify the U.S. forest service, the Montana departments of ~~commerce~~ labor and industry and natural
16 resources and conservation, and any other entity that compiles information for and develops maps for the state
17 or for public use of the name change so that it may be reflected on subsequent editions of any maps or
18 informational literature produced by those entities; and

19 (b) place a formal request with the United States board on geographic names to render a decision on
20 the proposed name change so that the new name will be reflected on all United States board on geographic
21 names maps."

22

23 **Section 12.** Section 2-15-151, MCA, is amended to read:

24 **"2-15-151. Lewis and Clark bicentennial license plates -- authorization to apply as sponsor -- use**

25 **of proceeds.** (1) An applicant for a generic specialty license plate that was sponsored by the former Lewis and
26 Clark bicentennial commission shall make a donation of \$20 to the department of ~~commerce~~ labor and industry
27 and the Montana historical society as the successors to the Lewis and Clark bicentennial commission upon initial
28 issuance of the license plates and a donation of ~~\$20~~ \$25 upon each annual renewal of the license plates.

29 (2) The donation provided for in subsection (1) must be paid to the county treasurer, who shall remit the
30 entire amount to the department of revenue for deposit in the special revenue accounts established in 90-1-115.

1 (3) ~~Beginning January 1, 2007, the~~ The department of commerce labor and industry and the Montana
 2 historical society shall use money in the special revenue accounts established in 90-1-115 to support projects
 3 related to Lewis and Clark."
 4

5 **Section 13.** Section 2-15-1808, MCA, is amended to read:

6 **"2-15-1808. Board of investments -- allocation -- composition -- quasi-judicial.** (1) There is a board
 7 of investments within the department of ~~commerce~~ labor and industry.

8 (2) Except as otherwise provided in this subsection, the board is allocated to the department for
 9 administrative purposes as prescribed in 2-15-121. The board may employ a chief investment officer and an
 10 executive director who have general responsibility for selection and management of the board's staff and for direct
 11 investment and economic development activities. The board shall prescribe the duties and annual salaries of the
 12 chief investment officer, executive director, and six professional staff positions. The chief investment officer,
 13 executive director, and six professional staff serve at the pleasure of the board.

14 (3) The board is composed of nine members appointed by the governor, as prescribed in 2-15-124, and
 15 two ex officio, nonvoting members. The members are:

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

20 (b) seven members who will provide a balance of professional expertise and public interest and
 21 accountability, who are informed and experienced in the subject of investments, and who are representatives of:

22 (i) the financial community;

23 (ii) small business;

24 (iii) agriculture; and

25 (iv) labor; and

26 (c) two ex officio, nonvoting legislative liaisons to the board, of which one must be a senator appointed
 27 by the president of the senate and one must be a representative appointed by the speaker of the house. The
 28 liaisons may not be from the same political party. Preference in appointments is to be given to legislators who
 29 have a background in investments or finance. The legislative liaisons shall serve from appointment through each
 30 even-numbered calendar year and may attend all board meetings. Legislative liaisons appointed pursuant to this

1 subsection (3)(c) are entitled to compensation and expenses, as provided in 5-2-302, to be paid by the legislative
2 council.

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

5 **Section 14.** Section 2-15-1814, MCA, is amended to read:

6 **"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial.** (1) There is a board of
7 housing.

8 (2) The board consists of seven members appointed by the governor as provided in 2-15-124. The
9 members must be informed and experienced in housing, economics, or finance.

10 (3) The board shall elect a presiding officer and other necessary officers.

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

12 (5) The board is allocated to the department of ~~commerce~~ labor and industry for administrative purposes
13 only as provided in 2-15-121.

14 (6) In compliance with the state pay plan, the department shall provide all staff and services to the board
15 that are determined by the board in conjunction with the department to be necessary for the purposes of carrying
16 out the board's programs. The department shall assess the board for reasonable costs.

17 (7) A member of the board may not be considered to have a conflict of interest under the provisions of
18 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution that may
19 participate in the board's programs."
20

21 **Section 15.** Section 2-15-1815, MCA, is amended to read:

22 **"2-15-1815. Montana facility finance authority.** (1) There is created a public body corporate
23 designated as the Montana facility finance authority. This authority is constituted a public instrumentality, and its
24 exercise of the powers conferred by Title 90, chapter 7, must be considered and held to be the performance of
25 an essential public function.

26 (2) The authority consists of seven members appointed by the governor as prescribed in 2-15-124. The
27 board must be broadly representative of the state, seeking to balance professional expertise and public
28 accountability.

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

30 (4) The board is allocated to the department of ~~commerce~~ labor and industry for administrative purposes

1 only as provided in 2-15-121. The board has authority over its own personnel as provided in 90-7-203."

2

3 **Section 16.** Section 2-15-1816, MCA, is amended to read:

4 **"2-15-1816. Tourism advisory council.** (1) There is created a tourism advisory council.

5 (2) The council is composed of not less than 12 members appointed by the governor from Montana's
6 private sector travel industry and includes at least one member from Indian tribal governments, with
7 representation from each tourism region initially established by executive order of the governor and as may be
8 modified by the council under subsection (5).

9 (3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion
10 of the governor. The governor shall designate four of the initial members to serve 1-year terms and four of the
11 initial members to serve 2-year terms.

12 (4) The council shall:

13 (a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion and to
14 nonprofit convention and visitors bureaus in accordance with Title 15, chapter 65, part 1, and this section;

15 (b) advise the department of ~~commerce~~ labor and industry relative to tourism promotion;

16 (c) advise the governor on significant matters relative to Montana's travel industry;

17 (d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used
18 by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;

19 (e) direct the university system regarding Montana travel research;

20 (f) approve all travel research programs prior to their being undertaken; and

21 (g) encourage regional nonprofit tourism corporations to promote tourist activities on Indian reservations
22 in their regions.

23 (5) The council may modify the tourism regions established by executive order of the governor.

24 (6) The department of ~~commerce~~ labor and industry shall adopt such rules as may be necessary to
25 implement and administer Title 15, chapter 65, part 1, and this section."

26

27 **Section 17.** Section 2-15-1819, MCA, is amended to read:

28 **"2-15-1819. Board of research and commercialization technology.** (1) There is a Montana board of
29 research and commercialization technology.

30 (2) The board consists of six members. One member must be appointed by the president of the senate,

1 one member must be appointed by the minority leader of the senate, one member must be appointed by the
2 speaker of the house, one member must be appointed by the minority leader of the house, and two members
3 must be appointed by the governor. One of the members appointed by the governor must be an enrolled member
4 of a Montana tribal government.

5 (3) A member who ceases to live in the state is disqualified from membership, and the position becomes
6 vacant. If a vacancy occurs, the position must be filled in the manner of the original appointment.

7 (4) The board shall hire an executive director and shall prescribe the executive director's salary and
8 duties.

9 (5) (a) The board is a quasi-judicial entity subject to the provisions of 2-15-124, except that none of the
10 members are required to be licensed to practice law in the state.

11 (b) The board shall elect a presiding officer from among its members at an annual election. The presiding
12 officer may be reelected.

13 (c) Except for the original appointments, members shall serve 2-year terms.

14 (6) The board is attached to the department of ~~commerce~~ labor and industry for administrative purposes
15 only."
16

17 **Section 18.** Section 2-15-1820, MCA, is amended to read:

18 **"2-15-1820. Economic development advisory council.** (1) There is an economic development
19 advisory council.

20 (2) The council is composed of up to 19 members appointed as follows:

21 (a) 15 members appointed by the governor to include:

22 (i) the director of the department of ~~commerce~~ labor and industry;

23 (ii) the chief business development officer provided for in 2-15-219, who serves as presiding officer of
24 the council;

25 (iii) one member from a Montana tribal government who represents a tribal economic development
26 organization; and

27 (iv) up to 12 public members representing each geographic region covered by each of the regional
28 development corporations certified by the department pursuant to 90-1-116; and

29 (b) (i) two representatives, including one from each party, appointed by the speaker of the house; and

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

1 (3) The governor is encouraged to appoint to the initial council two individuals who were members of the
2 microbusiness advisory council immediately prior to its being abolished.

3 (4) (a) Except as provided in subsection (4)(b), members of the council shall serve staggered 3-year
4 terms subject to replacement at the discretion of the governor. The governor shall designate five of the initial
5 members to serve 1-year terms and five of the initial members to serve 2-year terms.

6 (b) Legislative members must be appointed on or before the 10th day of each regular session of the
7 legislature and shall serve until the convening of the next regular session of the legislature. If a vacancy on the
8 council occurs during a legislative interim, that vacancy must be filled in the same manner as the original
9 appointment.

10 (5) Members of the council, other than legislative members, are not entitled to compensation for their
11 services except for reimbursement of expenses as provided in 2-18-501 through 2-18-503. Legislative members
12 of the council are entitled to compensation pursuant to 5-2-302, which must be paid by the department of
13 ~~commerce~~ labor and industry.

14 (6) The council shall:

15 (a) advise the department concerning the distribution of funds to certified regional development
16 corporations for business development purposes in accordance with 90-1-116 and this section;

17 (b) advise the department regarding the creation, operation, and maintenance of the microbusiness
18 finance program and the policies and operations affecting the certified microbusiness development corporations;

19 (c) advise the governor and the department on significant matters concerning economic development
20 in Montana;

21 (d) prescribe allowable administrative expenses for which economic development funds may be used
22 by certified regional development corporations; and

23 (e) encourage certified regional development corporations to promote economic development on Indian
24 reservations in their regions.

25 (7) The council is allocated to the department of ~~commerce~~ labor and industry for administrative
26 purposes only as provided in 2-15-121."

27

28 **Section 19.** Section 2-15-1821, MCA, is amended to read:

29 **"2-15-1821. Coal board -- allocation -- composition.** (1) There is a coal board composed of seven
30 members.

1 (2) The coal board is allocated to the department of ~~commerce~~ labor and industry for administrative
2 purposes only as prescribed in 2-15-121.

3 (3) The governor shall appoint a seven-member coal board, as provided under 2-15-124.

4 (4) (a) Subject to subsections (4)(b) and (4)(c), the members of the coal board are selected as follows:

5 (i) two from the impact areas; and

6 (ii) two with expertise in education.

7 (b) At least two but not more than four members must be appointed from each district provided for in
8 5-1-102.

9 (c) In making the appointments, the governor shall consider people from the following fields:

10 (i) business;

11 (ii) engineering;

12 (iii) public administration; and

13 (iv) planning."
14

15 **Section 20.** Section 2-15-1869, MCA, is amended to read:

16 **"2-15-1869. Montana council on developmental disabilities.** (1) The governor shall appoint a
17 Montana council on developmental disabilities in accordance with the Developmental Disabilities Assistance and
18 Bill of Rights Act of 2000, Public Law 106-402, codified at 42 U.S.C. 15001, et seq.

19 (2) In addition to the members appointed under subsection (1), the council must include one member
20 of the senate and one member of the house of representatives.

21 (3) (a) Except as provided in subsection (3)(b), members of the council serve 1-year terms.

22 (b) Of the members described in 42 U.S.C. 15025(b)(3) who represent persons with developmental
23 disabilities and parents or relatives of persons with developmental disabilities, the governor shall appoint:

24 (i) not less than one-half of the members to serve for terms concurrent with the gubernatorial term and
25 until their successors are appointed; and

26 (ii) the remaining members to serve for terms ending on January 1 of the third year of the succeeding
27 gubernatorial term and until their successors are appointed.

28 (4) Members appointed to the council may also be selected to represent the geographical regions and
29 the racial and ethnic composition of the state, including American Indians.

30 (5) A council member, unless the member is a full-time salaried officer or employee of this state or any

1 of the political subdivisions of this state, is entitled to be paid in an amount to be determined by the council, not
 2 to exceed \$25, for each day in which the member is actually and necessarily engaged in the performance of
 3 council duties. A council member is also entitled to be reimbursed for travel expenses incurred while in the
 4 performance of council duties as provided for in 2-18-501 through 2-18-503. Members who are full-time salaried
 5 officers or employees of this state or any political subdivisions of this state are not entitled to be compensated
 6 for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501
 7 through 2-18-503.

8 (6) The council shall:

9 (a) advise the department of public health and human services, other state agencies, tribal governments,
 10 councils, local governments, and private organizations on programs for services to persons with developmental
 11 disabilities; and

12 (b) serve in any capacity required by the Developmental Disabilities Assistance and Bill of Rights Act
 13 of 2000, Public Law 106-402, or by other federal law for the administration of federal programs for services to
 14 persons with developmental disabilities.

15 (7) (a) Unless the state enters a contract with a nonprofit corporation as provided in 2-15-1870, the
 16 council:

17 (i) is allocated to the department of ~~commerce~~ labor and industry for administrative purposes only and,
 18 unless inconsistent with this section, the provisions of 2-15-121 apply;

19 (ii) may elect from among its members the officers necessary for the proper management of the council;

20 (iii) may adopt rules governing its own organization and procedures, and a majority of the members of
 21 the council constitutes a quorum for the transaction of business; and

22 (iv) shall employ and fix the compensation and duties of necessary staff and control the location of its
 23 office.

24 (b) The department of ~~commerce~~ labor and industry shall remain the designated state agency for funding
 25 purposes if the responsibilities of the council are delegated by contract to a nonprofit corporation as provided in
 26 2-15-1870."

27

28 **Section 21.** Section 2-15-3015, MCA, is amended to read:

29 **"2-15-3015. Montana agriculture development council.** (1) There is a Montana agriculture
 30 development council. The council is allocated to the department of agriculture for administrative purposes only,

1 as provided in 2-15-121.

2 (2) The council is composed of seven members appointed by the governor, including the director of the
3 department of agriculture, the director of the department of ~~commerce~~ labor and industry, and five members who
4 are or have been actively engaged in agriculture. Members shall serve staggered 3-year terms commencing on
5 July 1 of each year of appointment."

6

7 **Section 22.** Section 2-15-3308, MCA, is amended to read:

8 **"2-15-3308. Drought advisory committee.** (1) There is a drought advisory committee in the department
9 of natural resources and conservation.

10 (2) The drought advisory committee is chaired by a representative of the governor and consists of
11 representatives of the departments of natural resources and conservation; agriculture; ~~commerce~~; labor and
12 industry; fish, wildlife, and parks; military affairs; environmental quality; and livestock. The governor's
13 representative must be appointed by the governor, and the representative of each department must be appointed
14 by the head of that department. Additional, nonvoting members who represent drought-affected federal and local
15 government agencies and public and private interests may also be appointed by the governor.

16 (3) The drought advisory committee shall:

17 (a) with the approval of the governor, develop and implement a state drought plan;

18 (b) review and report drought monitoring information to the public;

19 (c) coordinate timely drought impact assessments;

20 (d) identify areas of the state with a high probability of drought and target reporting and assistance efforts
21 to those areas;

22 (e) upon request, assist in organizing local drought advisory committees for the areas identified under
23 subsection (3)(d);

24 (f) request state agency staff to provide technical assistance to local drought advisory committees; and

25 (g) promote ideas and activities for groups and individuals to consider that may reduce drought
26 vulnerability.

27 (4) The drought advisory committee shall meet, at a minimum, on or around October 15 and March 15
28 of each year to assess moisture conditions and, as appropriate, begin preparations for drought mitigation.

29 (5) By April 15 of each year, the drought advisory committee shall submit a report to the governor
30 describing the potential for drought in the coming year. If the potential for drought merits additional activity by the

1 drought advisory committee, the report must also describe:

2 (a) activities to be taken by the drought advisory committee for informing the public about the potential
3 for drought;

4 (b) a schedule for completing activities;

5 (c) geographic areas for which the creation of local drought advisory committees will be suggested to
6 local governments and citizens; and

7 (d) requests for the use of any available state resources that may be necessary to prevent or minimize
8 drought impacts.

9 (6) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the
10 governor or the division of disaster and emergency services for disaster coordination and emergency response,
11 as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought advisory committee
12 supplement and are consistent with those of the division of disaster and emergency services for drought planning,
13 preparation, coordination, and mitigation."
14

15 **Section 23.** Section 2-17-1105, MCA, is amended to read:

16 **"2-17-1105. Electronic government advisory council.** (1) There is an electronic government advisory
17 council. The council consists of the following members:

18 (a) the director of the department, who serves as presiding officer;

19 (b) the secretary of state or the secretary of state's designee;

20 (c) the attorney general or the attorney general's designee;

21 (d) the director of the department of ~~commerce~~ labor and industry or the director's designee;

22 (e) the director of the department of revenue or the director's designee;

23 (f) the state librarian or the state librarian's designee;

24 (g) a member of the house of representatives, appointed by the speaker of the house;

25 (h) a member of the senate, appointed by the president of the senate;

26 (i) an elected local government official, appointed by the governor;

27 (j) two representatives from state agencies that are not represented on the council, appointed by the
28 governor;

29 (k) two members of the public, appointed by the governor; and

30 (l) the administrator of the information services division of the department.

