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House BILL NO. *754*
Atty

INTRODUCED BY _____

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 SECURITIES WHICH PROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310, R.C.M. 1947."

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

Section 1. Section 79-301, R.C.M. 1947, is amended to read as follows:

"79-301. Deposit of funds in the hands of the state treasurer. (1) Under the direction of the board of investments, the state treasurer shall deposit public moneys in his possession and under his control in solvent banks, building and loan associations, and savings and loan associations located in the state, except as otherwise provided by law, subject to national supervision or state examination. The board of investments may require the payment of quarter annual interest on daily balances of collected funds at a rate to be agreed upon between the depository banks, building and loan associations, and savings and loan associations and the board of investments,

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which rate shall be fixed semiannually during the months of July and January of each year.

(2) No such deposits in excess of the amount insured by the federal deposit insurance corporation or federal savings and loan insurance corporation shall be made unless the bank building and loan association and savings and loan association first delivers to the state treasurer or deposits in trust with some solvent bank as hereinafter provided as security therefor, bonds or other obligations of the kinds listed in section 4 of this act, having a market value at least equal to the amount of such deposits in excess of the amount so insured. ~~However, security for deposits of coal tax trust funds may be less than the amount deposited, as provided in subsection (5).~~ The board of investments may require security of a greater value. When negotiable securities are placed in trust, the trustees' receipt may be accepted instead of the actual securities if the receipt is in favor of the state treasurer, his successors in office, and the state of Montana, and the form of receipt and the trustee have been approved by the board of investments.

(3) When moneys have been deposited, under the board of investments and in accordance with the law, the treasurer is not liable for loss on account of any such deposit occurring from any cause other than his own neglect or fraud.

1 The state treasurer shall deposit funds in such banks,
 2 building and loan associations and savings and loan
 3 associations, and in such amounts as may be designated by
 4 the board of investments, and withdraw such deposits when
 5 instructed to by the board of investments. The state
 6 treasurer shall withdraw all deposits, or any part thereof,
 7 from time to time, to pay and discharge the legal
 8 obligations of the state, duly presented to him in accordance
 9 with the law.

10 (4) Any bank, building and loan association and
 11 savings and loan association pledging securities as provided
 12 in this section may at any time substitute securities for
 13 any part of the securities pledged. The collateral so
 14 substituted shall conform to section 4 of this act and have
 15 a market value at least sufficient for compliance with
 16 subsection (2) above. If the securities so substituted are
 17 held in trust, the trustee shall, on the same day the
 18 substitution is made, forward by registered or certified
 19 mail to the state treasurer and to the depository bank, a
 20 receipt specifically describing and identifying both the
 21 securities substituted and those released and returned to
 22 the depository bank.

23 (5) For investments of coal tax trust fund moneys
 24 under 79-310(4), the board of investments shall require each
 25 institution to deposit securities enumerated in 79-307 equal

1 to not less than 10% of the coal tax moneys deposited in
 2 that institution. In the event of default or loss in excess
 3 of the deposited securities, the board shall assess that
 4 excess against all other depository institutions in which
 5 coal tax moneys have been invested to the extent of their
 6 shares of such total investment. The liability of a
 7 nondefaulting institution in such cases is limited to the
 8 amount of collateral securities it has deposited."

9 Section 2. Section 79-309, R.C.M. 1947, is amended to
 10 read as follows:

11 "79-309. Investment funds. For each treasury fund
 12 account into which state funds are segregated by the
 13 department of administration pursuant to section 79-413,
 14 individual transactions and totals of all investments shall
 15 be separately recorded to the extent directed by the
 16 department. However, the securities purchased and cash on
 17 hand for all treasury fund accounts not otherwise
 18 specifically designated by law or by the provisions of a
 19 gift, donation, grant, legacy, bequest or devise from which
 20 the fund account originates to be invested shall be pooled
 21 in an account to be designated "Treasury Cash Account" and
 22 placed in one of the investment funds designated below. The
 23 share of the income for this account shall be credited to
 24 the general fund. If within the list hereinafter of separate
 25 investment funds, more than one investment fund is included

1 which may be held jointly with others under the same
 2 separate listing, all investments purchased for that
 3 separate investment fund shall be held jointly for all the
 4 accounts participating therein, which shall share all
 5 capital gains and losses and income pro rata. Separate
 6 investment funds shall be maintained as follows:

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

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

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

19 (b) the public employees' retirement system described
 20 in title 68;

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

23 (d) the teachers' retirement system described in title
 24 75, chapter 62; and

25 (e) the industrial accident insurance program

1 described in title 92, chapter 11;

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

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

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

18 ~~(5)(6)~~ such additional investment funds as may be
 19 expressly required by law, or may be determined by the board
 20 of investments to be necessary to fulfill fiduciary
 21 responsibilities of the state with respect to funds from a
 22 particular source."

