

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Call to Order:** By CHAIRMAN STEVE BENEDICT, on January 15, 1993,  
at 9:00 A.M.

**ROLL CALL**

**Members Present:**

Rep. Steve Benedict, Chair (R)  
Rep. Sonny Hanson, Vice Chair (R)  
Rep. Bob Bachini (D)  
Rep. Joe Barnett (R)  
Rep. Ray Brandewie (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Fritz Daily (D)  
Rep. Tim Dowell (D)  
Rep. Alvin Ellis (R)  
Rep. Stella Jean Hansen (D)  
Rep. Jack Herron (R)  
Rep. Dick Knox (R)  
Rep. Don Larson (D)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carley Tuss (R)  
Rep. Doug Wagner (R)

**Members Excused:** ALL PRESENT

**Members Absent:** NONE

**Staff Present:** Paul Verdon, Legislative Council  
Claudia Johnson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: HB 130  
Executive Action: EXECUTIVE ACTION ON HB 130 TO BE HELD ON  
TUESDAY, JANUARY 19, 1993

**HEARING ON HB 130**

**Opening Statement by Sponsor:**

REP. WILLIAM WISEMAN, House District 33, Great Falls, said HB 130  
will revise investment provisions that relate to the Board of

Investments. He said HB 130 is a revision of a present bill already in existence, but this bill contains 4 major changes. On page 2, line 15 is the definition of "private corporate capital stock". This is a constitutional term in the Constitution which the authors wanted written into law that retirement funds may be invested in private corporate capital stock. Today this would be considered as a venture type of funding. HB 130 defines "private corporate capital stock" as common stock of a privately held corporation, e.g. a farm/ranch family operation that is incorporated can legally buy stock in the corporate farm/ranch if the Board of Investments so warranted it. He didn't think at this time the board would allow this, but the bill will clarify and allow these private corporations to invest in private corporate stock. On page 3, line 5 it states that the board may not make a direct loan to an individual borrower. The Board of Investments is a \$5 billion dollar fund, the biggest banking operation in the state, but they want to make it clear that they are not in the business to direct loans to private individual businesses, and are not in competition with savings and loans (S & L), banks and other financial institutions, etc. They will purchase loans, but only from other banks, S & L, etc. He pointed out on page 3, lines 9 - 11 that this language was placed in the bill to explicitly authorize the Montana Science and Technology fund to become involved in venture capital type of investing in Montana. Any other state agency allowed by law to invest funds may do so. This bill needs to be passed so these agencies can do their own investing in capital stock instead of having to go through the Board of Investments. On page 4, line 12, the Board of Investments has been buying mortgages on homes and real estate due to financial reasons of a purchaser who has had to give up their property, and the board inherited it. The board continues to operate the property through lease/rental, etc., but has no provisions where they can spend funds to manage the upkeep up the property.

#### Proponents' Testimony:

**Carroll South, Executive Director of Board of Investments** stated that the constitutional term "private corporate capital stock" has never been defined in the 20 years that it has been in the Constitution. He said it appears on page 2, line 7 that when the law was drafted they implemented that part of the Constitution. He said it was an understanding that the private corporate stock term meant common stock. He said they are "assuming" that is what the definition means. In current law, the Board of Investments is precluded from making direct loans to individuals out of the permanent coal trust. This is one of many funds/trusts that the board invests. This legislation will clarify that the Board of investments cannot make direct loans with individuals from any funds, including: retirement, RIT school trust and legacy account, etc.. HB 130 repeals the current section of state law that limits the board's ability to make direct loans from the coal trust fund. He said this is no longer necessary because it is all encompassing. At the request

of the legislative council, new language has been inserted on page 3, line 11 because of current conflict with state law. One section of state law reserves all rights to invest money to the Board of Investments, but the Legislature set aside \$12.6 million in the permanent coal trust to be invested by the Board of Science and Technologies. HB 130 will give the Board of Investments the ability to pay sellers and servicers from whom they have purchased mortgages, and will permit the board to pay them and record it in the state accounting system as a direct expenditure. This is done now, but the board approves it by writing a warrant which is a state check to the seller/servicer in payment of those services provided. But rather than showing it as an expense in the state accounting system, it is shown as a reduction of income. HB 130 will set up a statutory appropriation to pay the bills which will show as a clear expenditure in the state budget accounting system (SBAS). **Mr. South** closed stating there is no fiscal impact with this bill.