- 1 (2) The advisory council shall:
- 2 (a) advise the department with regard to the creation, management, and administration of electronic
- 3 government services and information on the internet;
- 4 (b) advise the department with regard to the administration of any electronic government services
- 5 contract;
- 6 (c) advise the department on the priority of government services to be provided electronically;
- 7 (d) advise the department on convenience fees, if needed, for any electronic government service;
- 8 (e) review and advise the department on financial reports, management reports, or other data as
- 9 requested by the department;
- 10 (f) prepare reports upon the request of the governor or the legislature regarding the growth, performance,
- 11 and use of electronic government services and other measurements that the advisory council considers
- 12 necessary to implement and enhance the functioning of electronic government services;
- 13 (g) assist in identifying, evaluating, and prioritizing potential departmental and interagency electronic
- 14 government services;
- 15 (h) serve as a central coordination point for electronic government services provided by the department
- 16 or other state agencies; and
- 17 (i) study, propose, develop, or coordinate any other activity in furtherance of electronic government
- 18 services as requested by the governor or the legislature.
- 19 (3) Each member of the advisory council shall serve a 2-year term and may be reappointed.
- 20 (4) Vacancies on the advisory council must be filled in the same manner as the original appointment,
- 21 and the person appointed to fill the vacancy is appointed for the remainder of the unexpired term.
- 22 (5) Members of the advisory council who are not state employees are reimbursed and compensated as
- 23 provided in 2-15-124. Members who are state employees are not entitled to compensation but are entitled to be
- 24 reimbursed for expenses as provided in Title 2, chapter 18, part 5. Legislative members of the advisory council
- 25 are reimbursed and compensated as provided in 5-2-302. The department shall provide support to and pay the
- 26 expenses of the advisory council."

27

28 **Section 24.** Section 5-5-223, MCA, is amended to read:

29 **"5-5-223. Economic affairs interim committee.** The economic affairs interim committee has

30 administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following

1 executive branch agencies and the entities attached to agencies for administrative purposes:

2 (1) department of agriculture;

3 ~~(2) department of commerce;~~

4 ~~(3)~~(2) department of labor and industry;

5 ~~(4)~~(3) department of livestock;

6 ~~(5)~~(4) office of the state auditor and insurance commissioner;

7 ~~(6)~~(5) office of economic development; and

8 ~~(7)~~(6) the state compensation insurance fund provided for in 39-71-2313, including the board of directors
9 of the state compensation insurance fund established in 2-15-1019."

10

11 **Section 25.** Section 7-1-4121, MCA, is amended to read:

12 **"7-1-4121. General definitions.** As used in 7-1-4121 through 7-1-4127 and 7-1-4129 through 7-1-4149,
13 unless otherwise provided, the following definitions apply:

14 (1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of
15 the government and limitations on the government.

16 (2) "Chief executive" means the elected executive in a government adopting the commission-executive
17 form, the manager in a government adopting the commission-manager form, the presiding officer in a government
18 adopting the commission-presiding officer form, the town presiding officer in a government adopting the town
19 meeting form, the commission acting as a body in a government adopting the commission form, or the officer or
20 officers designated in the charter in a government adopting a charter.

21 (3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

22 (4) "Employee" means a person other than an officer who is employed by a municipality.

23 (5) "Executive branch" means that part of the municipality, including departments, offices, and boards,
24 charged with implementing actions approved and administering policies adopted by the governing body of the
25 local government or performing the duties required by law.

26 (6) "Governing body" means the commission or town meeting legislative body established in the
27 alternative form of local government.

28 (7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of
29 comparison and is not enforceable as a regulation.

30 (8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the

1 governor or a statute adopted by the people of Montana through statutory initiative procedures.

2 (9) "Municipality" means an entity that incorporates as a city or town.

3 (10) "Office of the municipality" means the permanent location of the seat of government from which the
4 records administrator, or the office of the clerk of the governing body where one is appointed, carries out the
5 duties of the records administrator.

6 (11) "Officer" means a person holding a position with a municipality that is ordinarily filled by election or,
7 in those municipalities with a manager, the manager.

8 (12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the
9 jurisdiction of the local government.

10 (13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or
11 other representative, association, or other organized group.

12 (14) "Plan of government" means a certificate submitted by a governing body that documents the basic
13 form of government selected, including all applicable suboptions. The plan must establish the terms of all officers
14 and the number of commissioners, if any, to be elected.

15 (15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

16 (16) "Population" means the number of inhabitants as determined by an official federal, state, or local
17 census or official population estimate approved by the department of ~~commerce~~ labor and industry.

18 (17) "Printed" means the act of reproducing a design on a surface by any process as defined by
19 1-1-203(3).

20 (18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or
21 office, or the Dominion of Canada or any provincial department or office or political subdivision.

22 (19) "Public property" means any property owned by a municipality or held in the name of a municipality
23 by any of the departments, boards, or authorities of the local government.

24 (20) "Real property" means lands, structures, buildings, and interests in land, including lands under water
25 and riparian rights, and all things and rights usually included within the term "real property", including not only fee
26 simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all
27 other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

28 (21) "Reproduced" means the act of reproducing a design on any surface by any process.

29 (22) "Resolution" means a statement of policy by the governing body or an order by the governing body
30 that a specific action be taken.

1 (23) "Service" means an authorized function or activity performed by local government.

2 (24) "Structure" means the entire governmental organization through which a local government carries
3 out its duties, functions, and responsibilities."
4

5 **Section 26.** Section 7-6-1501, MCA, is amended to read:

6 **"7-6-1501. Resort tax -- definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions
7 apply:

8 (1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient
9 visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical
10 supplies and services, appliances, hardware supplies and tools, or any necessities of life.

11 (2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
12 maintenance purposes, whether or not prescribed by a physician.

13 (3) "Medicine" means substances sold for curative or remedial properties, including both physician
14 prescribed and over-the-counter medications.

15 (4) "Resort area" means an area that:

16 (a) is an unincorporated area and is a defined contiguous geographic area;

17 (b) has a population of less than 2,500 according to the most recent federal census;

18 (c) derives the major portion of its economic well-being from businesses catering to the recreational and
19 personal needs of persons traveling to or through the area for purposes not related to their income production;
20 and

21 (d) has been designated by the department of ~~commerce~~ labor and industry as a resort area prior to its
22 establishment by the county commissioners as provided in 7-6-1508.

23 (5) "Resort community" means a community that:

24 (a) is an incorporated municipality;

25 (b) has a population of less than 5,500 according to the most recent federal census;

26 (c) derives the primary portion of its economic well-being related to current employment from businesses
27 catering to the recreational and personal needs of persons traveling to or through the municipality for purposes
28 not related to their income production; and

29 (d) has been designated by the department of ~~commerce~~ labor and industry as a resort community."
30

1 **Section 27.** Section 15-1-121, MCA, is amended to read:

2 **"15-1-121. Entitlement share payment -- purpose -- appropriation.** (1) As described in 15-1-120(3),
3 each local government is entitled to an annual amount that is the replacement for revenue received by local
4 governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant
5 to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later
6 enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other
7 revenue in the state treasury with each local government's share. The reimbursement under this section is
8 provided by direct payment from the state treasury rather than the ad hoc system that offset certain state
9 payments with local government collections due the state and reimbursements made by percentage splits, with
10 a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending
11 a portion to other local governments.

12 (2) The sources of dedicated revenue that were relinquished by local governments in exchange for an
13 entitlement share of the state general fund were:

14 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
15 584, Laws of 1999;

16 (b) vehicle, boat, and aircraft taxes and fees pursuant to:

17 (i) Title 23, chapter 2, part 5;

18 (ii) Title 23, chapter 2, part 6;

19 (iii) Title 23, chapter 2, part 8;

20 (iv) 61-3-317;

21 (v) 61-3-321;

22 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
23 of 61-3-509 in 2001;

24 (vii) Title 61, chapter 3, part 7;

25 (viii) 5% of the fees collected under 61-10-122;

26 (ix) 61-10-130;

27 (x) 61-10-148; and

28 (xi) 67-3-205;

29 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

30 (d) district court fees pursuant to:

- 1 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
2 (ii) 25-1-202;
3 (iii) 25-9-506; and
4 (iv) 27-9-103;
5 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
6 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
7 (g) all beer, liquor, and wine taxes pursuant to:
8 (i) 16-1-404;
9 (ii) 16-1-406; and
10 (iii) 16-1-411;
11 (h) late filing fees pursuant to 61-3-220;
12 (i) title and registration fees pursuant to 61-3-203;
13 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
14 (k) county personalized license plate fees pursuant to 61-3-406;
15 (l) special mobile equipment fees pursuant to 61-3-431;
16 (m) single movement permit fees pursuant to 61-4-310;
17 (n) state aeronautics fees pursuant to 67-3-101; and
18 (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
19 chapter 1, part 5.

20 (3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in
21 fiscal year 2010 as an entitlement share payment under this section is the base component for the fiscal year
22 2011 distribution, and in each subsequent year the prior year entitlement share payment, including any
23 reimbursement payments received pursuant to subsection (7), is each local government's base component. The
24 sum of all local governments' base components is the fiscal year entitlement share pool.

25 (b) The total amount received by each local government in fiscal year 2011 as an entitlement share
26 payment under this section is the base component for fiscal year 2012 and 2013 distributions, and in each
27 subsequent year the prior year entitlement share payment, including any reimbursement payments received
28 pursuant to subsection (7), is each local government's base component. The sum of all local governments' base
29 components is the fiscal year entitlement share pool.

30 (4) (a) With the exception of fiscal years 2012 and 2013, the base entitlement share pool must be

1 increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount
2 determined through the application of annual growth rates is the entitlement share pool for each fiscal year, with
3 the exception of fiscal years 2012 and 2013.

4 (b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share
5 pool for the current year in the following manner:

6 (i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of
7 state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the
8 statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second
9 previous completed fiscal years received from the sources referred to in subsection (2)(b), (2)(c), and (2)(g)
10 divided by the sum of the revenue for the second and third previous completed fiscal years received from the
11 same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous
12 completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporation
13 income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third
14 previous completed fiscal years received from the same sources multiplied by 0.25.

15 (ii) Except as provided in subsection (4)(b)(iii), the entitlement share growth rate is the lesser of:

16 (A) the sum of the first factor plus the second factor; or

17 (B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

18 (iii) In no instance can the entitlement growth factor be less than 1. The entitlement share growth rate is
19 applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year
20 payment.

21 (5) As used in this section, "local government" means a county, a consolidated local government, an
22 incorporated city, and an incorporated town. A local government does not include a tax increment financing
23 district provided for in subsection (8). The county or consolidated local government is responsible for making an
24 allocation from the county's or consolidated local government's share of the entitlement share pool to each special
25 district within the county or consolidated local government in a manner that reasonably reflects each special
26 district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each
27 special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

28 (6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2)
29 for local governments, the funding provided for in subsection (8) of this section, and the amounts determined
30 under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from

1 the general fund to the department for distribution to local governments. Except for the distribution made under
2 15-1-123(2)(b), the distributions must be made on a quarterly basis.

3 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
4 and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be
5 calculated separately for:

6 (A) counties;

7 (B) consolidated local governments; and

8 (C) incorporated cities and towns.

9 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

10 (A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal
11 year entitlement share pool for all counties; and

12 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
13 population bears to the state population not residing within consolidated local governments as determined by the
14 latest interim year population estimates from the Montana department of ~~commerce~~ labor and industry as
15 supplied by the United States bureau of the census.

16 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
17 follows:

18 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
19 percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

20 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
21 government's population bears to the state's total population residing within consolidated local governments as
22 determined by the latest interim year population estimates from the Montana department of ~~commerce~~ labor and
23 industry as supplied by the United States bureau of the census.

24 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

25 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
26 percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

27 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
28 population bears to the state's total population residing within incorporated cities and towns as determined by the
29 latest interim year population estimates from the Montana department of ~~commerce~~ labor and industry as
30 supplied by the United States bureau of the census.

1 (v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments
 2 made under subsection (7) are applied is to be distributed to each local government in the same manner as the
 3 entitlement share pool was distributed in the prior fiscal year.

4 (7) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
 5 the department shall determine the reimbursement amount as provided in the enactment and add the appropriate
 6 amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal
 7 year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool.
 8 The ratio of each local government's distribution from the entitlement share pool must be recomputed to
 9 determine each local government's ratio to be used in the subsequent year's distribution determination under
 10 subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

11 (8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a
 12 tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax
 13 increment financing district is not entitled to any funding. If a tax increment financing district referred to in
 14 subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

15 (b) Except for the reimbursement made under 15-1-123(4)(b), one-half of the payments provided for in
 16 this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to
 17 subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

18	Deer Lodge	TIF District 1	\$2,833
19	Deer Lodge	TIF District 2	2,813
20	Flathead	Kalispell - District 2	4,638
21	Flathead	Kalispell - District 3	37,231
22	Flathead	Whitefish District	148,194
23	Gallatin	Bozeman - downtown	31,158
24	Missoula	Missoula - 1-1C	250,279
25	Missoula	Missoula - 4-1C	30,009
26	Silver Bow	Butte - uptown	255,421

27 (9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local
 28 governments do not include revenue received from tax increment financing districts, from countywide
 29 transportation block grants, or from countywide retirement block grants.

30 (10) When there has been an underpayment of a local government's share of the entitlement share pool,

1 the department shall distribute the difference between the underpayment and the correct amount of the
2 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
3 government shall remit the overpaid amount to the department.

4 (11) A local government may appeal the department's estimation of the base component, the entitlement
5 share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform
6 dispute review procedure in 15-1-211.

7 (12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by
8 a local government in accordance with Title 17, chapter 4, part 1."

9

10 **Section 28.** Section 15-31-903, MCA, is amended to read:

11 **"15-31-903. (Temporary) Definitions.** As used in this part, unless the context requires otherwise, the
12 following definitions apply:

13 (1) "Compensation" means salary, wages, or other compensation, including related benefits paid to a
14 Montana resident.

15 (2) (a) "Production" means a nationally or regionally distributed feature-length film, short film,
16 documentary, television series or segment, television pilot, magazine advertising, other than advertising for
17 tobacco products, or commercial made in Montana, in whole or in part, for theatrical, television, video, internet,
18 or other viewing.

19 (b) The term does not include the production of television coverage of news and athletic events or a film,
20 video, internet production, television series, magazine advertising, or commercial that:

21 (i) contains any obscene material or performance as described in 45-8-201(2); or

22 (ii) is produced in whole or in part with money received for tobacco product placement, advertisement,
23 or other tobacco use in the production.

24 (3) (a) "Production company" means a company engaged in the business of producing nationally or
25 regionally distributed productions.

26 (b) The term does not include a company owned, affiliated, or controlled by, in whole or in part, a
27 company or person that is in default on a loan made by this state or a loan guaranteed by this state or a company
28 or person that has filed for bankruptcy.

29 (4) (a) "Qualified expenditures" means expenditures in Montana made by a production company that are
30 directly related to a state-certified production. The term includes expenditures for lodging expenses, restaurant

1 and food expenses, location fees, lumber and construction materials, rental of production equipment and vehicles,
2 and supplies and materials that will be used in the production.

3 (b) The term does not include expenditures made for goods and services obtained out of state.

4 (5) "Resident" or "Montana resident", for the purpose of determining eligibility for the tax credit provided
5 under 15-31-907, has the meaning provided in 15-30-2101.

6 (6) "State-certified production" means a production certified by the department of ~~commerce~~ labor and
7 industry as provided in 15-31-904 and produced by a production company that has a national or regional
8 distribution plan, including but not limited to a major theatrical exhibition, film festival, television network, cable
9 television programming, magazine advertising, or video or internet distribution. (Terminates January 1, 2015--sec.
10 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.)"

11

12 **Section 29.** Section 15-31-904, MCA, is amended to read:

13 **"15-31-904. (Temporary) Application for state certification -- approval -- revocation -- eligibility**
14 **for tax credits -- rules.** (1) A production company may not receive the tax credits allowed under 15-31-907 and
15 15-31-908 unless the production has been certified by the department of ~~commerce~~ labor and industry, as
16 provided in this section, and has applied to the department of revenue for the tax credits as provided in
17 15-31-906. The certification by the department of ~~commerce~~ labor and industry must occur within 30 days after
18 submission of the application under this section.