23 Section 3. Section 79-310, R.C.M. 1947, is amended to
 24 read as follows:

25 "79-310. Permissible investments. (1) The following

1 securities are permissible investments for all investment
2 funds referred to in 79-309, except as indicated:

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

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

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

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

19 (ii) the issuing corporation, or the parent company of
20 a finance subsidiary issuing commercial paper, at the time
21 of the last financial reporting period, had a ratio of
22 current assets to current liabilities, including among
23 current liabilities long-term debt maturing within one (1)
24 year, of at least one and one-half (1 1/2) to one (1); and
25 had received net income averaging one million dollars

1 (\$1,000,000) or more annually for the preceding five (5)
2 years; and

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

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

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

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 of one corporation to exceed one percent (1%) of the
25 book value of such retirement fund.

1 ~~(4) The coal tax trust fund, only, may be invested in~~
 2 ~~the securities described in subsections (1)(a), (1)(b), and~~
 3 ~~(1)(e) of this section and subject to these further~~
 4 ~~restrictions:~~

5 ~~(a) Of the securities mentioned in 79-307, investments~~
 6 ~~shall be limited to those general obligation bonds and other~~
 7 ~~interest-bearing warrants of a political subdivision of the~~
 8 ~~state of Montana which are issued to enable the political~~
 9 ~~subdivision to install energy conservation measures in~~
 10 ~~public buildings or to install a recognized nonfossil form~~
 11 ~~of energy generation, as defined in 84-7402, in public~~
 12 ~~buildings, or to enable political subdivisions to implement~~
 13 ~~energy-conserving services to the public; or~~

14 ~~(b) Of the corporate bonds mentioned in subsection~~
 15 ~~(1)(b), only those which enable an industrial or business~~
 16 ~~firm to install energy conservation measures or recognized~~
 17 ~~nonfossil forms of energy conservation in buildings and in~~
 18 ~~production processes.~~

19 ~~(c) Of the interest-bearing deposits in Montana~~
 20 ~~financial institutions, investments shall be limited to~~
 21 ~~certificates of deposit issued to enable the financial~~
 22 ~~institution to make loans at not more than 7% simple~~
 23 ~~interest to enable the borrower to make a capital investment~~
 24 ~~in a building or other energy-consuming equipment for an~~
 25 ~~energy conservation purpose, as defined in 84-7402.~~

1 ~~(d) The costs of administering and accounting for the~~
 2 ~~coal tax trust fund shall be deducted from the income~~
 3 ~~therefrom. In the event of default of investments, other~~
 4 ~~income shall be allocated to reimburse the principal of the~~
 5 ~~fund. Subject to the foregoing, income from the fund shall~~
 6 ~~be credited to the general fund.~~

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

-End-

STATE OF MONTANA

REQUEST NO. 599-77

FISCAL NOTE

Form BD-15

In compliance with a written request received March 2, 19 77, there is hereby submitted a Fiscal Note for House Bill 754 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the coal tax trust fund within the unified investment program; directing the investment of the fund in securities which promote energy conservation and alternative energy development.

ASSUMPTIONS:

1. Under existing laws (Prudent Man Rule), funds invested achieve an 8% return.
2. Under proposed legislation, investment return in the short term could drop 2% to 4%.
3. The proposed legislation will require an addition of three (3) persons to the current staff to deal with those functions specified in the bill that are not currently part of the investment program.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Estimated decrease in investment return	\$ 56,000	\$152,000
Estimated increase in expenditures	<u>59,190</u>	<u>61,453</u>
Net additional General Fund burden due to proposed legislation	<u>\$115,190</u>	<u>\$213,453</u>

NOTE: Short-term reduction in revenue will be offset to some degree by the "economic multiplier effect"* through the use of these funds in Montana; however, in the time frame available, it is difficult to precisely identify this impact.

*Economic multiplier effect is the cumulative gain achieved through secondary spending.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-8-77

Approved by Committee
on Natural Resources

1 HOUSE BILL NO. 754
2 INTRODUCED BY MELOY

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 SECURITIES WHICH
7 PROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY
8 DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310,
9 R.C.M. 1947."

