

1 H BILL NO. 392
 2 INTRODUCED BY TOWER State Barrett

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COAL
 5 TAX TRUST FUND WITHIN THE UNIFIED INVESTMENT PROGRAM;
 6 DIRECTING THE INVESTMENT OF THE FUND IN MONTANA FINANCIAL
 7 INSTITUTIONS; AMENDING SECTIONS 79-309 AND 79-310, R.C.M.
 8 1947."

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

11 Section 1. Section 79-309, R.C.M. 1947, is amended to
 12 read as follows:

13 "79-309. Investment funds. For each treasury fund
 14 account into which state funds are segregated by the
 15 department of administration pursuant to section 79-413,
 16 individual transactions and totals of all investments shall
 17 be separately recorded to the extent directed by the
 18 department. However, the securities purchased and cash on
 19 hand for all treasury fund accounts not otherwise
 20 specifically designated by law or by the provisions of a
 21 gift, donation, grant, legacy, bequest or devise from which
 22 the fund account originates to be invested shall be pooled
 23 in an account to be designated "Treasury Cash Account" and
 24 placed in one of the investment funds designated below. The
 25 share of the income for this account shall be credited to

1 the general fund. If within the list hereinafter of separate
 2 investment funds, more than one investment fund is included
 3 which may be held jointly with others under the same
 4 separate listing, all investments purchased for that
 5 separate investment fund shall be held jointly for all the
 6 accounts participating therein, which shall share all
 7 capital gains and losses and income pro rata. Separate
 8 investment funds shall be maintained as follows:

9 (1) the trust and legacy fund, including all public
 10 school funds and funds of the Montana university system and
 11 other state institutions of learning referred to in sections
 12 2 and 10, article X, of the 1972 Montana constitution, and
 13 all money referred to in section 79-410 (8);

14 (2) a separate investment fund, which may not be held
 15 jointly with other funds, for money pertaining to each
 16 retirement or insurance system now or hereafter maintained
 17 by the state, including those now maintained under the
 18 following statutes:

19 (a) the highway patrolmen's retirement system
 20 described in title 31, chapter 2;

21 (b) the public employees' retirement system described
 22 in title 68;

23 (c) the game wardens' retirement system described in
 24 title 68, chapter 14;

25 (d) the teachers' retirement system described in title

1 75, chapter 62; and

2 (e) the industrial accident insurance program
3 described in title 92, chapter 11;

4 (3) a pooled investment fund, including all other
5 accounts within the treasury fund structure established by
6 section 79-410;

7 (4) a fund consisting of gifts, donations, grants,
8 legacies, bequests, devises and other contributions made or
9 given for a specific purpose or under conditions expressed
10 in the gift, donation, grant, legacy, bequest, devise or
11 contribution on the part of the state of Montana to be
12 observed. If such gift, donation, grant, legacy, bequest,
13 devise, or contribution permits investment, and is not
14 otherwise restricted by its terms, it may be treated jointly
15 with other such gifts, donations, grants, legacies,
16 bequests, devises, or contributions; and

17 ~~(5) a fund consisting of the coal severance tax~~
18 ~~collections allocated thereto under section 5, Article IX,~~
19 ~~of the Montana constitution; and~~

20 (5)(6) such additional investment funds as may be
21 expressly required by law, or may be determined by the board
22 of investments to be necessary to fulfill fiduciary
23 responsibilities of the state with respect to funds from a
24 particular source."

25 Section 2. Section 79-310, R.C.M. 1947, is amended to

1 read as follows:

2 "79-310. Permissible investments. (1) The following
3 securities are permissible investments for all investment
4 funds referred to in 79-309, except as indicated:

5 (a) any securities authorized to be pledged to secure
6 deposits of public funds under 79-307 of this act;

7 (b) bonds, notes, debentures, equipment obligations,
8 or any other kind of absolute obligation of any corporation
9 organized and operating in any state of the United States,
10 or in Canada if the obligations purchased are payable in
11 United States dollars; provided that all investments under
12 subsection (b) must be rated by one (1) nationally
13 recognized rating agency among the top third of their
14 quality categories, not applicable to defaulted bonds;

15 (c) commercial paper of prime quality, as defined by
16 one (1) nationally recognized rating agency, issued by any
17 corporation organized and operating in any state of the
18 United States, provided that:

19 (i) such securities mature in two hundred seventy
20 (270) days or less; and

21 (ii) the issuing corporation, or the parent company of
22 a finance subsidiary issuing commercial paper, at the time
23 of the last financial reporting period, had a ratio of
24 current assets to current liabilities, including among
25 current liabilities long-term debt maturing within one (1)

1 year, of at least one and one-half (1 1/2) to one (1); and
 2 had received net income averaging one million dollars
 3 (\$1,000,000) or more annually for the preceding five (5)
 4 years; and

5 (iii) no investment may be made at any time under
 6 subsection (c) which would cause the book value of such
 7 investments in any investment fund to exceed ten percent
 8 (10%) of the book value of such fund, or would cause the
 9 commercial paper of any one corporation to exceed two
 10 percent (2%) of the book value of such fund;

11 (d) bankers' acceptances guaranteed by any bank having
 12 its principal office in any state of the United States and
 13 having deposits in excess of five hundred million dollars
 14 (\$500,000,000);

15 (e) interest-bearing deposits in banks, building and
 16 loan associations, and savings and loan associations located
 17 in the state of Montana, provided, however, that the board
 18 of investments shall require pledged securities as specified
 19 in section 79-301 except for investments of the coal
 20 severance tax trust fund; interest on said deposits shall
 21 not be less than the prevailing rate of interest being paid
 22 on deposits of private funds;

23 (f) unencumbered real property and first mortgages on
 24 unencumbered real property, provided that:

25 (i) no such mortgage shall be purchased unless:

1 (A) the principal amount of the loan secured by the
 2 mortgage is seventy-five percent (75%) or less of the
 3 appraised value of the property; or

4 (B) thirty percent (30%) or more of the loan secured
 5 is guaranteed or insured in the event of default by the
 6 United States of America or an agency thereof; or

7 (C) the mortgagor has leased the mortgaged property to
 8 a person, firm, or corporation whose rental payments under
 9 the lease are guaranteed for the full term of the loan by an
 10 agency of the United States; and

11 (ii) no investment shall be made at any time under
 12 subsection (f) which would cause the book value of such
 13 investments in any investment fund to exceed fifty percent
 14 (50%) of the book value of such fund.

15 (2) Investments from the pooled investment fund, shall
 16 be restricted to fixed income securities described in
 17 subsections (a) to (e) above.

18 (3) Retirement funds, only, may be invested in
 19 preferred and common stocks of any corporation organized and
 20 operating in any state of the United States, provided that:

21 (a) the corporation has assets of a value not less
 22 than ten million dollars (\$10,000,000); and

23 (b) if the investment is preferred stock, the
 24 corporation's aggregate earnings available for payment of
 25 interest and preferred dividends, for a period of five (5)

1 consecutive years immediately before the date of investment,
 2 have been at least one and one-half (1 1/2) times the
 3 aggregate of interest and preferred dividends required to be
 4 paid during this period; and

5 (c) if the investment is common stock,

6 (i) the stock has paid cash dividends in each of at
 7 least five (5) years immediately before it is purchased; and

8 (ii) the aggregate earnings of the corporation during
 9 this period which were available for payment of dividends on
 10 common stock were at least equal to the aggregate of the
 11 cash dividends paid thereon; and

12 (iii) not more than two percent (2%) of the assets of
 13 any retirement fund may be invested in common stocks or in
 14 fixed income securities convertible into common stock not
 15 conforming to the dividend and earnings standards stated in
 16 paragraphs (i) and (ii) above, so long as the corporation
 17 maintains the asset value required in subsection (a) and
 18 evidences appropriate growth potential and probable earnings
 19 gain; and

20 (d) no investment may be made at any time under
 21 subsection (3) which would cause the book value of such
 22 investments in any retirement fund to exceed twenty percent
 23 (20%) of the book value of such fund, or would cause the
 24 stock or one corporation to exceed one percent (1%) of the
 25 book value of such retirement fund.