19 (2) An application, on a form provided by the department of ~~commerce~~ labor and industry, must be
20 submitted by the production company to the department of ~~commerce~~ labor and industry before the start of
21 principal photography. The application must include:

22 (a) the production company's name, primary home address, business address, telephone and fax
23 numbers, incorporation information, and federal tax identification number;

24 (b) the address and telephone and fax numbers of the production company's Montana office;

25 (c) the name of the line producer, unit production manager, or production accountant or the names of
26 all three;

27 (d) a statement that the applicant meets the definition of a production company under 15-31-903;

28 (e) the title of the production;

29 (f) the type of production;

30 (g) the proposed dates of production from preproduction to the start and completion of principal

- 1 photography;
- 2 (h) a copy or synopsis of the production script;
- 3 (i) a list of the production locations;
- 4 (j) a statement that the proposed production:
- 5 (i) does not contain any material or performance that would be considered obscene under 45-8-201(2);
- 6 or
- 7 (ii) will not receive any money for tobacco product placement, advertisement, or other tobacco use in the
- 8 production; and
- 9 (k) if the production is a feature-length film, a statement that the production will include a line in the
- 10 production's film credits that the production was filmed in Montana.
- 11 (3) The application must be signed by the manager, agent, president, vice president, or other person
- 12 authorized to represent the production company.
- 13 (4) (a) The department of ~~commerce~~ labor and industry shall notify the applicant within 30 days of receipt
- 14 as to whether the production qualifies as a state-certified production.
- 15 (b) (i) Subject to subsection (4)(b)(ii), if the department of ~~commerce~~ labor and industry approves the
- 16 application, it shall provide a certification number to the applicant and notify the department of revenue of the
- 17 approval and certification number.
- 18 (ii) If the production is a feature-length film, the production company and the department of ~~commerce~~
- 19 labor and industry, prior to the issuance of the certification number, shall enter into an agreement that the
- 20 production company will comply with the provisions of subsection (2)(k). The agreement may provide for remedies
- 21 if the production company violates the agreement.
- 22 (5) If the department of ~~commerce~~ labor and industry determines that the production company has
- 23 violated the provisions of subsection (2)(d) or (2)(j), the department of ~~commerce~~ labor and industry may revoke
- 24 the state certification of the production. If the department of ~~commerce~~ labor and industry revokes the state
- 25 certification, the department of ~~commerce~~ labor and industry shall notify the department of revenue. The
- 26 production company has the right to a hearing under Title 2, chapter 4, part 6.
- 27 (6) The department of ~~commerce~~ labor and industry shall prescribe rules, including a procedure for
- 28 review of that department's denial or revocation of state certification, necessary to carry out the provisions of this
- 29 section. (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.)"
- 30

1 **Section 30.** Section 15-31-906, MCA, is amended to read:

2 **"15-31-906. (Temporary) Application for tax credit -- fee.** (1) To receive the tax credits under
3 15-31-907 and 15-31-908 for a state-certified production, a production company shall apply to the department
4 on a form prescribed by the department. The form must be accompanied by an application fee. The application
5 must be made and the fee paid at the time the production company files its tax return.

6 (2) The application fee is \$500.

7 (3) The fee must be deposited in the state special revenue account. The fee is statutorily appropriated,
8 as provided in 17-7-502, in equal amounts to the department of revenue and the department of ~~commerce~~ labor
9 and industry to administer the provisions of 15-31-906 through 15-31-908, 15-31-910, and 15-31-911.
10 (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.)"

11

12 **Section 31.** Section 15-31-910, MCA, is amended to read:

13 **"15-31-910. (Temporary) Denial of claim for credit -- recapture.** A taxpayer whose state-certified
14 production has been revoked as provided in 15-31-904(5) may not claim the credits allowed under 15-31-907 and
15 15-31-908. If the department of ~~commerce~~ labor and industry revokes the state certification of a production
16 company after the production company has taken a credit under 15-31-907 or 15-31-908, the production company
17 shall refund the amount of any credits taken. The taxpayer is subject to the penalty and interest provisions of this
18 chapter. (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.)"

19

20 **Section 32.** Section 15-31-911, MCA, is amended to read:

21 **"15-31-911. (Temporary) Rules.** (1) The department of revenue shall adopt rules that are necessary
22 to implement and administer 15-31-906 through 15-31-908, 15-31-910, and this section. The department shall,
23 in consultation with the department of ~~commerce~~ labor and industry, develop procedures for determining
24 compensation paid to residents and qualified expenditures for the credits allowed under 15-31-907 and 15-31-908
25 and for taxpayer compliance with the provisions of 15-31-904.

26 (2) The department and the department of ~~commerce~~ labor and industry shall jointly adopt rules related
27 to the definitions in 15-31-903. (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007;
28 secs. 1, 2, Ch. 186, L. 2009.)"

29

30 **Section 33.** Section 15-35-108, MCA, is amended to read:

1 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter
2 must, in accordance with the provisions of 17-2-124, be allocated as follows:

3 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
4 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
5 17-6-203(6) and invested by the board of investments as provided by law.

6 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
7 account established in 17-7-205.

8 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
9 by the legislature for provision of basic library services for the residents of all counties through library federations
10 and for payment of the costs of participating in regional and national networking, conservation districts, and the
11 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
12 Money may not be transferred from this account to another account other than the general fund. Beginning July
13 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

14 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
15 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
16 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
17 described in 23-1-102.

18 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
19 resource loan debt service fund.

20 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
21 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
22 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
23 cultural and aesthetic projects.

24 (7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of
25 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

26 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
27 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

28 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the
29 provisions of this chapter must be credited to the general fund of the state.

30 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited

1 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

2 (i) \$65,000 to the cooperative development center;

3 (ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

4 (iii) \$1.275 million to the research and commercialization state special revenue account created in
 5 90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of
 6 ~~commerce~~ labor and industry for the small business state matching grant program authorized in 90-1-117 to
 7 provide matching grants for small business innovation research and small business technology transfer, \$125,000
 8 per year is appropriated for fiscal years 2012 and 2013 to the high-performance supercomputing program in the
 9 department of ~~commerce~~ labor and industry, and \$300,000 per year is appropriated for fiscal years 2012 and
 10 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana
 11 tech of the university of Montana;

12 (iv) to the department of ~~commerce~~ labor and industry:

13 (A) \$125,000 for a small business development center;

14 (B) \$50,000 for a small business innovative research program;

15 (C) \$425,000 for certified regional development corporations;

16 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

17 and

18 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)

19 **15-35-108. (Effective July 1, 2013) Disposal of severance taxes.** Severance taxes collected under
 20 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

21 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
 22 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
 23 17-6-203(6) and invested by the board of investments as provided by law.

24 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
 25 account established in 17-7-205.

26 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
 27 by the legislature for provision of basic library services for the residents of all counties through library federations
 28 and for payment of the costs of participating in regional and national networking, conservation districts, and the
 29 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
 30 Money may not be transferred from this account to another account other than the general fund. Beginning July

1 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

2 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
3 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
4 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
5 described in 23-1-102.

6 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
7 resource loan debt service fund.

8 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
9 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
10 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
11 cultural and aesthetic projects.

12 (7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of
13 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

14 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
15 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

16 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the
17 provisions of this chapter must be credited to the general fund of the state.

18 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited
19 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

20 (i) \$65,000 to the cooperative development center;

21 (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

22 (iii) \$3.65 million to the research and commercialization state special revenue account created in
23 90-3-1002;

24 (iv) to the department of ~~commerce~~ labor and industry:

25 (A) \$125,000 for a small business development center;

26 (B) \$50,000 for a small business innovative research program;

27 (C) \$425,000 for certified regional development corporations;

28 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

29 and

30 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

1 **15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under
2 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

3 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
4 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
5 17-6-203(6) and invested by the board of investments as provided by law.

6 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
7 account established in 17-7-205.

8 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
9 by the legislature for provision of basic library services for the residents of all counties through library federations
10 and for payment of the costs of participating in regional and national networking, conservation districts, and the
11 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
12 Money may not be transferred from this account to another account other than the general fund. Beginning July
13 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

14 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
15 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
16 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
17 described in 23-1-102.

18 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
19 resource loan debt service fund.

20 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
21 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
22 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
23 cultural and aesthetic projects.

24 (7) The amount of 2.9% must be credited to the coal natural resource account established in
25 90-6-1001(2).

26 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
27 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

28 (9) All other revenue from severance taxes collected under the provisions of this chapter must be
29 credited to the general fund of the state."
30

1 **Section 34.** Section 15-65-121, MCA, is amended to read:

2 **"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must,
3 in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to
4 the credit of the department. The department may spend from that account in accordance with an expenditure
5 appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of
6 the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as
7 provided in subsections (2)(a) through (2)(f) of this section, the department shall determine the expenditures by
8 state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds
9 received each reporting period. The department shall deposit 30% of the amount deducted in the state general
10 fund and distribute the portion of the amount deducted that was paid with federal funds to the department of
11 administration for return to the federal government as provided in 17-3-106(2). The amount of \$400,000 each year
12 must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

13 (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the
14 expenditure appropriation, deposited in the state general fund, distributed to the department of administration,
15 or deposited in the heritage preservation and development account must be transferred to an account in the state
16 special revenue fund to the credit of the department of ~~commerce~~ labor and industry for tourism promotion and
17 promotion of the state as a location for the production of motion pictures and television commercials, to the
18 Montana historical interpretation state special revenue account, to the Montana historical society, to the university
19 system, and to the department of fish, wildlife, and parks, as follows:

20 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
21 historical signs and historic sites;

22 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
23 program;

24 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
25 have both resident and nonresident use;

26 (d) 64.9% to be used directly by the department of ~~commerce~~ labor and industry;

27 (e) (i) except as provided in subsection (2)(e)(ii), 22.5% to be distributed by the department to regional
28 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
29 collected statewide; and

30 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort

1 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit
2 tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is
3 located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county,
4 resort area, or resort area district; and

5 (f) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.

6 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for
7 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
8 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
9 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is
10 located.

11 (4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing
12 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
13 may be used by the department of ~~commerce~~ labor and industry for tourism promotion and promotion of the state
14 as a location for the production of motion pictures and television commercials.

15 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
16 subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

17 (6) The tax proceeds received that are transferred to the Montana historical interpretation state special
18 revenue account pursuant to subsection (2)(f) are subject to appropriation by the legislature."

19

20 **Section 35.** Section 15-70-101, MCA, is amended to read:

21 **"15-70-101. Disposition of funds.** (1) All taxes collected under this chapter must, in accordance with
22 the provisions of 17-2-124, be placed in a highway revenue account in the state special revenue fund to the credit
23 of the department of transportation. All interest and income earned on the account must be deposited to the credit
24 of the account and any unexpended balance in the account must remain in the account. Those funds allocated
25 to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the
26 provisions of 17-2-124, be paid by the department of transportation from the state special revenue fund to the
27 cities, towns, counties, and consolidated city-county governments.

28 (2) The amount of \$16,766,000 of the taxes collected under this chapter is statutorily appropriated, as
29 provided in 17-7-502, to the department of transportation and must be allocated each fiscal year on a monthly
30 basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for

1 construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as
2 provided in subsections (2)(a) through (2)(c):

3 (a) The amount of \$100,000 must be designated for the purposes and functions of the Montana local
4 technical assistance transportation program in Bozeman.

5 (b) The amount of \$6,306,000 must be divided among the various counties in the following manner:

6 (i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system
7 and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway
8 system and the primary system;

9 (ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears
10 to the total rural population in the state outside incorporated cities and towns;

11 (iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

12 (c) The amount of \$10,360,000 must be divided among the incorporated cities and towns in the following
13 manner:

14 (i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to
15 the total population within corporate limits of all the cities and towns in Montana;

16 (ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system
17 and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national
18 highway system and primary system, within the corporate limits of all cities and towns in Montana.

19 (3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated
20 city-county government, each entity must be considered to have separate city and county boundaries. The city
21 limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on
22 the location of the urban area have been approved by the department of transportation and must be used to
23 determine city and county populations and road mileages in the following manner:

24 (i) Percentage factors must be calculated to determine separate populations for the city and rural county
25 by using the last official decennial federal census population figures that recognized an incorporated city and the
26 rural county. The factors must be based on the ratio of the city to the rural county population, considering the total
27 population in the county minus the population of any other incorporated city or town in the county.

28 (ii) The city and county populations must be calculated by multiplying the total county population, as
29 determined by the latest official decennial census or the latest interim year population estimates from the Montana
30 department of ~~commerce~~ labor and industry as supplied by the United States bureau of the census, minus the

1 population of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

2 (b) The amount allocated by this method for the city and the county must be combined, and single
3 monthly payments must be made to the consolidated city-county government.

4 (4) All funds allocated by this section to counties, cities, towns, and consolidated city-county
5 governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or
6 town streets and alleys or for the share that the city, town, county, or consolidated city-county government might
7 otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets
8 that are part of the primary or secondary highway system or urban extensions to those systems. The governing
9 body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds
10 allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the
11 maintenance and repair of town or third-class city streets and alleys. The governing body of a town or third-class
12 city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is
13 carried forward until there is a need for the expenditure.

14 (5) All funds allocated by this section to counties, cities, towns, and consolidated city-county
15 governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures
16 followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess
17 of \$25,000.

18 (6) For the purposes of this section in which distribution of funds is made on a basis related to population,
19 the population must be determined annually for counties and biennially for cities according to the latest official
20 decennial census or the latest interim year population estimates from the Montana department of ~~commerce~~ labor
21 and industry as supplied by the United States bureau of the census.

22 (7) For the purposes of this section in which determination of mileage is necessary for distribution of
23 funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to furnish
24 to the department of transportation a yearly certified statement indicating the total mileage within their respective
25 areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of
26 transportation.

27 (8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this section
28 may not be used for the purchase of capital equipment.

29 (9) Funds authorized by this section must be used for construction and maintenance programs."
30

1 **Section 36.** Section 16-4-420, MCA, is amended to read:

2 **"16-4-420. Restaurant beer and wine license.** (1) The department shall issue a restaurant beer and
3 wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the
4 requirements of this section, meets the following qualifications and conditions:

5 (a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises
6 consumption license;

7 (b) the applicant operates a restaurant at the location where the restaurant beer and wine license will
8 be used or satisfies the department that:

9 (i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and
10 intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of
11 operation is expected to be the result of the sale of food;

12 (ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the
13 restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be
14 stated on the food bill; and

15 (iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department
16 by rule;

17 (c) the applicant understands and acknowledges in writing on the application that this license prohibits
18 the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines
19 and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine
20 license will be used, the activity must be discontinued or the machines must be removed before the restaurant
21 beer and wine license takes effect; and

22 (d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current
23 seating capacity if the restaurant is operating.

24 (2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic
25 beverage may not be considered for a restaurant beer and wine license at the same location.

26 (b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a
27 license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

28 (ii) A person, including an individual, with an ownership interest in an existing on-premises retail license
29 that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under
30 this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new

1 purchaser.

2 (3) A completed application for a license under this section and the appropriate application fee, as
3 provided in subsection (11), must be submitted to the department. The department shall investigate the items
4 relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the
5 investigation and the exercise of its sound discretion, the department shall determine whether:

6 (a) the applicant is qualified to receive a license;

7 (b) the applicant's premises are suitable for the carrying on of the business;

8 (c) the requirements of this code and the rules promulgated by the department are complied with; and

9 (d) the seating capacity stated on the application is correct.

10 (4) An application for a beer and wine license submitted under this section is subject to the provisions
11 of 16-4-203, 16-4-207, and 16-4-405.

12 (5) If a premises proposed for licensing under this section is a new or remodeled structure, then the
13 department may issue a conditional license prior to completion of the premises based on reasonable evidence,
14 including a statement from the applicant's architect or contractor confirming that the seating capacity stated on
15 the application is correct, that the premises will be suitable for the carrying on of business as a bona fide
16 restaurant, as defined in subsection (6).

17 (6) (a) For purposes of this section, "restaurant" means a public eating place:

18 (i) where individually priced meals are prepared and served for on-premises consumption;

19 (ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale
20 of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file
21 with the department a statement, in a form approved by the department, attesting that at least 65% of the gross
22 income of the restaurant during the prior year resulted from the sale of food.

23 (iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the
24 preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use
25 as a full-service restaurant; and

26 (iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the
27 hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a
28 restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals
29 of that license.

30 (b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a

1 majority of its food and drink in throw-away containers not reused in the same restaurant.

2 (7) (a) A restaurant beer and wine license may be transferred, upon approval by the department, from
3 the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

4 (b) A license issued under this section may be jointly owned, and the license may pass to the surviving
5 joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person
6 or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property
7 upon the death of the owner in this state or in another state.

8 (c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of
9 the department, transfer a restaurant beer and wine license to a new owner.

10 (8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

11 (i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of
12 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer
13 and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may
14 be issued in that quota area pursuant to 16-4-105;

15 (ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota
16 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
17 area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant
18 to 16-4-105;

19 (iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota
20 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
21 area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant
22 to 16-4-105;

23 (iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota
24 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
25 area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant
26 to 16-4-105; and

27 (v) for a restaurant located in a quota area that is also a resort community, as the resort community is
28 designated by the department of ~~commerce~~ labor and industry under 7-6-1501(5), if the number of restaurant
29 beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of
30 the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

1 (b) In determining the number of restaurant beer and wine licenses that may be issued under this
2 subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the
3 department shall round to the nearer whole number.