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

12 Section 1. Section 79-301, R.C.M. 1947, is amended to
13 read as follows:

14 "79-301. Deposit of funds in the hands of the state
15 treasurer. (1) Under the direction of the board of
16 investments, the state treasurer shall deposit public moneys
17 in his possession and under his control in solvent banks,
18 building and loan associations, and savings and loan
19 associations located in the state, except as otherwise
20 provided by law, subject to national supervision or state
21 examination. The board of investments may require the
22 payment of quarter annual interest on daily balances of
23 collected funds at a rate to be agreed upon between the
24 depository banks, building and loan associations, and
25 savings and loan associations and the board of investments,

1 which rate shall be fixed semiannually during the months of
2 July and January of each year.

3 (2) No such deposits in excess of the amount insured
4 by the federal deposit insurance corporation or federal
5 savings and loan insurance corporation shall be made unless
6 the bank building and loan association and savings and loan
7 association first delivers to the state treasurer or
8 deposits in trust with some solvent bank as hereinafter
9 provided as security therefor, bonds or other obligations of
10 the kinds listed in section 4 of this act, having a market
11 value at least equal to the amount of such deposits in
12 excess of the amount so insured. ~~However, security for~~
13 ~~deposits of coal tax trust funds may be less than the amount~~
14 ~~deposited, as provided in subsection (5).~~ The board of
15 investments may require security of a greater value. When
16 negotiable securities are placed in trust, the trustees'
17 receipt may be accepted instead of the actual securities if
18 the receipt is in favor of the state treasurer, his
19 successors in office, and the state of Montana, and the form
20 of receipt and the trustee have been approved by the board
21 of investments.

22 (3) When moneys have been deposited, under the board
23 of investments and in accordance with the law, the treasurer
24 is not liable for loss on account of any such deposit
25 occurring from any cause other than his own neglect or fraud.

1 The state treasurer shall deposit funds in such banks,
 2 building and loan associations and savings and loan
 3 associations, and in such amounts as may be designated by
 4 the board of investments, and withdraw such deposits when
 5 instructed to by the board of investments. The state
 6 treasurer shall withdraw all deposits, or any part thereof,
 7 from time to time, to pay and discharge the legal
 8 obligations of the state, duly presented to him in accordance
 9 with the law.

10 (4) Any bank, building and loan association and
 11 savings and loan association pledging securities as provided
 12 in this section may at any time substitute securities for
 13 any part of the securities pledged. The collateral so
 14 substituted shall conform to section 4 of this act and have
 15 a market value at least sufficient for compliance with
 16 subsection (2) above. If the securities so substituted are
 17 held in trust, the trustee shall, on the same day the
 18 substitution is made, forward by registered or certified
 19 mail to the state treasurer and to the depository bank, a
 20 receipt specifically describing and identifying both the
 21 securities substituted and those released and returned to
 22 the depository bank.

23 ~~(5) For investments of coal tax trust fund moneys~~
 24 ~~under 79-310(4), the board of investments shall require each~~
 25 ~~institution to deposit securities encumbered in 79-307 equal~~

1 ~~to not less than 10% of the coal tax moneys deposited in~~
 2 ~~that institution. In the event of default or loss in excess~~
 3 ~~of the deposited securities, the board shall assess that~~
 4 ~~excess against all other depository institutions in which~~
 5 ~~coal tax moneys have been invested to the extent of their~~
 6 ~~share of such total investment. The liability of a~~
 7 ~~nondefaulting institution in such cases is limited to the~~
 8 ~~amount of collateral securities it has deposited."~~

9 Section 2. Section 79-309, K.C.M. 1947, is amended to
 10 read as follows:

11 "79-309. Investment funds. For each treasury fund
 12 account into which state funds are segregated by the
 13 department of administration pursuant to section 79-413,
 14 individual transactions and totals of all investments shall
 15 be separately recorded to the extent directed by the
 16 department. However, the securities purchased and cash on
 17 hand for all treasury fund accounts not otherwise
 18 specifically designated by law or by the provisions of a
 19 gift, donation, grant, legacy, bequest or devise from which
 20 the fund account originates to be invested shall be pooled
 21 in an account to be designated "Treasury Cash Account" and
 22 placed in one of the investment funds designated below. The
 23 share of the income for this account shall be credited to
 24 the general fund. If within the list hereinafter of separate
 25 investment funds, more than one investment fund is included

1 which may be held jointly with others under the same
2 separate listing, all investments purchased for that
3 separate investment fund shall be held jointly for all the
4 accounts participating therein, which shall share all
5 capital gains and losses and income pro rata. Separate
6 investment funds shall be maintained as follows:

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

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

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

19 (b) the public employees' retirement system described
20 in title 68;

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

23 (d) the teachers' retirement system described in title
24 75, chapter 62; and

25 (e) the industrial accident insurance program

1 described in title 92, chapter 11;

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

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

15 (5) a fund consisting of the coal severance tax
16 collections allocated thereto under section 5, Article II,
17 of the Montana constitution; and

18 ~~(5)~~ (6) such additional investment funds as may be
19 expressly required by law, or may be determined by the board
20 of investments to be necessary to fulfill fiduciary
21 responsibilities of the state with respect to funds from a
22 particular source."

23 Section 3. Section 79-310, R.C.M. 1947, is amended to
24 read as follows:

25 "79-310. Permissible investments. (1) The following

1 securities are permissible investments for all investment
2 funds referred to in 79-309, except as indicated:

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

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

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

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

19 (ii) the issuing corporation, or the parent company of
20 a finance subsidiary issuing commercial paper, at the time
21 of the last financial reporting period, had a ratio of
22 current assets to current liabilities, including among
23 current liabilities long-term debt maturing within one (1)
24 year, of at least one and one-half (1 1/2) to one (1); and
25 had received net income averaging one million dollars

1 (\$1,000,000) or more annually for the preceding five (5)
2 years; and

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

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

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

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 of one corporation to exceed one percent (1%) of the
25 book value of such retirement fund.

1 (4) The 10% OF THE coal tax trust fund, ~~only, may~~
 2 COLLECTED BEFORE JANUARY 1, 1981, AND AFTER JANUARY 1, 1981,
 3 ONLY THE INTEREST ON THE COAL TAX TRUST FUND be invested in
 4 the securities described in subsections (1)(a), (1)(b), and
 5 (1)(e) of this section and subject to these further
 6 restrictions:

7 (a) Of the securities mentioned in 79-307, investments
 8 shall be limited to those general obligation bonds and other
 9 interest-bearing warrants of a political subdivision of the
 10 state of Montana which are issued to enable the political
 11 subdivision to install energy conservation measures in
 12 public buildings or to install a recognized nonfossil form
 13 of energy generation, as defined in 84-7402, in public
 14 buildings, or to enable political subdivisions to implement
 15 energy-conserving services to the public; or

16 (b) Of the corporate bonds mentioned in subsection
 17 (1)(b), only those which enable an industrial or business
 18 firm to install energy conservation ~~GENERATION~~ measures or
 19 recognized nonfossil forms of energy conservation in
 20 buildings and in production processes WITHIN THE STATE OF
 21 MONTANA.

22 (c) Of the interest-bearing deposits in Montana
 23 financial institutions, investments shall be limited to
 24 certificates of deposit issued to enable the financial
 25 institution to make loans at not more than ~~7 1/2~~ simple

1 interest ~~2 1/2%~~ IN EXCESS OF THE INTEREST REQUIRED TO BE
 2 PAID UNDER 79-310(1)(E) to enable the borrower to make a
 3 capital investment in a building or other energy-consuming
 4 equipment for an energy conservation purpose, as defined in
 5 84-7402.

6 (4) The costs of administering and accounting for the
 7 coal tax trust fund shall be deducted from the income
 8 therefrom. In the event of default of investments, other
 9 COAL TAX TRUST income shall be allocated to reimburse the
 10 principal of the fund. Subject to the foregoing, income from
 11 the fund shall be credited to the general fund.

12 (1) THE BOARD OF INVESTMENTS, AFTER CONSULTATION WITH
 13 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE
 14 ENERGY RESOURCE POLICY OFFICE, THE CITIZENS' ADVISORY
 15 COMMITTEE ON ENERGY, THE DEPARTMENT OF COMMUNITY AFFAIRS,
 16 AND THE PRIVATE FINANCIAL COMMUNITY, SHALL PROPOSE RULES
 17 WHICH FURTHER DEFINE ELIGIBLE INVESTMENTS MADE UNDER SECTION
 18 79-310(4)(A), (B), AND (C) BY AUGUST 31, 1977.

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 cut-of-state firms only when there is a
2 distinct economic advantage to the state of Montana."

-End-

Approved by Committee
on Taxation

1 HOUSE BILL NO. 754

2 INTRODUCED BY MELOY

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 SECURITIES WHICH
7 PROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY
8 DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310,
9 R.C.M. 1947."