**John Cadby, Montana Banker's Association**, said the association is always interested in what the State Board of Investments is doing. He said the board manages about \$4 billion. The portfolio has grown until it is equivalent to about half the size of all the S & L's, banks, credit unions, etc., in the state of Montana, when added together total around \$8 million in deposits. **Mr. Cadby** said the board serves as an secondary market for commercial banks in Montana who frequently sell loans to the board. He said they are in support of HB 130 particularly when it does not provide for direct lending authority. The Board of Investments will continue to have authority to participate with any financial institution in the United States.

#### Opponents' Testimony:

None

#### Questions From Committee Members and Responses:

**Rep. Ellis** asked **Carroll South** when a primary lender discounted a mortgage or note to another obligator, they carried most of the risk and the reason they can get the money cheaper. How does the board end up with real estate? **Mr. South** said the board's policy is to purchase up to 100% on a residential mortgage. In some instances, the state has the entire mortgage and financial institution as the seller/servicer of that loan, it gives a certain amount of money based on the size of the loan. On commercial property the board will purchase up to 80% of the mortgage, so the state as well as the financial institution has a stake in that piece of property. He said if the state owns 100% of the mortgage they are totally responsible for the facility if it is repossessed.

**Robert M. Pancich, Asst Investment Officer Development Finance, Board of Investments**, said as a secondary market, anyone buying a home assumes the credit risk in that loan.

Rep. Sonny Hanson asked Carroll South about the board having \$25 million invested with a partnership called KKR, an operation that puts a package together and sells a piece of the action, isn't this a common stock type of situation? Mr. South asked Jim Penner to answer. Jim Penner, Chief Investment Officer, Board of Investments, said that KKR is a leverage buyout firm. He said the board actually has a \$50 million commitment with them. \$25 million was committed about 6 years ago and an additional \$25 million to a supplemental fund 1 year ago. He said they do not have an option. When KKR puts a package together the Board of Investments is a part of it pro rata with the rest of the investors. He said the \$25 million invested by the board was a small part compared to the \$4 or \$5 billion that KKR raised. This is private stock and for the most part is not listed. To get a return on the money, is to bring a new company public and then there will be common stock shares, private and public.

Chairman Benedict asked what the difference is between purchasing a loan and guaranteeing a loan to an individual. John Cadby said the board can get into a triangle when a borrower goes to the board to receive administrative rules and then goes to a banker who in turn calls the board and says that individual said the board would give them the loan. There is no truth to that, the board will work with the individual and banker in a conference to talk through the kinds of terms, conditions and limitations that the board has. Chairman Benedict asked if it meant there were never any guarantees from the Board of Investments prior to participation. Mr. Cadby said the board had final authority in a public meeting to hear the loan, proponents and opponents for that loan application.

Rep. Brandewie asked about the language on page 2, lines 14 - 16, "(b) Other public funds may not be invested in private corporate capital stock". He didn't feel it was very clear and asked what was meant by it. Paul Verdon asked about the sponsor's statement that "private corporate capital stock" means the stock of a privately-held company and said this should be clarified.

Rep. Ellis asked how much does the bank usually receive for servicing the loan. John Cadby said it is a negotiable issue between the buyer and the bank. If the board makes an interest rate available on a particular loan of 8½ percent, that is the yield the board would expect, but the buyer could be paid anything above that depending what was negotiated between them. If the loan is less than \$500,000, it would be about 1 percent above the 8½ percent for service fee.

Closing by Sponsor:

Rep. Wiseman closed by urging the committee to accept HB 130 and felt the language could be taken care of.

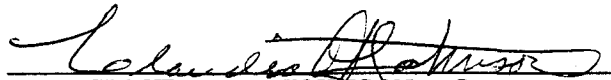
ADJOURNMENT

Adjournment: 9:45 a.m.



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STEVE BENEDICT, Chair



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CLAUDIA A JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES  
53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

1-15-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

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VISITOR'S REGISTER**

**COMMITTEE**

BILL NO.

BILL WISEMAN

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