4 (c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota
5 area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota
6 area.

7 (d) If there are more applicants than licenses available in a quota area, then the license must be awarded
8 by lottery as provided in subsection (9).

9 (9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses
10 under this section or as the result of an increase in the population in the quota area, the nonrenewal of a
11 restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department
12 shall advertise the availability of the license in the quota area for which it is available. If there are more applicants
13 than number of licenses available, the license must be awarded to an applicant by a lottery.

14 (b) A preference must be given to an applicant who does not yet have in any quota area a restaurant
15 beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described
16 in subsection (8) in which the license has become available and that meets the qualifications of subsection (6)
17 for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a
18 license before any applicant without a preference.

19 (c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will
20 be required to submit a completed application and a one-time required fee. An applicant's ranking may not be
21 sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the
22 intended license advertised by the department or to the number of licenses determined under subsection (8)
23 when there are more applicants than licenses available. The applicant's qualifications for any other restaurant
24 beer and wine license awarded by lottery must be determined at the time of the lottery.

25 (d) If a successful lottery applicant does not use a license within 1 year of notification by the department
26 of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the
27 application fee and offer the license to the next eligible ranked applicant in the lottery.

28 (10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises
29 consumption.

30 (11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20%

1 of the initial licensing fee. If the department does not make a decision either granting or denying the license within
2 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate
3 of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that
4 the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the
5 department denies an application, the application fee, plus any interest, less a processing fee established by rule,
6 must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial
7 licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

8 (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

9 (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

10 (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

11 (12) The annual fee for a restaurant beer and wine license is \$400.

12 (13) If a restaurant licensed under this part increases the stated seating capacity of the licensed
13 restaurant or if the department determines that a licensee has increased the stated seating capacity of the
14 licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time
15 of filing the original application and issuance of a license and the applicable fees for the additional seating.

16 (14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101
17 persons or more may not exceed 25% of the total licenses issued.

18 (15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming
19 or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a
20 restaurant beer and wine license."

21

22 **Section 37.** Section 17-5-116, MCA, is amended to read:

23 **"17-5-116. Allocation of bonding limits -- American Recovery and Reinvestment Act of 2009.**

24 Unless the regulations adopted by the United States secretary of the treasury specify otherwise:

25 (1) the office of public instruction is responsible for allocating the state's share of qualified school
26 construction bonds as authorized in section 1521 of the American Recovery and Reinvestment Act of 2009,
27 Public Law 111-5, and the state's allocated share of qualified zone academy bonds as authorized in section 54E
28 of the Internal Revenue Code, 26 U.S.C. 54E;

29 (2) the department of administration is responsible for allocating the state's share of qualified energy
30 conservation bonds as authorized in section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by

1 section 1112 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5; and
2 (3) the department of administration, in consultation with the department of ~~commerce~~ labor and industry,
3 is responsible for allocating the state's share of recovery zone economic development bonds and recovery zone
4 facility bonds, as authorized in section 1401 of the American Recovery and Reinvestment Act of 2009, Public Law
5 111-5."

6
7 **Section 38.** Section 17-5-820, MCA, is amended to read:

8 **"17-5-820. Authorization of bonds.** (1) The board of examiners is authorized to issue and sell general
9 obligation bonds in an amount not exceeding \$20 million in accordance with the terms and in the manner required
10 by Title 17, chapter 5, part 8, for the purpose of financing and acquiring infrastructure improvements as
11 enumerated in 7-15-4288 for aerospace transportation and technology infrastructure development projects
12 recommended by the department of ~~commerce~~ labor and industry in accordance with the authority granted to the
13 board by this section. The bonds are in addition to any other authorization to the board to issue and sell general
14 obligation bonds and subject to the conditions set forth in this section.

15 (2) The department of ~~commerce~~ labor and industry may request the board of examiners to issue the
16 bonds for one or more specified projects in one or more series, but the total amount of bonds issued may not
17 exceed \$20 million. Bond proceeds must be appropriated to the department of ~~commerce~~ labor and industry, and
18 the department of ~~commerce~~ labor and industry is authorized to acquire or construct the infrastructure
19 improvements, to contract with the incorporated city or town, county, or city-county consolidated local government
20 in which a project is located, to contract with an airport authority as defined in 67-1-101, a local port authority as
21 described in 7-14-1101, or a regional port authority as described in 7-14-1102, to contract with a certified regional
22 development corporation as defined in 90-1-116, or, upon a determination that it is in the best interest of the
23 project, to contract with the developer of an approved project for the acquisition or construction of the
24 infrastructure improvement. The plans and specifications for the infrastructure to be financed from the proceeds
25 of the bonds must be prepared by an engineer or architect who is licensed and bonded in Montana, and the state
26 must be named as an additional insured under any contract, performance bond, or other documents for the
27 design of any improvements to be financed by the state. The plans and specifications must be reviewed and
28 approved by the department of ~~commerce~~ labor and industry after consultation with the architecture and
29 engineering division of the department of administration. The design and acquisition or construction of the
30 infrastructure for approved projects are not, with the exception of Title 18, chapter 2, part 4, subject to the public

1 procurement requirements contained in Title 18. All construction contracts entered into for the construction of
2 improvements to be financed under this section must name the state as an additional insured if the state is not
3 otherwise party to the contract. All improvements financed with bond proceeds must be owned by the state, and
4 the use must be governed by a development agreement between the state and the developer of the project. The
5 agreement may provide for the lease or the use of the infrastructure at less than fair market value, taking into
6 consideration the number of jobs to be created by the project, the salary range of the jobs, the amount of capital
7 contributed by the developer, and the projected tax revenue to be received by the state and local governments
8 from the project over the term of the lease or use agreement. The agreement must require the contractor to insure
9 for liability and workers' compensation claims during construction and must provide the project developer with
10 the right of first refusal for the purchase of any real property and improvements financed by the bonds at fair
11 market value. Fair market value must be determined by a certified appraiser. For purposes of this section, state
12 and local governments may not provide telecommunications or other services in competition with private
13 providers unless private providers cannot provide the services.

14 (3) It is the intent of the legislature that state individual and corporate income taxes and state property
15 taxes generated by the aerospace transportation and technology infrastructure development projects will be at
16 least equal to the projected amount of the debt service to be paid by the state for the bonds authorized by this
17 section over the term of the bonds. Prior to requesting the board of examiners to issue the bonds, the department
18 of ~~commerce~~ labor and industry shall determine that the developer of a proposed project has the financial ability
19 to implement the project based upon the audited financial statements of the developer. When requesting the
20 board to issue the bonds, the department of ~~commerce~~ labor and industry shall present to the legislative finance
21 committee and to the department of administration for presentation to the board the following:

22 (a) evidence satisfactory to the board that the developer of each aerospace transportation and
23 technology infrastructure development project has committed itself to locate its project in Montana; and

24 (b) a certificate signed by the director of the office of budget and program planning that the proposed
25 project will, over the term of the bonds, generate state individual and corporate income taxes and state property
26 taxes at least equal to the total aggregate amount of principal and interest on the bonds over the term of the
27 bonds. In preparing the analysis for the report on the projected tax revenue from the project, the multiplier effect
28 may be taken into account, using the number of jobs, the salary levels for the jobs, and the estimated date of hire
29 for each position that the developer will commit to create as part of the development agreement. The development
30 agreement must provide that if the developer has not created the total number of jobs at the estimated salaries

1 by the date specified in the development agreement and assumed for purposes of meeting the projections, the
 2 state may terminate the lease or use of the improvements upon 30 days' notice. If the department of ~~commerce~~
 3 labor and industry is unable to enter into a new lease or use agreement for the improvements that is
 4 advantageous to the state, the state may sell the facility to the highest and best bidder and use the proceeds of
 5 the sale to redeem the outstanding bonds.

6 (4) In determining whether to recommend to the board of examiners that improvements should be
 7 constructed by the state from the proceeds of the bonds for a project, the department of ~~commerce~~ labor and
 8 industry may take into consideration only the following factors:

9 (a) whether the project is eligible for financing;

10 (b) whether there is sufficient evidence to demonstrate the developer's ability to implement the project;

11 (c) the projected tax revenue report;

12 (d) whether the project as proposed and situated can obtain the necessary zoning, building, and
 13 environmental permits required; and

14 (e) whether the project is in the public interest.

15 (5) In recommending the amount of bonds to be issued for a qualified project, the department of
 16 ~~commerce~~ labor and industry shall independently determine that the proposed estimated cost of the project is
 17 not in excess of what is required for the project and independently verify the projected costs of designing and
 18 constructing the improvements proposed to be financed exclusive of any development fee to the developer. The
 19 authorized bond proceeds must be used for projects on a first-come, first-served basis."

20

21 **Section 39.** Section 17-5-1503, MCA, is amended to read:

22 **"17-5-1503. Definitions.** As used in this part, unless the context requires otherwise, the following
 23 definitions apply:

24 (1) "Board" means the board of investments ~~created~~ provided for in 2-15-1808.

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

27 (3) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~2-15-1804~~
 28 2-15-1701.

29 (4) "Finance" means to supply capital and, in the case of agricultural enterprises, to refinance a project
 30 and project costs.

1 (5) "Financial institution" means any bank, savings and loan association, credit union, development credit
 2 corporation, insurance company, investment company, trust company, savings institution, or other financial
 3 institution approved by the board.

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

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

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

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

- 10 (a) the actual cost of acquiring or improving real estate for any project;
- 11 (b) the actual cost of construction of all or any part of a project, including architects' and engineers' fees;
- 12 (c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such
 13 acquisition or improvement;
- 14 (d) bond reserves and premiums for insurance or guaranty of loan payments or lease rentals pledged
 15 to pay the bonds;
- 16 (e) the interest on such bonds for a reasonable time prior to construction, during construction, and not
 17 exceeding 6 months after completion of construction; and
- 18 (f) working capital for agricultural enterprise projects for a period not to exceed 1 year."

19

20 **Section 40.** Section 17-5-1604, MCA, is amended to read:

21 **"17-5-1604. Definitions.** As used in this part, the following definitions apply:

22 (1) "Board" means the board of investments ~~created~~ provided for in 2-15-1808.

23 (2) "Department" means the department of ~~commerce created in 2-15-1801~~ labor and industry provided
 24 for in 2-15-1701.

25 (3) "Eligible government unit" means:

26 (a) any municipal corporation or political subdivision of the state, including without limitation any city,
 27 town, county, school district, authority as defined in 75-6-304, or other special taxing district or assessment or
 28 service district authorized by law to borrow money;

29 (b) the state, any board, agency, or department of the state, or the board of regents of the Montana
 30 university system when authorized by law to borrow money; or

- 1 (c) for the purposes of Title 90, chapter 4, part 12, only, an Indian tribal government.
- 2 (4) "Reserve fund" means the municipal finance consolidation act reserve fund created in 17-5-1630."
- 3
- 4 **Section 41.** Section 17-6-302, MCA, is amended to read:
- 5 **"17-6-302. Definitions.** As used in this part, unless the context requires otherwise, the following
- 6 definitions apply:
- 7 (1) "Board" means the board of investments ~~created~~ provided for in 2-15-1808.
- 8 (2) "Clean and healthful environment" means an environment that is relatively free from pollution that
- 9 threatens human health, including as a minimum, compliance with federal and state environmental and health
- 10 standards.
- 11 (3) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~2-15-1804~~
- 12 2-15-1701.
- 13 (4) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership
- 14 interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal
- 15 occupation is as an employee, officer, or partner of the enterprise.
- 16 (5) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings
- 17 and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.
- 18 (6) "Intermediary loan" means a loan provided to a local economic development organization with a
- 19 revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development
- 20 loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but
- 21 not limited to programs from the economic development administration of the U.S. department of commerce and
- 22 the community development financial institution program from the U.S. department of the treasury.
- 23 (7) "Loan participation" means loans or portions of loans bought from a financial institution.
- 24 (8) "Local economic development organization" means:
- 25 (a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
- 26 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);
- 27 (ii) an entity certified by the department under 90-1-116; or
- 28 (iii) an entity established by a local government; and
- 29 (b) an entity actively engaged in economic development and business assistance work in the area.
- 30 (9) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other

1 ownership interests is owned and controlled by residents of Montana.

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

5 (11) "Montana economy" means any business activities in the state of Montana, including those that
6 continue existing jobs or create new jobs in Montana.

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

9

10 **Section 42.** Section 17-6-403, MCA, is amended to read:

11 **"17-6-403. Definitions.** As used in this part, the following definitions apply:

12 (1) "Certified microbusiness development corporation" means a microbusiness development corporation
13 certified pursuant to 17-6-408.

14 (2) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~2-15-1801~~
15 2-15-1701.

16 (3) "Development loan" means money loaned to a certified microbusiness development corporation by
17 the department for the purpose of making microbusiness loans under the provisions of this part.

18 (4) "Microbusiness development corporation" means a nonprofit corporation organized and existing
19 under the laws of the state to provide training, technical assistance, and access to capital for the startup or
20 expansion of qualified microbusinesses.

21 (5) "Microbusiness loan" means a loan made from or guaranteed by a revolving loan fund contributed
22 to by the microbusiness finance program.

23 (6) "Program" means the microbusiness finance program established in 17-6-406.

24 (7) "Qualified microbusiness" means a business enterprise located in the state that:

25 (a) produces goods or provides services and has fewer than 10 full-time equivalent employees and
26 annual gross revenue of less than \$1 million; or

27 (b) produces energy using an alternative renewable energy source as defined in 15-6-225.

28 (8) "Revolving loan fund" means a fund required to be established by a certified microbusiness
29 development corporation that receives a development loan."

30

1 **Section 43.** Section 22-3-1002, MCA, is amended to read:

2 **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana
3 heritage preservation and development commission. The commission is attached to the department of ~~commerce~~
4 labor and industry for administrative purposes only, pursuant to 2-15-121. The commission and the department
5 shall negotiate a specific indirect administrative rate annually, with biennial review by a designated, appropriate
6 legislative interim committee.

7 (2) The commission consists of 14 members. The members shall broadly represent the state. Nine
8 members must be appointed by the governor, one member must be appointed by the president of the senate,
9 and one member must be appointed by the speaker of the house. The director of the Montana historical society,
10 the director of the department of fish, wildlife, and parks, and the director of the department of ~~commerce~~ labor
11 and industry shall serve as members. Of the members appointed by the governor:

- 12 (a) one member must have extensive experience in managing facilities that cater to the needs of tourists;
13 (b) one member must have experience in community planning;
14 (c) one member must have experience in historic preservation;
15 (d) two members must have broad experience in business;
16 (e) one member must be a member of the tourism advisory council established in 2-15-1816;
17 (f) one member must be a Montana historian; and
18 (g) two members must be from the public at large.

19 (3) Except for the initial appointments, members appointed by the governor shall serve 3-year terms.
20 Legislative appointees shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an
21 appointment for the unexpired portion of the term.

22 (4) (a) The commission may employ:

- 23 (i) an executive director who has general responsibility for the selection and management of commission
24 staff, developing recommendations for the purchase of property, and overseeing the management of acquired
25 property;
26 (ii) a curator who is responsible for the display and preservation of the acquired property; and
27 (iii) other staff that the commission and the executive director determine are necessary to manage and
28 operate commission properties.

29 (b) The commission shall prescribe the duties and annual salary of the executive director, the curator,
30 and other commission staff."

1

2 **Section 44.** Section 30-17-101, MCA, is amended to read:

3 **"30-17-101. Electronic directory of Montana products.** (1) (a) The department of ~~commerce~~ labor and
4 industry shall provide an electronic directory on the internet or world wide web of Montana businesses that market
5 products qualifying as made in Montana or grown in Montana, as described in subsection (5).

6 (b) The department may make a decision on the appropriateness of listing a business on the electronic
7 directory based upon the content or use of the products offered by the business.

8 (2) (a) The electronic directory may be compiled from eligible businesses that have contacted the
9 department of ~~commerce~~ labor and industry and that have agreed to be listed electronically on the internet or
10 world wide web. Agreement by a company also means that the company grants permission for inclusion on a
11 mailing list pursuant to 2-6-109(1).

12 (b) The department of ~~commerce~~ labor and industry is not responsible for listing a company if that
13 company has not contacted the department, has not agreed to a listing pursuant to subsection (2), or does not
14 qualify as having products made in Montana or grown in Montana.

15 (3) The electronic directory may contain information allowing a potential customer to access directly a
16 business listed in the directory by telephone, mail, or electronic links if the business works with the department
17 of ~~commerce~~ labor and industry to facilitate and maintain direct access.

18 (4) The department of ~~commerce~~ labor and industry may not process orders for a business listed in the
19 electronic directory and is not responsible for handling customer questions or complaints on behalf of a business
20 listed in the electronic directory.

21 (5) For the purposes of this section, a product is considered made in Montana or grown in Montana if
22 the product has 50% or greater value-added within the state.

23 (6) For the purposes of this section, "value-added" means a finished product that has been created,
24 made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added
25 product."

