

HOUSE BILL NO. 146

INTRODUCED BY WANZENRIED, BARDANOUE, PECK, DOWELL

IN THE HOUSE

JANUARY 10, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

JANUARY 11, 1991 FIRST READING.

MARCH 6, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 7, 1991 PRINTING REPORT.

MARCH 9, 1991 SECOND READING, DO PASS.

MARCH 11, 1991 ENGROSSING REPORT.

MARCH 12, 1991 THIRD READING, PASSED.
AYES, 96; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FINANCE & CLAIMS.

FIRST READING.

MARCH 19, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 20, 1991 SECOND READING, CONCURRED IN.

MARCH 21, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 146
 2 INTRODUCED BY Walter D. Dowell Burden Peck
 3 Dowell

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD
 5 OF INVESTMENTS TO PAY ADMINISTRATIVE COSTS FROM
 6 NONEXPENDABLE TRUST FUNDS; AMENDING SECTION 17-6-201, MCA;
 7 AND PROVIDING AN EFFECTIVE DATE."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 17-6-201, MCA, is amended to read:

11 **"17-6-201. Unified investment program -- general**
 12 **provisions.** (1) The unified investment program directed by
 13 Article VIII, section 13, of the 1972 Montana constitution
 14 to be provided for public funds shall be administered by the
 15 board of investments in accordance with the prudent expert
 16 principle, which requires any investment manager to:

17 (a) discharge his duties with the care, skill,
 18 prudence, and diligence, under the circumstances then
 19 prevailing, that a prudent person acting in a like capacity
 20 with the same resources and familiar with like matters
 21 exercises in the conduct of an enterprise of a like
 22 character with like aims;

23 (b) diversify the holdings of each fund within the
 24 unified investment program to minimize the risk of loss and
 25 to maximize the rate of return, unless under the

1 circumstances it is clearly prudent not to do so; and

2 (c) discharge his duties solely in the interest of and
 3 for the benefit of the funds forming the unified investment
 4 program.

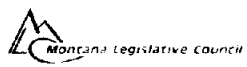
5 (2) Retirement funds may be invested in common stocks
 6 of any corporation provided that no investment may be made
 7 at any time which would cause the book value of such
 8 investments in any retirement fund to exceed 50% of the book
 9 value of such fund or would cause the stock of one
 10 corporation to exceed 2% of the book value of such
 11 retirement fund.

12 (3) (a) Nothing contained in this section prevents the
 13 investment in any business activity in Montana, including
 14 activities that continue existing jobs or create new jobs in
 15 Montana.

16 (b) The board is urged under the prudent expert
 17 principle to invest up to 3% of retirement funds in venture
 18 capital companies. Whenever possible, preference should be
 19 given to investments in those venture capital companies
 20 which demonstrate an interest in making investments in
 21 Montana.

22 (c) In discharging its duties, the board shall consider
 23 the preservation of purchasing power of capital during
 24 periods of high monetary inflation.

25 (4) The board has the sole authority to invest state



-2- INTRODUCED BILL
 HB 146

1 funds. No other agency may invest such state funds. The
 2 board shall direct the investment of state funds in
 3 accordance with the laws and constitution of this state. The
 4 board has the power to veto any investments made under its
 5 general supervision.

6 (5) The board shall:

7 (a) assist agencies with public money to determine if,
 8 when, and how much surplus cash is available for investment;

9 (b) determine the amount of surplus treasury cash to be
 10 invested;

11 (c) determine the type of investment to be made;

12 (d) prepare the claim to pay for the investment; and

13 (e) keep an account of the total of each investment
 14 fund and of all the investments belonging to such fund and a
 15 record of the participation of each treasury fund account
 16 therein.

17 (6) The board may:

18 (a) execute deeds of conveyance transferring all real
 19 property obtained through foreclosure of any investments
 20 purchased under the provisions of 17-6-211 when full payment
 21 has been received therefor;

22 (b) direct the withdrawal of any funds deposited by or
 23 for the state treasurer pursuant to 17-6-101 and 17-6-105;

24 (c) direct the sale of any securities in the program at
 25 their full and true value when found necessary to raise

1 money for payments due from the treasury funds for which the
 2 securities have been purchased.