1 ~~(4) Coal severance tax collections only, allocated to~~
 2 ~~the fund established under 79-309(5), may be invested only~~
 3 ~~in the securities described in subsection (1)(e) of this~~
 4 ~~section. The board of investments shall solicit quarterly~~
 5 ~~competitive bids from Montana financial institutions; those~~
 6 ~~institutions with total resources individually exceeding \$60~~
 7 ~~million may bid on half the funds available for investment~~
 8 ~~and those institutions with total resources individually~~
 9 ~~under \$60 million may bid on the other half. The board shall~~
 10 ~~reserve the right to reject any or all bids and to accept~~
 11 ~~those bids they consider to be in the best interests of~~
 12 ~~Montana. If the board rejects all bids, it may then invest~~
 13 ~~the funds for which no sufficient bids have been received,~~
 14 ~~as permitted under subsections (1)(a) through (1)(d). For~~
 15 ~~this fund only, such investments shall be considered as one~~
 16 ~~which men of prudence, discretion, and intelligence,~~
 17 ~~exercise in the management of their own affairs, not for~~
 18 ~~speculation but for investment.~~

19 ~~(4)(5) The state board of investments shall endeavor~~
 20 ~~to direct the state's investment business to those~~
 21 ~~investment firms, and/or banks, which maintain offices in~~
 22 ~~the state and thereby make contributions to the state~~
 23 ~~economy. Further, due consideration shall be given to~~
 24 ~~investments which will benefit the smaller communities in~~
 25 ~~the state of Montana. The state's investment business will~~

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- 1 be directed to out-of-state firms only when there is a
- 2 distinct economic advantage to the state of Montana."

-End-

Approved by Committee
on State Administration

HOUSE BILL NO. 392

INTRODUCED BY TOWER, STOBIE, BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COAL TAX TRUST FUND WITHIN THE UNIFIED INVESTMENT PROGRAM; DIRECTING THE INVESTMENT OF THE FUND IN MONTANA FINANCIAL INSTITUTIONS; AMENDING SECTIONS 79-309 AND 79-310, R.C.M. 1947."

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the general fund. If within the list hereinafter of separate investment funds, more than one investment fund is included which may be held jointly with others under the same separate listing, all investments purchased for that separate investment fund shall be held jointly for all the accounts participating therein, which shall share all capital gains and losses and income pro rata. Separate investment funds shall be maintained as follows:

(1) the trust and legacy fund, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in sections 2 and 10, article X, of the 1972 Montana constitution, and all money referred to in section 79-410 (8);

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(a) the highway patrolmen's retirement system described in title 31, chapter 2;

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8 legacies, bequests, devises and other contributions made or
9 given for a specific purpose or under conditions expressed
10 in the gift, donation, grant, legacy, bequest, devise or
11 contribution on the part of the state of Montana to be
12 observed. If such gift, donation, grant, legacy, bequest,
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14 otherwise restricted by its terms, it may be treated jointly
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 3 in the securities described in subsection (1)(e) of this
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 5 competitive bids from Montana financial institutions; those
 6 institutions with total resources individually exceeding \$60
 7 million may bid on half the funds available for investment
 8 and those institutions with total resources individually
 9 under \$60 million may bid on the other half. THE BIDS SHALL
 10 BE IN WRITING AND BE ACCOMPANIED BY A CURRENT FINANCIAL
 11 STATEMENT. EACH QUARTER THE FINANCIAL INSTITUTION WILL BE
 12 ALLOWED TO BID ON AN AMOUNT NOT TO EXCEED 3% OF ITS TOTAL
 13 DEPOSITS WITH THE TOTAL DEPOSITS FROM THIS FUND NOT TO
 14 EXCEED 25% AT A BANK, SAVINGS AND LOAN, OR BUILDING AND LOAN
 15 TOTAL DEPOSITS. ANY MONEYS NOT USED IN ONE CATEGORY WILL BE
 16 OFFERED TO THE MEMBERS OF THE OTHER CATEGORY. MONEYS NOT
 17 USED IN EITHER WILL BE INVESTED BY THE BOARD IN THE NORMAL
 18 MANNER AND OFFERED AT THE NEXT MEETING. The board shall
 19 reserve the right to reject any or all bids and to accept
 20 those bids they consider to be in the best interests of
 21 Montana. If the board rejects all bids, it may then invest
 22 the funds for which no sufficient bids have been received,
 23 as permitted under subsections (1)(a) through (1)(d). For
 24 this fund only, such investments shall be considered as one
 25 which are of prudent GOOD FAITH, discretion, and

1 ~~intelligence, exercise in the management of their own~~
2 ~~affairs, not for speculation but for investment.~~

3 ~~(4)(5)~~ The state board of investments shall endeavor
4 to direct the state's investment business to those
5 investment firms, and/or banks, which maintain offices in
6 the state and thereby make contributions to the state
7 economy. Further, due consideration shall be given to
8 investments which will benefit the smaller communities in
9 the state of Montana. The state's investment business will
10 be directed to out-of-state firms only when there is a
11 distinct economic advantage to the state of Montana."

-End-