26

27 **Section 45.** Section 30-17-102, MCA, is amended to read:

28 **"30-17-102. Rules -- contract -- conduct of public officers and employees.** (1) The department of
29 ~~commerce~~ labor and industry may adopt rules necessary for the creation, maintenance, and updating of the
30 electronic directory provided for in 30-17-101. The rules may include requirements for the design of a website,

1 information that may be contained in the electronic directory, the format of the electronic directory, information
2 that may be provided to potential customers, and requirements for updating material contained in the electronic
3 directory.

4 (2) The department of ~~commerce~~ labor and industry may contract with the department of administration
5 or a private vendor for the creation, maintenance, and updating of the electronic directory and website provided
6 for in 30-17-101.

7 (3) Public officers or employees who outside of their work for a public agency are involved in the creation
8 of products that qualify for inclusion in the electronic directory provided for in 30-17-101 may list their products
9 in the electronic directory without being in violation of the provisions of 2-2-121."

10

11 **Section 46.** Section 32-4-201, MCA, is amended to read:

12 **"32-4-201. Incorporators -- general powers -- capital stock -- articles of incorporation.** Nine or more
13 persons, a majority of whom must be residents of this state, who desire to create a development corporation
14 under the provisions of this chapter for the purpose of promoting, developing, and advancing the prosperity and
15 economic welfare of the state and, to that end, to exercise the powers and privileges provided in this part may
16 be incorporated in the following manner:

17 (1) The persons shall, by articles of incorporation filed in the manner prescribed in Title 35, set forth:

18 (a) the name of the corporation, which must include the words "Development Corporation of Montana";

19 (b) the location of the principal office of the corporation, but the corporation may have offices in other
20 places within the state as fixed by the board of directors;

21 (c) the purposes for which the corporation is founded, which must include the following:

22 (i) to elect, appoint, and employ officers, agents, and employees;

23 (ii) to make contracts and incur liabilities for any of the purposes of the corporation, provided that the
24 corporation may not incur any secondary liability by way of guaranty or endorsement of obligations of any person,
25 firm, corporation, joint-stock company, association, or trust or in any other manner;

26 (iii) to borrow money from members, nonmember persons, firms, or corporations and state, federal,
27 county, or municipal agencies or authorities for any of the purposes of the corporation;

28 (iv) to issue for the purposes of the corporation its bonds, debentures, convertible debentures, notes, or
29 other evidences of indebtedness, whether secured or unsecured, and to secure the indebtedness by mortgage,
30 pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or

1 any part or interest in its property, franchises, rights, and privilege, without securing stockholder or member
2 approval. However, a loan to the corporation may not be secured in any manner unless all outstanding loans to
3 the corporation are secured equally and ratably in proportion to the unpaid balance of the loans and in the same
4 manner.

5 (v) to make loans to any person, firm, corporation, joint-stock company, association, or trust and
6 establish and regulate the terms and conditions with respect to any loans and the charges for interest and service
7 connected with the loans. However, the corporation may not approve any application for a loan unless the person
8 applying for the loan shows that the person has applied for the loan through ordinary banking channels and that
9 the loan has been refused by at least one bank or other financial institution.

10 (vi) to participate with any authorized private lending agency or city, county, state, or federal
11 governmental lending agencies in the making of loans;

12 (vii) to purchase, receive, hold, lease, or otherwise acquire, except by condemnation, and to sell, convey,
13 transfer, lease, or otherwise dispose of real and personal property, together with rights and privileges that may
14 be incidental and appurtenant to the property and the use of the property, including but not restricted to any real
15 or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of
16 obligations;

17 (viii) to acquire the goodwill, business, rights, real and personal property, and other assets or any part
18 or interest in the assets of any persons, firms, corporations, joint-stock companies, associations, or trusts and
19 to assume, undertake, or pay the obligations, debts, and liabilities of any person, firm, corporation, joint-stock
20 company, association, or trust;

21 (ix) to acquire improved or unimproved real estate for the purpose of constructing industrial plants or
22 other business establishments or for the purpose of disposing of real estate to others for the construction of
23 industrial plants or other business establishments;

24 (x) to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or
25 otherwise dispose of industrial plants or business establishments;

26 (xi) to acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose
27 of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in or indebtedness
28 of any person, firm, corporation, joint-stock company, association, or trust and while the owner or holder of
29 interest for indebtedness to exercise all the rights, powers, and privileges of ownership, including the right to vote;

30 (xii) to mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired pursuant

1 to the powers contained in subsections (1)(c)(vii) through (1)(c)(xi), as security for the payment of any part of the
2 purchase price of the property, right, or thing of value;

3 (xiii) to cooperate with and avail itself of the facilities of the department of ~~commerce~~ labor and industry
4 and any similar governmental agency and to cooperate with, assist, and otherwise encourage organizations in
5 the various communities of the state in the promotion, assistance, and development of the business prosperity
6 and economic welfare of the communities or of this state or of any part of the state;

7 (xiv) to accept gifts, donations, bequests, devises, or grants from any person, corporation, association,
8 or governmental agency or authority, whether state, federal, county, or municipal;

9 (xv) to do all acts and things necessary or convenient to carry out the powers expressly granted in this
10 chapter;

11 (d) the amount of total authorized capital stock and the number of shares in which it is divided, the par
12 value of each share, the amount of capital stock with which it will commence business and, if there is more than
13 one class of stock, a description of the different classes, and the names and post-office addresses of the
14 subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription must be
15 the amount of capital with which the corporation will commence business.

16 (2) The articles of incorporation may also contain any provision consistent with the laws of this state for
17 the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles
18 of incorporation must be in accordance with the provisions of Title 35, so far as they are consistent with this
19 chapter."

20

21 **Section 47.** Section 39-11-103, MCA, is amended to read:

22 **"39-11-103. Definitions.** As used in this chapter, the following definitions apply:

23 (1) "Average weekly wage" has the meaning provided in 39-71-116.

24 (2) "Department" means the department of ~~commerce~~ labor and industry established in ~~2-15-1804~~
25 2-15-1701.

26 (3) "Eligible training provider" means:

27 (a) a unit of the university system, as defined in 20-25-201;

28 (b) a community college district, as defined in 20-15-101;

29 (c) an accredited, tribally controlled community college located in the state of Montana; or

30 (d) an entity approved to provide workforce training that is included on the eligible training provider list.

1 (4) "Eligible training provider list" means the list maintained by the department of labor and industry of
2 those eligible training providers who may be used to provide workforce training under a grant authorized in
3 39-11-202.

4 (5) "Employee" means the individual employed in a new job.

5 (6) "Employer" means the individual, corporation, partnership, or association providing new jobs and
6 entering into a grant contract.

7 (7) "Full-time job" means a predominantly year-round position requiring an average of 35 hours of work
8 each week.

9 (8) (a) "New job" means a newly created full-time job in an eligible business.

10 (b) The term does not include:

11 (i) jobs for recalled employees returning to positions held previously, for replacement employees, or for
12 employees newly hired as a result of a labor dispute, part-time jobs or seasonal jobs, or other jobs that previously
13 existed within the employment of the employer in the state; or

14 (ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those
15 jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that
16 the jobs:

17 (A) are substantially different as a result of the acquisition; and

18 (B) will require new training for the employee to meet new job requirements.

19 (9) "Part-time job" means a predominantly year-round position requiring an average of 25 to 34 hours
20 of work each week.

21 (10) "Primary sector business" means an employer engaged in establishing or expanding operations
22 within Montana that through the employment of knowledge or labor add value to a product, process, or export
23 service that results in the creation of new wealth and:

24 (a) for which at least 50% of the sales of the employer occur outside of Montana;

25 (b) the employer is a manufacturing company with at least 50% of its sales to other Montana companies
26 that have 50% of their sales occurring outside of Montana; or

27 (c) the employer is a new business that provides, as determined by the department, a product or a
28 service that is not available in Montana or a substantially similar product or service that is not available in
29 Montana, which results in state residents leaving the state to purchase the product or service.

30 (11) "Primary sector business training program" or "program" means the grant provided to employers for

1 the purpose of working with eligible training providers to provide employees with education and training required
2 for jobs in new or expanding primary sector businesses in the state.

3 (12) (a) "Program costs" means all necessary and incidental costs of providing program services.

4 (b) The term does not include the cost of equipment to be owned or used by the eligible training provider.

5 (13) "Program services" means training and education specifically directed to the new jobs, including:

6 (a) all direct training costs, such as:

7 (i) program promotion;

8 (ii) instructor wages, per diem, and travel;

9 (iii) curriculum development and training materials;

10 (iv) lease of training equipment and training space;

11 (v) miscellaneous direct training costs;

12 (vi) administrative costs; and

13 (vii) assessment and testing;

14 (b) in-house or on-the-job training; and

15 (c) subcontracted services with eligible training providers."
16

17 **Section 48.** Section 53-2-1216, MCA, is amended to read:

18 **"53-2-1216. Definitions.** As used in 53-2-1215 through 53-2-1220, the following definitions apply:

19 (1) "BEAR program" means a business expansion and retention program implemented by local
20 communities that uses assessments, interviews, and surveys to assist employers and that has been recognized
21 as a BEAR program for the purposes of 53-2-1215 through 53-2-1220 by the governor's office of economic
22 development, ~~the department of commerce,~~ and the department.

23 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

24 (3) "Eligible training provider" means:

25 (a) a unit of the university system, as defined in 20-25-201;

26 (b) a community college district, as defined in 20-15-101;

27 (c) an accredited, tribally controlled community college located in the state of Montana;

28 (d) an apprenticeship program that is in compliance with Title 39, chapter 6; or

29 (e) an entity approved to provide workforce training that is approved by representatives of the BEAR
30 program, the small business development centers, or the Montana manufacturing extension center at Montana

1 state university-Bozeman.

2 (4) "Employee" or "worker" means an individual currently employed in a full-time job or a permanent
3 part-time job.

4 (5) "Employer" means a business entity that employs 20 or fewer employees in this state in one location
5 but not more than 50 employees statewide and that is registered with the secretary of state to conduct business
6 as a sole proprietor, if required, or as a corporation, a partnership, a limited liability company, or an association.

7 (6) "Full-time job" means a predominantly year-round position requiring an average of 35 hours or more
8 of work each week.

9 (7) "Incumbent worker" means an employee who has completed a probationary period as defined by the
10 employer's policy or as described in 39-2-904, whichever period is shorter.

11 (8) "Incumbent worker training program grant" or "grant" means the grant awarded to employers to hire
12 eligible training providers to provide incumbent workers with education and training required to improve
13 productivity, efficiency, or wages in existing jobs.

14 (9) "Permanent part-time job" means a predominantly year-round position requiring an average of 20
15 to 34 hours of work each week."
16

17 **Section 49.** Section 60-2-243, MCA, is amended to read:

18 **"60-2-243. Visitor information centers -- signs.** (1) Subject to the provisions of federal law, the
19 department of ~~commerce~~ labor and industry shall design and the department of transportation shall erect signs
20 identifying the Montana visitor information centers established and maintained by the department of ~~commerce~~
21 labor and industry and in existence on October 1, 1999.

22 (2) (a) Each visitor information center must have two signs identifying it to the traveling public.

23 (b) The first sign must be erected at the nearest practical location to the border of the state along the
24 highway leading to the visitor information center and must indicate the number of miles to the visitor information
25 center.

26 (c) The second sign must be erected along the highway at the exit leading to the visitor information
27 center or at the nearest practical location to the visitor information center where the sign may be easily seen and
28 read by the traveling public. This sign must contain directions to the center and the information that is provided
29 at the center."
30

1 **Section 50.** Section 60-11-120, MCA, is amended to read:

2 **"60-11-120. Railroad and intermodal transportation facility loans -- authorization -- eligibility. (1)**

3 Money appropriated by the legislature for the purposes provided for in this section and pursuant to 60-11-115
4 must be used by the department, after deducting the necessary costs and expenses for administering this section,
5 to provide loans for:

6 (a) the preservation and continued operation of railroad branch lines identified in 60-11-111; and

7 (b) the development, improvement, construction, purchase, maintenance, or rehabilitation of:

8 (i) intermodal transportation facilities except as prohibited by federal law;

9 (ii) branch lines or short lines;

10 (iii) sidings;

11 (iv) light density railroad lines; and

12 (v) rolling stock, including rail cars.

13 (2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan under this section
14 if the owner or operator:

15 (a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad
16 for local rail transportation service; and

17 (b) derives revenue from the continued operation of the railroad.

18 (3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan under this section if:

19 (a) the port authority is included in the state transportation planning process as described in 23 U.S.C.
20 135; and

21 (b) the purpose for which a loan is sought is integrally related to the railroad transportation system of the
22 state.

23 (4) Applications for a loan must include:

24 (a) a financial statement;

25 (b) evidence of matching funds required pursuant to subsection (5);

26 (c) an operating or business plan that demonstrates the applicant's ability to repay the funds; and

27 (d) upon request of the department, an independent feasibility study.

28 (5) Pursuant to requirements of former 49 U.S.C. 1654, which is providing a portion of the funds under
29 60-11-115, rehabilitation projects must be matched with 30% in other funds and new construction projects must
30 be matched with 50% in other funds. The transportation commission, provided for in 2-15-2502, shall establish

1 matching fund requirements for other project categories.

2 (6) The transportation commission is responsible for determining funding recipients. Recipients must be
3 determined using the guidelines provided in 60-2-110.

4 (7) The department shall administer the Montana Essential Freight Rail Act with input from the
5 department of ~~commerce~~ labor and industry, the department of agriculture, and the governor's office.

6 (8) Funding recipients shall pay the standard prevailing wage on any construction projects or
7 subcontracted construction projects conducted with funds received under this section."

8

9 **Section 51.** Section 90-1-101, MCA, is amended to read:

10 **"90-1-101. Declaration of necessity and public policy.** (1) It is ~~hereby~~ declared to be a necessity and
11 the public policy of the state to promote, stimulate, and encourage the planning and development of the economy
12 of the state in order to provide for the social and economic prosperity of its citizens. ~~Such promotion~~ Promotion
13 and development of industry, commerce, agriculture, labor, and natural resources of the state require that
14 cognizance be taken of the continuing migration of people to the urban areas in search of job opportunities and
15 the fact that Montana is making a needed transition to a diversified economy. Community planning, greater
16 diversification of industry and attraction of additional industry, accelerated development of natural resources,
17 expansion of existing industry, creation of new uses for agricultural products, greater emphasis on scientific
18 research, development of new markets for the products of the state, and the attainment of a proper balance in
19 the overall economic base are all necessary in order to create additional employment opportunities, increase
20 personal income, and promote the general welfare of the people of this state.

21 (2) The legislature recognizes that consistency and continuity in the adoption and application of
22 environmental rules are essential to the protection and enhancement of Montana's economic well-being, that
23 consistency and continuity are particularly important to those persons who have made a financial commitment
24 after completing an application for an environmental permit based on the existence of certain environmental rules,
25 and that those persons are entitled to a reasonable expectation that requirements in such a permit will not be
26 changed to their detriment. Therefore, when a person makes a financial commitment after having completed an
27 application for an environmental permit, it is the policy of the state not to change the requirements for ~~such~~ the
28 permit to the detriment of the applicant or permittee without having first taken into account and given
29 consideration to previous expenditures made by the applicant or permittee.

30 (3) The department of ~~commerce shall be~~ labor and industry is regarded as performing a governmental

1 function in carrying out the provisions of 90-1-102 through 90-1-109."

2

3 **Section 52.** Section 90-1-102, MCA, is amended to read:

4 **"90-1-102. Functions of department of ~~commerce~~ labor and industry -- state planning.** The
5 department of ~~commerce~~ labor and industry shall:

6 (1) make economic and social studies needed to accomplish the purposes of this part;

7 (2) coordinate and assist regional development groups in the comprehensive development of the
8 resources of the region to the betterment of Montana;

9 (3) assemble and correlate information for the purpose of making long-range plans for economic and
10 resource development of the state and its subdivisions relating to all of the factors that influence the development
11 of new and existing economic enterprises, including taxes and the regulation of industry;

12 (4) provide advice and assistance to Montana business and labor in the field of economic development
13 and bring to the attention of the governor those significant problems adversely affecting economic development
14 that may be relieved by state action;

15 (5) locate and maintain information on prime sites for industrial, agricultural, mineral, forestry,
16 commercial, and residential development and on sites of historical importance and make recommendations for
17 protecting and preserving those sites;

18 (6) apply for, accept, and administer grants from the federal government or other public or private
19 sources to accomplish the objectives of this part and enter into contracts, including agreements with adjoining
20 states, with respect to planning involving adjoining states;

21 (7) serve as the consultative, coordinating, and advisory agency for state departments, officials, and
22 agencies in state planning and for encouraging and aiding local planning bodies, either directly or by securing
23 planning assistance, consulting services, and technical aid, which may include land use, demographic, and
24 economic studies and surveys and comprehensive plans."