3 (7) The cost of administering and accounting for each
 4 investment fund shall be deducted from the income therefrom;
 5 ~~except that such costs of the nonexpendable trust funds~~
 6 ~~shall be paid from income otherwise receivable from the~~
 7 ~~pooled investment fund, and the amounts required for this~~
 8 ~~purpose shall be appropriated by the legislature from the~~
 9 ~~respective investment funds.~~

10 (8) (a) The director of the department of
 11 administration annually may prepare a statewide cost
 12 allocation plan to distribute program costs incurred by
 13 state agencies that are funded through the general fund to
 14 the programs served by the agencies. Except as provided in
 15 subsection (8)(b), the cost to an agency of providing
 16 services to a program funded through an account in the state
 17 special revenue fund as defined in 17-2-102 must be deducted
 18 by the board from the account's investment earnings
 19 according to the statewide cost allocation plan. Amounts
 20 deducted by the board must be credited to the general fund.

21 (b) No deduction for program costs as provided in
 22 subsection (8)(a) may be made if an account's cash on hand
 23 is pooled for investment in the treasury cash account
 24 defined in 17-6-202."

25 NEW SECTION. **Section 2.** Effective date. [This act] is

LC 0485/01

1 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0146, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act amending 17-6-201, MCA, to allow the Board of Investments to pay administrative costs from the trust and legacy account. The net effect of this act is to increase the earnings of the trust and legacy fund.

ASSUMPTIONS:


1. Currently the board cannot deposit trust and legacy funds into the Short Term Investment Pool (STIP) because STIP charges an administrative fee. By authorizing the board to charge the trust and legacy fund the normal administrative fee, the way is cleared to deposit trust and legacy funds in STIP which generates a greater rate of return. Current statutory language means that the retirement and other funds are paying the administrative cost of the trust and legacy fund.
2. The average daily invested cash balance in the trust and legacy fund is \$12 million.
3. The STIP yield averages 60 basis points more than the rate of return available in the REPO market which is where the trust and legacy fund is currently deposited.
4. The administrative cost assessment charged by the board is six to seven basis points.
5. The net gain for the trust and legacy fund would have been approximately \$64,000 in FY90 and that is assumed for FY92 and FY93. (The average balance in December 1990 was \$15,900,000 and the interest rate differential between STIP and REPO was 46 basis points. The administrative charge was six basis points.)

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue:</u>						
Trust and Legacy Fund (09)	0	64,800	64,800	0	64,800	64,800

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

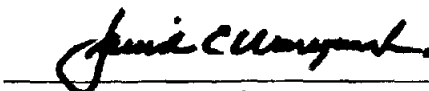
A net gain of approximately \$64,000 per year in the trust and legacy fund.



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

1-16-91

DATE



DAVID E. WANZENRIED, PRIMARY SPONSOR
Fiscal Note for HB0146, as introduced

1-17-91

DATE

HB 146

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 146

INTRODUCED BY WANZENRIED, BARDANOUVE, PECK, DOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF INVESTMENTS TO PAY ADMINISTRATIVE COSTS FROM NONEXPENDABLE TRUST FUNDS; AMENDING SECTION 17-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments in accordance with the prudent expert principle, which requires any investment manager to:

(a) discharge his duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return, unless under the

circumstances it is clearly prudent not to do so; and

(c) discharge his duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) Retirement funds may be invested in common stocks of any corporation provided that no investment may be made at any time which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund.

(3) (a) Nothing contained in this section prevents the investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies which demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(4) The board has the sole authority to invest state

SECOND READING

1 funds. No other agency may invest such state funds. The
 2 board shall direct the investment of state funds in
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21 (b) No deduction for program costs as provided in
 22 subsection (8)(a) may be made if an account's cash on hand
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 24 defined in 17-6-202."

25 NEW SECTION. Section 2. Effective date. [This act] is

HB 0146/02

1 effective ~~July-17-1991~~ ON PASSAGE AND APPROVAL.

-End-

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THIRD READING

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