

1 HOUSE BILL NO. 16

2 INTRODUCED BY L. BREWSTER

3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INFRASTRUCTURE LOAN PROGRAM AND
6 INFRASTRUCTURE USE FEE TAX CREDIT; REMOVING ELIGIBILITY FOR INCREASING WAGES OR
7 INCOMES OF EXISTING EMPLOYEES AND EMPLOYERS; PROHIBITING THE INFRASTRUCTURE USE
8 FEE FROM BEING CLAIMED AS A TAX CREDIT AND A DEDUCTION; AMENDING SECTIONS 17-6-309, 17-
9 6-311, AND 17-6-316, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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13 **Section 1.** Section 17-6-309, MCA, is amended to read:

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

17 (a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for
18 Montana residents or in otherwise contributing to the long-term benefit of the Montana economy, including
19 raising the per capita income of Montana jobholders;

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

21 (c) provide jobs that will be substantially filled by current Montana residents as opposed to
22 providing jobs that will be filled by nonresidents coming into the state to fill the jobs;

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

24 (e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of
25 Montana's agricultural products; or

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

27 (2) The board may make a loan to enhance economic development and create jobs in the basic
28 sector of the economy, as defined by the board by rule, if the loan will result in the creation of a business

1 estimated to employ at least 15 people in Montana on a permanent, full-time basis or result in the expansion of
2 a business estimated to employ at least an additional 15 people in Montana on a permanent, full-time basis or
3 ~~raise salaries, wages, and business incomes of existing employees and employers.~~

4 (3) The board may make a working capital loan to an owner of a coal-fired generating unit if the
5 loan will prevent the elimination of jobs and provide stability in a community impacted by the operation of a
6 coal-fired generating unit."

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8 **Section 2.** Section 17-6-311, MCA, is amended to read:

9 **"17-6-311. Limitation on size of investments.** (1) Except as provided in subsection (2) and this
10 subsection, an investment may not be made that will result in any one business enterprise or person receiving a
11 benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of
12 which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business
13 enterprise or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the
14 debt incurred for the project or enterprise for the coal tax investment that was made to the business enterprise
15 or person must be held by a commercial lender. This subsection does not:

16 (a) apply to a loan made pursuant to 17-6-317; or
17 (b) limit the board's authority to make loans to the capital reserve account as provided in 17-6-
18 308(2).

19 (2) The total amount of loans made pursuant to 17-6-309(2) may not exceed \$80 million, the total
20 amount of loans made pursuant to 17-6-317 may not exceed \$70 million, and a single loan may not be less
21 than \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that
22 is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall
23 consider:

24 (a) the estimated number of jobs to be created by the project within a 4-year period from the time
25 that the loan is made and the impact of the jobs on the state and the community where the project will be
26 located;

27 (b) the long-term effect of corporate and personal income taxes estimated to be paid by the
28 business and its employees;

(c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes; and

~~(d) the amount of increased salaries, wages, and business incomes of existing jobholders and businesses; and~~

~~(e)~~(d) other matters that the board considers necessary.

(3) The total amount of loans made annually pursuant to 17-6-309(3) may not exceed \$50 million.

In determining the size of a loan, the board shall consider:

(a) the direct and indirect tax implications to the state if a coal-fired generating unit is retired prematurely;

(b) the current and projected ability of an owner to operate and maintain a coal-fired generating unit; and

(c) other matters that the board considers necessary."

Section 3. Section 17-6-316, MCA, is amended to read:

"17-6-316. Economic development loan -- infrastructure tax credit. (1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure, ~~as provided for in~~ authorized under 7-15-4288(4), ~~such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads,~~ that allows the location or creation of a business in Montana. The loan must be made to a local government or an Indian tribal government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government or Indian tribal government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

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

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2)

1 and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for
2 the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may
3 not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax
4 years.

5 (4) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
6 included the infrastructure use fee as a deduction in computing the tax imposed under Title 15, chapter 30 or
7 31."

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9 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a
10 copy of [this act] to each federally recognized tribal government in Montana.

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12 **NEW SECTION. Section 5. Applicability.** [This act] applies to infrastructure loans made on or after
13 [the effective date of this act] and tax credits claimed after December 31, 2025.

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