25

26 **Section 53.** Section 90-1-103, MCA, is amended to read:

27 **"90-1-103. Functions of department of ~~commerce~~ labor and industry -- community development.**

28 (1) The department of ~~commerce~~ labor and industry shall:

29 (a) cooperate with and provide technical assistance to county, municipal, state, and regional planning
30 commissions, zoning commissions, parks or recreation boards, community development groups, community

1 action agencies, and similar agencies created for the purposes of aiding and encouraging orderly, productive,
2 and coordinated development of the communities of the state;

3 (b) assist the governor in coordinating the activities of state agencies that have an impact on solution
4 of community development problems and implementation of community plans;

5 (c) serve as a clearinghouse for information, data, and other materials that may be helpful or necessary
6 to local governments to discharge their responsibilities and provide information on available federal and state
7 financial and technical assistance;

8 (d) carry out continuing studies and analyses of the problems faced by communities within the state and
9 develop those recommendations for administrative or legislative action as appear necessary. In carrying out the
10 studies and analyses and in providing technical assistance to communities, the department shall pay particular
11 attention to the planning and financing of public facilities and to the problems of metropolitan, suburban, and other
12 areas in which economic and population factors are rapidly changing.

13 (e) administer the federal community development block grant program and adopt rules to implement
14 the program.

15 (2) In partial fulfillment of its duties under subsection (1), by January 1, 2003, the department shall have
16 developed and published examples of subdivision regulations that provide incentives for and remove
17 disincentives to cluster development. The examples need not be limited to the local option cluster development
18 regulations authorized in 76-3-509 and may include any cluster development regulations that are authorized
19 under Title 76, chapter 3. In developing the examples of regulations, the department shall seek the advice of
20 interested parties. The department shall provide technical assistance to local governments that are developing
21 cluster development regulations, as provided in subsection (1)(a)."

22

23 **Section 54.** Section 90-1-104, MCA, is amended to read:

24 **"90-1-104. Functions of department of ~~commerce~~ labor and industry -- recreational development.**

25 The department of ~~commerce~~ labor and industry shall:

26 (1) exercise state responsibility for that part of recreational planning and development that is directly
27 related to private investment in recreational facilities;

28 (2) assemble and correlate information that may influence the development of recreational enterprises
29 and disseminate it to persons, firms, or corporations interested in constructing or maintaining recreational facilities
30 open to the public; and

1 (3) coordinate the promotion of Indian tourism activities in the state in cooperation with the seven tribal
2 governments and the state director of Indian affairs."

3

4 **Section 55.** Section 90-1-105, MCA, is amended to read:

5 **"90-1-105. Functions of department of ~~commerce~~ labor and industry -- economic development.**

6 The department of ~~commerce~~ labor and industry shall:

7 (1) provide coordinating services to aid state and local groups and Indian tribal governments in the
8 promotion of new economic enterprises and conduct publicity and promotional activities in connection with new
9 economic enterprises;

10 (2) collect and disseminate information regarding the advantages of developing agricultural, recreational,
11 commercial, and industrial enterprises within this state;

12 (3) serve as an official state liaison between persons interested in locating new economic enterprises
13 in Montana and state and local groups and Indian tribal governments seeking new enterprises;

14 (4) aid communities and Indian tribal governments interested in obtaining new business or expanding
15 existing business;

16 (5) (a) study and promote means of expanding markets for Montana products; and

17 (b) provide training and assistance for Montana small businesses and entrepreneurs to expand markets
18 for made-in-Montana products;

19 (6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and
20 attractions of the state;

21 (7) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the
22 promotion and enhancement of economic opportunities on the state's Indian reservations; and

23 (8) assist the state-tribal economic development commission established in 90-1-131 in:

24 (a) identifying federal government and private sector funding sources for economic development on
25 Indian reservations in Montana; and

26 (b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in
27 accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana."

28

29 **Section 56.** Section 90-1-107, MCA, is amended to read:

30 **"90-1-107. Contracts and agreements for projects and programs -- cooperation with other**

1 **agencies.** (1) The department of ~~commerce~~ labor and industry may contract for consulting services for the
 2 purpose of undertaking and conducting planning and study projects. It may make agreements with other state
 3 agencies in order to accomplish its own research programs. It may perform research, but when possible shall
 4 make full use of and strengthen the research resources of other state agencies, including the university system.
 5 Other state agencies shall provide the department with information ~~which~~ that will assist it in carrying out this part.

6 (2) The department shall assist and cooperate with other state agencies and officials, with official
 7 organizations of elected officials in the state, with local governments and officials, and with federal agencies and
 8 officials in carrying out the functions and duties of the department.

9 (3) It may consult with private groups and individuals, and if the department considers it desirable, hold
 10 public hearings to obtain information for the purposes of carrying out this part."
 11

12 **Section 57.** Section 90-1-109, MCA, is amended to read:

13 **"90-1-109. State census and economic information center.** The department of ~~commerce~~ labor and
 14 industry shall, in cooperation with other state, federal, and local agencies, establish and maintain a central
 15 depository of information, including computer-retrievable files, concerning the significant characteristics of the
 16 state, its people, economy, land, and physical characteristics. The department shall analyze and disseminate
 17 such information to state, federal, and local agencies and to the general public."
 18

19 **Section 58.** Section 90-1-115, MCA, is amended to read:

20 **"90-1-115. Department of ~~commerce~~ labor and industry Lewis and Clark bicentennial account --**
 21 **Montana historical society Lewis and Clark bicentennial account.** (1) (a) There is a department of ~~commerce~~
 22 labor and industry Lewis and Clark bicentennial account in the state special revenue fund. Three-fourths of the
 23 revenue from the sales of Lewis and Clark bicentennial license plates under 2-15-151 must be placed into the
 24 account and must be used as provided in 2-15-151. The revenue in the account is statutorily appropriated, as
 25 provided in 17-7-502, to the department of ~~commerce~~ labor and industry.

26 (b) There is a Montana historical society Lewis and Clark bicentennial account in the state special
 27 revenue fund. One-fourth of the revenue from the sales of Lewis and Clark bicentennial license plates under
 28 2-15-151 must be placed into the account and must be used as provided in 2-15-151. The revenue in the account
 29 is statutorily appropriated, as provided in 17-7-502, to the Montana historical society.

30 (2) The department of ~~commerce~~ labor and industry shall allocate the proceeds that are deposited in the

1 account established in subsection (1)(a) as grants, as follows:

2 (a) one-third to the Lewis and Clark interpretive center foundation;

3 (b) one-third to the Pompeys pillar historical association;

4 (c) one-third to the travelers' rest preservation and heritage association."

5

6 **Section 59.** Section 90-1-116, MCA, is amended to read:

7 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**

8 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the following

9 definitions apply:

10 (a) "Certified regional development corporation" means a private, nonprofit corporation that has been
11 designated by the department through a competitive process to manage and administer funds and programs for
12 the department on a regional basis.

13 (b) "Council" means the economic development advisory council established in 2-15-1820.

14 (c) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~2-15-1801~~
15 2-15-1701.

16 (d) "Treasure community" means a community that meets and maintains requirements for certification
17 established by the department and administered by the certified regional development corporation.

18 (2) The department shall create a program to provide state funds to match local economic development
19 funds and to fund up to 12 certified regional development corporations. The provision of state matching funds is
20 contingent upon specific appropriations to the department for that purpose.

21 (3) An assistance grant to a certified regional development corporation will be made based on rules
22 adopted by the department for the state matching funds program. The rules for distribution of funds must include
23 consideration of:

24 (a) the size of the geographic area represented by the certified regional development corporation;

25 (b) the number of communities served by the certified regional development corporation;

26 (c) the population served by the certified regional development corporation; and

27 (d) the services offered by the certified regional development corporation.

28 (4) To be eligible to receive a grant, a certified regional development corporation:

29 (a) must be designated as the certified regional development corporation by the department;

30 (b) shall maintain department requirements for certification;

- 1 (c) shall match each \$1 of the grant with \$1 raised from public or private sources;
- 2 (d) shall administer the treasure community designation and reporting process for the communities and
3 counties in the region;
- 4 (e) shall encourage and organize full participation in regional economic development activities, meetings,
5 projects, and planning by the treasure communities in the region; and
- 6 (f) shall deliver services and resources to the citizens, businesses, and treasure communities throughout
7 the region.

8 (5) Grants under this section must be used to conduct economic development programs consistent with
9 strategic plans that are adopted by the certified regional development corporations and the treasure communities
10 in the region and that are filed with the department."

11

12 **Section 60.** Section 90-1-117, MCA, is amended to read:

13 **"90-1-117. Small business state matching grant program -- purpose.** (1) There is a small business
14 state matching grant program established within the department of ~~commerce~~ labor and industry to provide
15 guidelines and state matching grants to businesses meeting the criteria in 90-1-118 that have received phase
16 I funding for federal small business innovative research grants or small business technology transfer grants and
17 that are applying for phase II federal small business innovative research grants or small business technology
18 transfer grants.

19 (2) The state matching grants available for the small business state matching grant program are from
20 any funds received for the program or appropriated to the program by the legislature.

21 (3) The purpose of the program is to foster job creation and economic development in the state by
22 providing state matching grants to eligible businesses meeting the criteria described in 90-1-118."

23

24 **Section 61.** Section 90-1-118, MCA, is amended to read:

25 **"90-1-118. Small business eligibility criteria.** To be eligible for a state matching grant under 90-1-117
26 through 90-1-119, a business shall provide evidence to the department of ~~commerce~~ labor and industry that the
27 business meets all of the following criteria:

28 (1) the business is a for-profit sole proprietorship, partnership, limited liability company, limited liability
29 partnership, or corporation registered with the secretary of state under Title 35 and has its principal place of
30 business in this state;

1 (2) the business has received a phase I award under a small business innovative research grant or small
2 business technology transfer grant from a participating federal agency in response to a specific federal
3 solicitation;

4 (3) the business meets all federal eligibility requirements for a small business innovative research grant
5 or a small business technology transfer grant;

6 (4) the business is not concurrently receiving funding from other state funding programs that duplicate
7 the purpose stated in 90-1-117;

8 (5) the business certifies that at least 51% of the research described in the business's proposal for phase
9 II funding under a small business innovative research grant or small business technology transfer grant is to be
10 conducted in this state and that the business will remain a Montana-based business for the duration of a phase
11 II project under a small business innovative research grant or small business technology transfer grant; and

12 (6) the business demonstrates an ability to conduct research for the business's phase II proposal under
13 the small business innovative research grant or small business technology transfer grant."
14

15 **Section 62.** Section 90-1-119, MCA, is amended to read:

16 **"90-1-119. Grant award guidelines.** (1) The department of ~~commerce~~ labor and industry may award
17 grants of no more than \$100,000 to a business meeting the criteria in 90-1-118.

18 (2) A business may receive a state matching grant for each separate project that is submitted under a
19 federal small business innovative research grant or small business technology transfer grant.

20 (3) (a) Upon application from a business that has met the criteria in 90-1-118, the department may award
21 up to 50% of the grant.

22 (b) To receive the remaining 50% of the state matching grant, the business shall submit to the
23 participating federal agency, with copies to the department of ~~commerce~~ labor and industry, a final phase I project
24 report, a letter of support from the sponsoring agency indicating that the sponsoring agency is interested in the
25 phase II proposal, and an application for phase II funding. The remaining 50% of the state matching grant is not
26 contingent upon approval of the phase II project by the participating federal agency.

27 (c) Upon receipt of the documents listed in subsection (3)(b) and verification by the business of a
28 submitted phase II application to the participating federal agency, the department of ~~commerce~~ labor and industry
29 shall remit to the business the remaining 50% of the grant to be provided under 90-1-117 through 90-1-119.

30 (4) A business applying for a state matching grant under 90-1-117 through 90-1-119 shall submit on a

1 form prescribed by the department of ~~commerce~~ labor and industry an application that contains:

2 (a) the name of the business, the form of business organization that is registered with the secretary of
3 state, and the names and addresses of the principals or management of the business;

4 (b) proof of receipt of a phase I award under a federal small business innovative research grant or a
5 federal small business technology transfer grant; and

6 (c) any other information required by the department of ~~commerce~~ labor and industry by rule."
7

8 **Section 63.** Section 90-1-131, MCA, is amended to read:

9 **"90-1-131. State-tribal economic development commission -- composition -- compensation for**
10 **members.** (1) There is a state-tribal economic development commission administratively attached to the
11 department of ~~commerce~~ labor and industry as prescribed in 2-15-121.

12 (2) The commission is composed of 11 members, each appointed by the governor to 3-year staggered
13 terms commencing on July 1 of each year of appointment, and must include:

14 (a) the state director of Indian affairs;

15 (b) one member from the department of ~~commerce~~ labor and industry;

16 (c) one member from the governor's office of economic development;

17 (d) one member from each of the seven federally recognized tribes in Montana and one member from
18 the Little Shell band of Chippewa Indians. A tribal government may advertise for individuals interested in serving
19 on the commission and develop a list of applicants from which it may choose its nominee to recommend to the
20 governor. In place of choosing from a list of applicants, a tribal government may select an elected tribal official
21 to recommend for membership on the commission. If a tribal government nominates or otherwise recommends
22 more than one person for membership on the commission, the governor shall select one individual from among
23 those recommended persons.

24 (3) The members of the commission shall elect a presiding officer from among the members.

25 (4) Six members of the commission constitute a quorum, and the affirmative vote of the majority of the
26 members present is sufficient for any action taken by the commission.

27 (5) Any vacancy on the commission must be filled in the same manner as the original appointment.

28 (6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501
29 through 2-18-503."
30

1 **Section 64.** Section 90-1-132, MCA, is amended to read:

2 **"90-1-132. Commission purposes -- duties and responsibilities.** (1) The general purposes of the
3 state-tribal economic development commission include:

4 (a) assisting, promoting, encouraging, developing, and advancing economic prosperity and employment
5 on Indian reservations in Montana by fostering the expansion of business, manufacturing, tourism, agriculture,
6 and community development programs;

7 (b) cooperating and acting in conjunction with other organizations, public and private, to benefit tribal
8 communities;

9 (c) recruiting business enterprises to locate on or invest in enterprises on the reservations; and

10 (d) identifying, obtaining, and coordinating federal, state, and private sector gifts, grants, loans, and
11 donations to further economic development on the Indian reservations in Montana.

12 (2) The state-tribal economic development commission shall:

13 (a) determine, with assistance from the tribal business center coordinator and the federal grants
14 coordinator in the office of the state director of Indian affairs, the availability of federal, state, and private sector
15 gifts, grants, loans, and donations to tribal governments, Indian business enterprises, and communities located
16 on Indian reservations in Montana;

17 (b) apply for grants listed in the Catalog of Federal Domestic Assistance for which the commission is
18 eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations
19 in Montana;

20 (c) in cooperation with a tribal government, and when allowed by federal law and regulation, assist the
21 tribe in applying for grants listed in the Catalog of Federal Domestic Assistance for which an appropriate tribal
22 entity is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian
23 reservations in Montana;

24 (d) evaluate the apportionment of current spending of federal funds by state agencies in areas including
25 but not limited to economic development, housing, community infrastructure, business finance, tourism promotion,
26 transportation, and agriculture;

27 (e) conduct or commission and oversee a comprehensive assessment of the economic development
28 needs and priorities of each Indian reservation in the state;

29 (f) notify tribal governments, the governor, the state director of Indian affairs, and the directors of the
30 departments of ~~commerce~~ labor and industry, agriculture, and transportation; of the availability of specific federal,

1 state, or private sector funding programs or opportunities that would directly benefit Indian communities in
2 Montana;

3 (g) assist tribal governments and other tribal entities that are eligible for federal assistance programs as
4 provided in the most recent published edition in the Catalog of Federal Domestic Assistance in applying for funds
5 that would contribute to the respective tribes' economic development;

6 (h) work cooperatively with tribal government officials, the state director of Indian affairs, and other
7 appropriate state officials to help foster state-tribal cooperative agreements pursuant to Title 18, chapter 11, part
8 1, that will:

9 (i) enhance economic development on the Indian reservations in Montana; and

10 (ii) help the department of ~~commerce~~ labor and industry to fully implement and comply with the provisions
11 of 90-1-105; and

12 (i) provide to the governor, the legislative council, the legislative auditor, and to each of the presiding
13 officers of the tribal governments in Montana a biennial report that summarizes the activities of the commission."
14

15 **Section 65.** Section 90-1-144, MCA, is amended to read:

16 **"90-1-144. Financial assistance center -- department responsibilities.** (1) There is a financial
17 assistance center within the department of ~~commerce~~ labor and industry.

18 (2) The center shall:

19 (a) compile and include a comprehensive list of all state financial assistance programs, including but not
20 limited to:

21 (i) eligible recipients;

22 (ii) conditions required for an award of a loan or grant;

23 (iii) limits on the amount of funds available;

24 (iv) application information; and

25 (v) lending or granting cycles;

26 (b) maintain and provide information related to nonstate loan and grant programs by cooperating and
27 coordinating with federal loan and grant programs, commercial lenders, and nonprofit economic development
28 lending organizations; and

29 (c) provide regular opportunities for financial institutions, loan and grant applicants, local economic
30 development organizations, business enterprises, and other federal, state, and local governmental entities to

- 1 review the center and provide advice and recommendations regarding the expansion or modification of the center.
- 2 (3) The department shall:
- 3 (a) develop an internet website specifically designed to assist loan and grant applicants in gathering
- 4 information. The website must, at a minimum, contain the following features:
- 5 (i) a prominently placed world wide web link representing the financial assistance programs that allows
- 6 for multiple methods for website navigation;
- 7 (ii) a comprehensive list of the types of loans and grants available from the state, outlined by agency,
- 8 subject, area, or speciality; and
- 9 (iii) an agency-specific loan and grant list with appropriate links to personnel responsible for administering
- 10 the program;
- 11 (b) cooperate with the office of the secretary of state to ensure that rules governing electronic
- 12 transactions, digital signatures, and digital notary can be applied to electronic loan and grant applications;
- 13 (c) provide direct and individual service to interested applicants to ensure that:
- 14 (i) adequate information regarding eligibility requirements for financial assistance is received and
- 15 understood;
- 16 (ii) contacts and appointments are made with the various state agencies administering financial
- 17 assistance programs;
- 18 (iii) technical and professional assistance is provided to facilitate the accurate and timely completion of
- 19 business feasibility plans and financial assistance applications; and
- 20 (iv) periodic updates are provided to applicants regarding the status of financial assistance applications
- 21 and new or emerging financial assistance opportunities;
- 22 (d) develop a marketing plan to provide information about the center to individuals, commercial financial
- 23 institutions, local economic development organizations, business enterprises, and local governments;
- 24 (e) coordinate with the department of revenue to provide:
- 25 (i) information related to applicable business licensing and registration requirements; and
- 26 (ii) relevant information related to tax credits and tax incentive programs for economic development
- 27 activities;
- 28 (f) collect and maintain a supply of loan and grant application forms and information for all state loans
- 29 and grants and actively assist interested applicants in answering application questions;
- 30 (g) collect and maintain a master list of state loan opportunities by type of loan, eligibility requirements,

1 lending cycles, and availability; and

2 (h) review rules, application forms and processes, and lending cycles of loan and grant programs
3 administered by other state agencies and make recommendations to those agencies related to the development
4 of uniform loan and grant requirements.

5 (4) The department may gather and disseminate information related to nonstate loan sources and
6 perform other administrative tasks delegated to the department to improve state lending processes and loan and
7 grant program administration."

8

9 **Section 66.** Section 90-1-145, MCA, is amended to read:

10 **"90-1-145. Cooperation between state agencies and department -- dissemination of information.**

11 (1) State agencies administering financial assistance programs shall cooperate with the department of ~~commerce~~
12 labor and industry in providing information for the center.

13 (2) The department shall include all of the information received from other agencies in the center."
14

15 **Section 67.** Section 90-1-146, MCA, is amended to read:

16 **"90-1-146. Information coordination.** (1) The department of labor and industry shall encourage and
17 invite the federal government, local governments, other political subdivisions, local economic development
18 corporations, and private financial institutions to make lending information available to the department ~~of~~
19 commerce.

20 (2) The department may, when practical, provide persons with information from other lenders when
21 requested."
22

23 **Section 68.** Section 90-1-147, MCA, is amended to read:

24 **"90-1-147. Rulemaking.** The department of ~~commerce~~ labor and industry may adopt rules to:

25 (1) provide for uniform loan and grant applications, when appropriate;

26 (2) coordinate the announcement and marketing of available financial assistance programs that are
27 administered by other state agencies;

28 (3) provide for the specific requirements necessary to develop useful and logical navigation pathways
29 and cross-references for a financial assistance program internet website and a standard form of internet links and
30 access, consistent with the financial assistance program website, for individual agency websites that administer

1 financial assistance programs; and

2 (4) develop processes and procedures necessary to effectively implement the provisions of 90-1-117
3 through 90-1-119 and 90-1-141 through 90-1-147."

4

5 **Section 69.** Section 90-1-151, MCA, is amended to read:

6 **"90-1-151. Main street program -- establishment -- purpose -- rulemaking.** (1) There is a main street
7 program in the department of ~~commerce~~ labor and industry developed in conjunction with the main street program
8 of the national trust for historic preservation.

9 (2) The purpose of the program is to:

10 (a) assist communities in restoring and retaining the historic character of their downtown areas and
11 historic commercial districts;

12 (b) stimulate business investment, assist in retaining existing small businesses, and promote new
13 businesses in those areas;

14 (c) strengthen the local tax base;

15 (d) create employment opportunities in community downtown areas and historic districts; and

16 (e) generally enhance the economic viability of downtown areas and historic districts.

17 (3) (a) The department of ~~commerce~~ labor and industry may adopt rules governing the operation of the
18 main street program.

19 (b) In developing the rules, the department shall consult with the national trust for historic preservation,
20 provided for in 16 U.S.C. 468, to ensure that Montana's main street program is consistent with the main street
21 program operated by the national trust for historic preservation."

22

23 **Section 70.** Section 90-1-175, MCA, is amended to read:

24 **"90-1-175. Rulemaking.** The department of ~~commerce~~ labor and industry may adopt rules to implement
25 the broadband mapping program funded in Chapter 489, Laws of 2009."

26

27 **Section 71.** Section 90-1-181, MCA, is amended to read:

28 **"90-1-181. Functions of department of ~~commerce~~ labor and industry -- socioeconomic advocacy.**

29 The department of ~~commerce~~ labor and industry may, if funds are available, advocate on behalf of local
30 governments, as defined in 7-11-1002, by reviewing, analyzing, and commenting on prospective impacts on local

1 socioeconomic conditions from federal land management proposals."

2

3 **Section 72.** Section 90-1-182, MCA, is amended to read:

4 **"90-1-182. State assistance to local governments in review of and comment on federal land**
5 **management proposals -- rulemaking.** (1) In carrying out the provisions of 90-1-181, the department of
6 ~~commerce~~ labor and industry may conduct on behalf of local governments a socioeconomic impact review and
7 analysis of significant federal land management proposals. The department of ~~commerce~~ may use the review
8 and analysis to comment in a timely manner on the federal proposals regarding projected impacts on local
9 government.

10 (2) The department of ~~commerce~~ labor and industry may:

11 (a) establish a minimal procedure for local governments to request from the department a review and
12 analysis of significant federal land management proposals that may have a direct socioeconomic impact on the
13 community for which the local government has requested the review. The request must include sufficient details
14 about the federal land management proposal for the department of ~~commerce~~ labor and industry to determine
15 a deadline by which the review must be conducted.

16 (b) contract with a unit of the Montana university system experienced in technical, doctorate-level
17 analysis of the socioeconomic impacts of federal land management proposals to provide an independent
18 economic analysis of the federal proposals;

19 (c) advocate on behalf of the local government before the agency issuing the federal land management
20 proposals, using the reports generated under this subsection (2); and

21 (d) report to an appropriate legislative interim committee regarding the number of requests, the types
22 of requests, and the number of responses handled annually. The department shall post the information under this
23 subsection (2)(d) on its website along with a summary of each requested analysis.

24 (3) The department of ~~commerce~~ labor and industry may adopt rules to implement this section."
25

26 **Section 73.** Section 90-1-201, MCA, is amended to read:

27 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky economic
28 development program that consists of:

29 (i) the big sky economic development fund established in 17-5-703; and

30 (ii) the economic development special revenue account provided for in 90-1-205.

1 (b) Interest and income from the big sky economic development fund may be used to administer the big
2 sky economic development program and to provide financial assistance for qualified economic development
3 purposes under this part.

4 (2) As used in this part, the following definitions apply:

5 (a) "Certified regional development corporation" has the meaning provided in 90-1-116.

6 (b) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~2-15-1804~~
7 2-15-1701.

8 (c) "Economic development organization" means:

9 (i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
10 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

11 (B) an entity certified by the department under 90-1-116; or

12 (C) an entity established by a local government; or

13 (ii) an entity actively engaged in economic development and business assistance work in a region of the
14 state.

15 (d) "High-poverty county" means a county in this state in which 14% or more of people of all ages are
16 in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

17 (e) "Local government" means a county, consolidated government, city, town, or district or local public
18 entity with the authority to spend or receive public funds.

19 (f) "Tribal government" means any one of the seven federally recognized tribal governments of Montana
20 and the Little Shell band of Chippewa Indians."

21

22 **Section 74.** Section 90-1-501, MCA, is amended to read:

23 **"90-1-501. Revolving loan program for distressed wood products industry -- finding.** (1) Due to
24 the current, well-documented decline in the wood products industry in Montana, the legislature finds that there
25 is a need to assist the Montana wood products industry as a whole through a revolving loan program.

26 (2) There is a special revenue account called the distressed wood products industry revolving loan
27 account to the credit of the department of ~~commerce~~ labor and industry.

28 (3) (a) The distressed wood products industry revolving loan account consists of money deposited into
29 the account from an appropriation in Chapter 489, Laws of 2009, and money from any other source. Any interest
30 earned by the account must be deposited into the account and used to sustain the program.

1 (b) Loan repayments and any interest generated from loan repayments may be used as revolving loans
 2 for the wood products industry or for primary sector businesses statewide and are not subject to the provisions
 3 of this section.

4 (4) In any biennium, up to 36% of the funds in the distressed wood products industry revolving loan
 5 account, not to exceed \$2.7 million, may be used as matching funds to secure additional federal money. Except
 6 as provided in subsection (3)(b), federal funds must be deposited in a federal special revenue account and used
 7 for loans in accordance with this part. State matching funds must be deposited in a special revenue account
 8 called the distressed wood products matching fund.

9 (5) (a) Funds from the distressed wood products industry revolving loan account may be loaned to:

- 10 (i) individuals, including private contractors related to the wood products industry; or
 11 (ii) businesses defined as small businesses pursuant to the regulations promulgated by the United States
 12 small business administration pursuant to 13 CFR 121, et seq.

13 (b) Loans made pursuant to this subsection (5) must be made to individuals or small businesses that
 14 are part of the critical, primary wood-processing infrastructure and have suffered economic hardships.

15 (6) Loans must be used to sustain and grow the wood products industry in Montana. Loans may be used
 16 for:

- 17 (a) the purchase or lease of land or equipment;
 18 (b) updating infrastructure, including retrofitting of infrastructure to facilitate new uses;
 19 (c) working capital;
 20 (d) debt service;
 21 (e) matching funds for grants or other loans that comply with the intent of this section; or
 22 (f) any other use the department determines would sustain and grow the wood products industry.

23 (7) (a) A loan may not exceed \$2 million, and the loan must be repaid within 15 years.

24 (b) A loan recipient may apply for another loan pursuant to this section 2 years or more after the date
 25 the previous loan was approved."

26

27 **Section 75.** Section 90-1-502, MCA, is amended to read:

28 **"90-1-502. Administration of revolving loan account -- rulemaking authority.** (1) The department
 29 of ~~commerce~~ labor and industry may adopt rules to implement this part establishing:

30 (a) eligibility criteria, including demonstrated need, criteria for defining capital investments, feasibility to

1 create and retain jobs, financial capacity to repay the loans, estimated return on investment, and other matters
2 that the department considers necessary to ensure repayment of loans and to encourage maximum use of the
3 account;

4 (b) terms and conditions for the loans, including repayment schedules and interest; and

5 (c) a loan application fee.

6 (2) Loans must be made at a low interest rate. The department may set the interest rate at an amount
7 that will cover its administrative costs, but the rate may not be less than 1% a year. The department may
8 determine terms and conditions of loans, including recovery of funds in the event of default."

9

10 **Section 76.** Section 90-1-503, MCA, is amended to read:

11 **"90-1-503. Outcome measures.** (1) The department of ~~commerce~~ labor and industry shall develop
12 reasonable outcome measures by which the success of the distressed wood products industry revolving loan
13 program provided for in this part must be measured on an annual basis. Minimal outcome that must be measured
14 includes:

15 (a) the uses of loan funds that provided the best overall results; and

16 (b) a determination of the overall success of the loan program, including but not limited to the number
17 of jobs created or retained, pay levels, financial status, reports on project activities, the growth of a local economy,
18 and the taxable value of property or equipment.

19 (2) The department may require information from entities receiving loans in order to measure outcome.

20 (3) In accordance with 5-11-210, the department shall provide a status report of the distressed wood
21 products industry loan account to the economic affairs interim committee provided for in 5-5-223."

22

23 **Section 77.** Section 90-5-113, MCA, is amended to read:

24 **"90-5-113. Advice and information by department of ~~commerce~~ labor and industry.** The department
25 of ~~commerce~~ labor and industry shall furnish advice and information in connection with a project when requested
26 to do so by a county or municipality."

27

28 **Section 78.** Section 90-5-305, MCA, is amended to read:

29 **"90-5-305. Department to offer employee ownership development assistance and counseling.**

30 Upon request by an employee group or organization, the department of ~~commerce~~ labor and industry shall

1 provide technical assistance and counseling on the establishment and management of employee-owned
2 enterprises."

3

4 **Section 79.** Section 90-6-103, MCA, is amended to read:

5 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
6 definitions apply:

7 (1) "Board" means the board of housing ~~created~~ provided for in 2-15-1814.

8 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
9 indebtedness issued by the board pursuant to this part, including those on which interest payments are taxable
10 and those on which interest payments are tax exempt.

11 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

12 (4) "Department" means the department of ~~commerce~~ labor and industry provided for in ~~Title 2, chapter~~
13 ~~15, part 18~~ 2-15-1701.

14 (5) "Federally insured mortgage" means a mortgage loan for land development or residential housing
15 insured or guaranteed by the United States or a governmental agency or instrumentality of the United States or
16 a commitment by the United States or a governmental agency or instrumentalities of the United States to insure
17 a mortgage.

18 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
19 repayment of principal and interest by the United States or an instrumentality of the United States.

20 (7) "Governmental agency" means any department, division, public corporation, public agency, political
21 subdivision, or other public instrumentality of the state, the federal government, any other state or public agency,
22 or any two or more of the entities listed in this subsection.

23 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
24 projects, nursing home projects, personal-care projects, and any work or undertaking financed in whole or in part
25 under this part for the primary purpose of acquiring, constructing, or rehabilitating accommodations for persons
26 or families of lower income in need of housing. An undertaking may include any buildings, land, equipment,
27 facilities, or other real or personal properties that are necessary, convenient, or desirable in connection with a
28 development, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other
29 nonhousing facilities that the board determines to be necessary, convenient, or desirable.

30 (9) "Housing development costs" means the sum total of all costs incurred in a housing development

1 approved by the board as reasonable and necessary, including but not limited to:

2 (a) cost of land acquisition and any buildings on the land, including payments for options, deposits, or
3 contracts to purchase properties on the proposed housing development site or payments for the purchase of
4 properties;

5 (b) cost of site preparation, demolition, and clearing;

6 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
7 connection with the planning, execution, and financing of the housing development and the finding of an eligible
8 mortgagee or mortgagees for the housing development;

9 (d) cost of necessary studies, surveys, plans, and permits;

10 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
11 during construction;

12 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
13 apparatus, and similar facilities related to the real property;

14 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the costs
15 have been paid in cash or in a form other than cash;

16 (h) necessary expenses in connection with initial occupancy of the housing development;

17 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable,
18 a limited-profit housing sponsor;

19 (j) an allowance established by the board for working capital and contingency reserves and reserves for
20 any anticipated operating deficits during construction and initial occupancy;

21 (k) cost of other items, including tenant relocation, that the board determines to be reasonable and
22 necessary for the housing development, less any net rents and other net revenue received from the operation
23 of the real and personal property on the development site during the construction.

24 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts, firms,
25 associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit corporations, or
26 other legal entities or any combination of the entities listed in this subsection that are:

27 (a) approved by the board;

28 (b) qualified to either own, construct, acquire, rehabilitate, operate, manage, or maintain a housing
29 development;

30 (c) subject to the rules of the board and other terms and conditions set forth in this part.

1 (11) "Lending institution" means any public or private entity or governmental agency approved by the
2 board maintaining an office in this state and authorized by law to make or participate in making residential
3 mortgages in the state.

4 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other entity,
5 or an individual restricted as to distribution of income and regulated as to rents, charges, rate of return, and
6 methods of operation as the board determines necessary to carry out this part.

7 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument that constitutes a valid lien
8 on real property in fee simple or on a leasehold under a lease having a remaining term at the time that the
9 mortgage is acquired that does not expire for at least that number of years beyond the maturity date of the
10 obligation secured by the mortgage established by the board as necessary to protect its interest as mortgagee.

11 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
12 improvements in the state.

13 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15, or a
14 nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and regulated as
15 to rents, charges, rate of return, and methods of operation as the board determines necessary, and whose articles
16 of incorporation provide in addition that:

17 (a) the organization has been organized exclusively to provide housing developments for persons and
18 families of lower income;

19 (b) all the income and earnings of the organization must be used exclusively for housing development
20 purposes and part of the net income or net earnings of the organization may not inure to the benefit or profit of
21 any private individual, firm, corporation, partnership, or association;

22 (c) the organization is in no manner controlled or under the direction or acting in the substantial interest
23 of any private individual, firm, partnership, or association seeking to derive profit or gain from the organization
24 or seeking to eliminate or minimize losses in any transactions with the organization, except that the limitations
25 apply to members of a cooperative only to the extent provided by rules of the board;

26 (d) the operations of the organization may be supervised by the board and the organization will enter
27 into agreements with the board to regulate planning, development, and management of any housing development
28 undertaken by the organization and the disposition of the property or other interests of the organization.

29 (16) "Persons and families of lower income" means persons and families with insufficient personal or
30 family income or other financial resources who require assistance under this part, as determined by the board,

1 taking into consideration:

2 (a) the amount of the total personal and family income, assets, and other financial resources available
3 for housing needs;

4 (b) the size of the family;

5 (c) the eligibility of persons and families under federal housing assistance of any type based on lower
6 income or a functional or physical disability;

7 (d) the ability of persons and families to compete successfully in the normal housing market and to pay
8 the amount at which private enterprise is providing decent, safe, and sanitary housing;

9 (e) the availability and cost of housing in particular areas; and

10 (f) needs of particular persons or families because of age or physical disabilities.

11 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to provide
12 decent, safe, and sanitary housing or to conform housing with state or local health, building, fire prevention, and
13 safety codes as determined by the board."
14

15 **Section 80.** Section 90-6-112, MCA, is amended to read:

16 **"90-6-112. Provision of bond resolutions.** A resolution authorizing any notes or bonds; or any issue
17 ~~thereof, of notes or bonds~~ may contain provisions, ~~which shall be that are~~ a part of the contract or contracts with
18 the holders ~~thereof, of the notes or bonds~~ as to:

19 (1) pledging all or any part of the ~~revenues~~ revenue or property of the board to secure the payment of
20 the notes or bonds or of any issue ~~thereof~~ of the notes or bonds, subject to existing agreements with noteholders
21 or bondholders;

22 (2) pledging all or any part of the assets of the board, including mortgages and obligations securing them,
23 to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds, subject to existing
24 agreements with noteholders or bondholders;

25 (3) the use and disposition of the gross income from mortgages owned by the board and payment of
26 principal of mortgages owned by the board;

27 (4) the setting aside of reserves of sinking funds in the hands of trustees, paying agents, and other
28 depositories and ~~the their~~ regulation and disposition ~~thereof~~;

29 (5) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and the
30 pledge of the proceeds to secure the payment of the notes or bonds or of any issue ~~thereof~~ of the notes or bonds;

1 (6) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or
2 bonds may be issued and secured, and the refunding of outstanding notes or bonds;

3 (7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be
4 amended or abrogated, the amount of notes or bonds the holders of which must consent ~~thereto to~~, and the
5 manner in which ~~such~~ that consent may be given;

6 (8) a commitment to employ adequate and competent personnel at ~~such~~ reasonable compensation,
7 salaries, fees, and charges as may be determined by the board in conjunction with the department of ~~commerce~~
8 and to maintain suitable facilities and services for the purpose of carrying out its programs;

9 (9) vesting in a trustee property, rights, powers, and duties in trust as the board determines;

10 (10) defining the acts or omissions to act which ~~shall~~ constitute a default in the obligations and duties of
11 the board to the holders of the notes or bonds and providing for the rights and remedies of the holders of the
12 notes or bonds in the event of ~~such~~ default, including as a matter of right the appointment of a receiver. Rights
13 and remedies ~~shall~~ may not be inconsistent with the laws of the state and the other provisions of this part; ~~and,~~

14 (11) any other matters of ~~like~~ similar or different character ~~which~~ that in any way affect the security or
15 protection of the holders of the notes or bonds."
16

17 **Section 81.** Section 90-6-204, MCA, is amended to read:

18 **"90-6-204. Presiding officer, meetings, compensation, and facilities.** (1) The board shall elect a
19 presiding officer from among its members.

20 (2) The board shall meet quarterly and may meet at other times as called by the presiding officer or a
21 majority of the members.

22 (3) Members are entitled to compensation as provided for in 2-15-124(7).

23 (4) The department of ~~commerce~~ labor and industry shall provide suitable office facilities and the
24 necessary staff for the coal board."
25

26 **Section 82.** Section 90-6-207, MCA, is amended to read:

27 **"90-6-207. Priorities for impact grants.** (1) The department of ~~commerce~~ labor and industry shall
28 biennially designate:

29 (a) each county, incorporated city and town, school district, and other governmental unit that has had
30 or expects to have as a result of the impact of coal development a net increase or decrease in estimated

- 1 population of at least 10% over one of the 3-year periods specified in subsection (4);
- 2 (b) each county and all local governmental units within each county in which:
- 3 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has
- 4 been granted by the department of environmental quality for a project within the county that will establish a new
- 5 coal mine to produce at least 300,000 tons a year and that the department of ~~commerce~~ labor and industry
- 6 determines will commence production within 2 years;
- 7 (ii) the department of ~~commerce~~ labor and industry has determined that the production of an existing mine
- 8 will increase or decrease by at least 1 million tons a year and that the new, expanded, or reduced production will
- 9 commence within 2 years of the designation;
- 10 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or
- 11 (iv) an air quality permit has been issued by the department of environmental quality for a new
- 12 steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of
- 13 Montana-mined coal and for which the department of ~~commerce~~ labor and industry determines the construction
- 14 or operation will commence within 2 years of the designation;
- 15 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather public
- 16 road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and
- 17 (d) each local governmental unit in which:
- 18 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or is
- 19 scheduled to cease within 1 year; or
- 20 (ii) a steam-generating or other coal-burning facility that has operated under an air quality permit issued
- 21 by the department of environmental quality and that has consumed at least 1 million tons of Montana-mined coal
- 22 a year has closed or is scheduled to close within 1 year.
- 23 (2) Designation under subsection (1) of:
- 24 (a) any local governmental unit extends to and includes as a designated unit the county in which it is
- 25 located; and
- 26 (b) a county extends to and includes as a designated unit any local governmental unit in the county that
- 27 contains at least 10% of the total population of the county.
- 28 (3) Except as provided in 90-6-205(4)(b), the board may not award more than 50% of the funds
- 29 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused
- 30 by an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex

1 to local governmental units other than those governmental units designated under subsection (1).

2 (4) For the purposes of subsection (1), the department of ~~commerce~~ labor and industry shall use five
3 3-year periods as follows:

4 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

5 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

6 (c) one consecutive 3-year period ending with the current calendar year;

7 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

8 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

9 (5) Attention should be given by the board to the need for community planning before the full impact is
10 realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly
11 management of the existing or contemplated growth or decline problems.

12 (6) All funds appropriated under this part are for use related to local impact.

13 (7) All designations based on an increase in coal development or in the consumption of coal by a
14 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may
15 not continue after the department of ~~commerce~~ labor and industry determines that the mine, railroad, or facility
16 that provided the basis for a designation is contributing sufficient tax revenue to the designated governmental unit
17 to meet the increased costs of providing the services necessitated by the development of the mine, railroad, or
18 facility. However, nondesignated local governmental units continue to be eligible for coal impact grants of not
19 more than 50% of the funds appropriated to the board for grants in circumstances in which an impact exists in
20 a community or area directly affected by:

21 (a) the operation of a coal mine or a coal-using energy complex; or

22 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

23

24 **Section 83.** Section 90-6-303, MCA, is amended to read:

25 **"90-6-303. Presiding officer -- meetings -- facilities -- funding.** (1) The board shall elect a presiding
26 officer from among its members.

27 (2) The board shall meet as necessary or as called by the presiding officer or a majority of the members.

28 (3) The board is allocated to the department of ~~commerce~~ labor and industry for administrative purposes
29 only as provided in 2-15-121.

30 (4) The administrative and operating expenses of the board must be paid from revenue deposited to the

1 credit of the hard-rock mining impact trust account from the license tax on metal mines imposed under Title 15,
2 chapter 37."

3

4 **Section 84.** Section 90-6-604, MCA, is amended to read:

5 **"90-6-604. Additional terms of program.** (1) The maximum amount of a loan made by the board
6 pursuant to this part is 95% of the value of the statewide allowable purchase price determined by the board
7 pursuant to 90-6-605.

8 (2) The board shall require as a condition for a loan that an eligible veteran participate in a first-time
9 home buyer education program approved by the board.

10 (3) A loan made by the board must be secured by a government guaranty pursuant to rules adopted by
11 the board unless the board determines pursuant to 90-6-605(2) to allow the use of conventional mortgage
12 insurance requirements and coverage.

13 (4) An eligible veteran shall participate in a loan by contributing a minimum amount of \$2,500 unless the
14 board determines otherwise pursuant to 90-6-605(2).

15 (5) There is no limit on the maximum amount of income that may be earned by an eligible veteran for
16 the purposes of a loan pursuant to this part.

17 (6) In order to allow small financial institutions to participate equitably in the program along with large
18 financial institutions, the board shall adopt rules pursuant to 90-6-605 to specify the maximum amount of
19 mortgage loans that may be made by any one participating financial institution.

20 (7) The legislative auditor must be allowed access to all documentation used for the purpose of the
21 program.

22 (8) A report describing at least the operation and use of the program must be made by the board to the
23 legislature as provided in 5-11-210. The report may be combined with other reports by the board or the
24 department of ~~commerce~~ labor and industry to the legislature."

25

26 **Section 85.** Section 90-6-701, MCA, is amended to read:

27 **"90-6-701. Treasure state endowment program created -- definitions.** (1) (a) There is a treasure
28 state endowment program that consists of:

29 (i) the treasure state endowment fund established in 17-5-703;

30 (ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

1 (b) The treasure state endowment program may borrow from the board of investments to provide
2 additional financial assistance for local government infrastructure projects under this part, provided that no part
3 of the loan may be made from retirement funds.

4 (2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under
5 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this
6 part, to provide funding to the department of ~~commerce~~ labor and industry for the administrative costs of the
7 treasure state endowment program, and to repay loans from the board of investments.

8 (3) As used in this part, the following definitions apply:

9 (a) "Infrastructure projects" means:

10 (i) drinking water systems;

11 (ii) wastewater treatment;

12 (iii) sanitary sewer or storm sewer systems;

13 (iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

14 or

15 (v) bridges.

16 (b) "Local government" means an incorporated city or town, a county, a consolidated local government,
17 a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in
18 75-6-304.

19 (c) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund
20 established in 17-5-703(1)(b).

21 (d) "Treasure state endowment program" means the local government infrastructure investment program
22 established in subsection (1).

23 (e) "Tribal government" means a federally recognized Indian tribe within the state of Montana."
24

25 **Section 86.** Section 90-6-703, MCA, is amended to read:

26 **"90-6-703. Types of financial assistance available.** (1) The legislature shall provide for and make
27 available to local governments the following types of financial assistance under this part:

28 (a) matching grants for local infrastructure projects;

29 (b) matching grants for infrastructure planning; and

30 (c) emergency grants for local infrastructure projects.

1 (2) The department of ~~commerce~~ labor and industry may provide local governments with emergency
2 grants for infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative
3 approval could be obtained, will endanger the public health or safety and expose the applicant to substantial
4 financial risk. The department shall report to the governor and the legislative finance committee regarding
5 emergency grants that are awarded during each biennium.

6 (3) The department of ~~commerce~~ labor and industry may provide local governments with matching grants
7 for infrastructure planning. The department shall report to the governor and the legislature regarding infrastructure
8 planning grants that are awarded during each biennium."

9

10 **Section 87.** Section 90-6-710, MCA, is amended to read:

11 **"90-6-710. Priorities for projects -- procedure -- rulemaking.** (1) The department of ~~commerce~~ labor
12 and industry must receive proposals for infrastructure projects from local governments on a continual basis. The
13 department shall work with a local government in preparing cost estimates for a project. In reviewing project
14 proposals, the department may consult with other state agencies with expertise pertinent to the proposal. For the
15 projects under 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended
16 projects and the recommended form and amount of financial assistance for each project to the governor,
17 prioritized pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended
18 bridge projects, and the other list must contain the remaining ranked and recommended infrastructure projects
19 referred to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the
20 department may recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state
21 endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making
22 recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent
23 and serious public health or safety problems. The governor shall review the projects recommended by the
24 department and shall submit the lists of recommended projects and the recommended financial assistance to the
25 legislature.

26 (2) In preparing recommendations under subsection (1), preference must be given to infrastructure
27 projects based on the following order of priority:

28 (a) projects that solve urgent and serious public health or safety problems or that enable local
29 governments to meet state or federal health or safety standards;

30 (b) projects that reflect greater need for financial assistance than other projects;

1 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,
2 long-term solutions to community public facility needs;

3 (d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and
4 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

5 (e) projects that enable local governments to obtain funds from sources other than the funds provided
6 under this part;

7 (f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities
8 necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax
9 base or that encourage expansion of the tax base; and

10 (g) projects that are high local priorities and have strong community support.

11 (3) After the review required by subsection (1), the projects must be approved by the legislature.

12 (4) The department shall adopt rules necessary to implement the treasure state endowment program.

13 (5) The department shall report to each regular session of the legislature the status of all projects that
14 have not been completed in order for the legislature to review each project's status and determine whether the
15 authorized grant should be withdrawn."

16

17 **Section 88.** Section 90-6-803, MCA, is amended to read:

18 **"90-6-803. Definitions.** As used in this part, the following definitions apply:

19 (1) "Account" means the school facility and technology account provided for in 20-9-516.

20 (2) "Department" means the department of ~~commerce~~ labor and industry established in ~~2-15-1804~~
21 2-15-1701.

22 (3) "Emergency" means the imminent threat or actual occurrence of an event causing immediate peril
23 to life, property, or the environment that can be averted or minimized with timely action.

24 (4) "Program" means the quality schools facility grant program established in 90-6-809.

25 (5) "Public school district" means a district as defined in 20-6-101 or a K-12 school district as defined
26 in 20-6-701.

27 (6) "School" has the meaning provided for in 20-6-501.

28 (7) "School facility project" means a project to support a basic system of free quality public elementary
29 and secondary schools under 20-9-309 that involves:

30 (a) construction of a school facility;

- 1 (b) major repairs or deferred maintenance to an existing school facility;
2 (c) major improvements or enhancements to an existing school facility; or
3 (d) information technology infrastructure, including installations, upgrades, or improvements to an
4 existing school facility or facilities."
5

6 **Section 89.** Section 90-7-203, MCA, is amended to read:

7 **"90-7-203. Staff of authority.** The authority may employ or contract for any professional staff or
8 consultants necessary. ~~Such~~ The employment and contracting must be done in consultation with the department
9 of ~~commerce~~ labor and industry."
10

11 **Section 90.** Section 90-9-201, MCA, is amended to read:

12 **"90-9-201. Council organization -- meetings.** (1) The members of the council shall select a member
13 as presiding officer. The council may establish other offices and select council members to fill these offices.

14 (2) The council shall meet quarterly and at other times as determined by the presiding officer or a
15 majority of the council.

16 (3) Each committee member, except the director of the department and the director of the department
17 of ~~commerce~~ labor and industry, is entitled to:

18 (a) \$50 compensation for each day that the member is engaged in the transaction of official business,
19 including travel to and from official business; and

20 (b) necessary travel expenses as provided for in 2-18-501 through 2-18-503."
21

22 NEW SECTION. **Section 91. Transition.** The provisions of 2-15-131 through 2-15-137 apply to [this
23 act].
24

25 NEW SECTION. **Section 92. Repealer.** The following section of the Montana Code Annotated is
26 repealed:

27 2-15-1801. Department of commerce -- head.
28

29 NEW SECTION. **Section 93. Instructions to code commissioner.** (1) The code commissioner is
30 instructed to renumber sections currently in Title 2, chapter 15, part 18, into Title 2, chapter 15, part 17.

1 (2) The code commissioner is instructed to change internal references within and to the renumbered
2 sections, including sections enacted or amended by the 2013 legislature, to reflect the new section numbers
3 assigned pursuant to this section.

4 (3) Any enactment, including an enactment of the 2013 legislature, that requires that a section be
5 codified in a part of Title 2, chapter 15, part 18, and that is recodified pursuant to this section is codified as an
6 integral part of the recodified part, and the provisions of the recodified part apply to the recodified section.

7
8 NEW SECTION. Section 94. Saving clause. [This act] does not affect rights and duties that matured,
9 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

10

11 NEW SECTION. Section 95. Effective date. [This act] is effective July 1, 2013.

12

- END -