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

12 Section 1. Section 79-301, R.C.M. 1947, is amended to
13 read as follows:

14 "79-301. Deposit of funds in the hands of the state
15 treasurer. (1) Under the direction of the board of
16 investments, the state treasurer shall deposit public moneys
17 in his possession and under his control in solvent banks,
18 building and loan associations, and savings and loan
19 associations located in the state, except as otherwise
20 provided by law, subject to national supervision or state
21 examination. The board of investments may require the
22 payment of quarter annual interest on daily balances of
23 collected funds at a rate to be agreed upon between the
24 depository banks, building and loan associations, and
25 savings and loan associations and the board of investments,

1 which rate shall be fixed semiannually during the months of
2 July and January of each year.

3 (2) No such deposits in excess of the amount insured
4 by the federal deposit insurance corporation or federal
5 savings and loan insurance corporation shall be made unless
6 the bank building and loan association and savings and loan
7 association first delivers to the state treasurer or
8 deposits in trust with some solvent bank as hereinafter
9 provided as security therefor, bonds or other obligations of
10 the kinds listed in section 4 of this act, having a market
11 value at least equal to the amount of such deposits in
12 excess of the amount so insured. ~~However, security for~~
13 ~~deposits of coal tax trust funds may be less than the amount~~
14 ~~deposited, as provided in subsection (5).~~ The board of
15 investments may require security of a greater value. When
16 negotiable securities are placed in trust, the trustees'
17 receipt may be accepted instead of the actual securities if
18 the receipt is in favor of the state treasurer, his
19 successors in office, and the state of Montana, and the form
20 of receipt and the trustee have been approved by the board
21 of investments.

22 (3) When moneys have been deposited, under the board
23 of investments and in accordance with the law, the treasurer
24 is not liable for loss on account of any such deposit
25 occurring from any cause other than his own neglect or fraud.

SECOND READING
Second Printing

1 The state treasurer shall deposit funds in such banks,
 2 building and loan associations and savings and loan
 3 associations, and in such amounts as may be designated by
 4 the board of investments, and withdraw such deposits when
 5 instructed to by the board of investments. The state
 6 treasurer shall withdraw all deposits, or any part thereof,
 7 from time to time, to pay and discharge the legal
 8 obligations of the state, duly presented to him in accordance
 9 with the law.

10 (4) Any bank, building and loan association and
 11 savings and loan association pledging securities as provided
 12 in this section may at any time substitute securities for
 13 any part of the securities pledged. The collateral so
 14 substituted shall conform to section 4 of this act and have
 15 a market value at least sufficient for compliance with
 16 subsection (2) above. If the securities so substituted are
 17 held in trust, the trustee shall, on the same day the
 18 substitution is made, forward by registered or certified
 19 mail to the state treasurer and to the depository bank, a
 20 receipt specifically describing and identifying both the
 21 securities substituted and those released and returned to
 22 the depository bank.

23 ~~(5) For investments of coal tax trust fund moneys~~
 24 ~~under 79-210(f), the board of investments shall require each~~
 25 ~~institution to deposit securities enumerated in 79-207 equal~~

1 ~~to not less than 10% of the coal tax moneys deposited in~~
 2 ~~that institution in the event of default or loss in excess~~
 3 ~~of the deposited securities, the board shall assess that~~
 4 ~~excess against all other depository institutions in which~~
 5 ~~coal tax moneys have been invested to the extent of their~~
 6 ~~shares of such total investments. The liability of a~~
 7 ~~nondefaulting institution in such cases is limited to the~~
 8 ~~amount of collateral securities it has deposited."~~

9 Section 2. Section 79-309, R.C.M. 1947, is amended to
 10 read as follows:

11 "79-309. Investment funds. For each treasury fund
 12 account into which state funds are segregated by the
 13 department of administration pursuant to section 79-413,
 14 individual transactions and totals of all investments shall
 15 be separately recorded to the extent directed by the
 16 department. However, the securities purchased and cash on
 17 hand for all treasury fund accounts not otherwise
 18 specifically designated by law or by the provisions of a
 19 gift, donation, grant, legacy, bequest or devise from which
 20 the fund account originates to be invested shall be pooled
 21 in an account to be designated "Treasury Cash Account" and
 22 placed in one of the investment funds designated below. The
 23 share of the income for this account shall be credited to
 24 the general fund. If within the list hereinafter of separate
 25 investment funds, more than one investment fund is included

1 which may be held jointly with others under the same
2 separate listing, all investments purchased for that
3 separate investment fund shall be held jointly for all the
4 accounts participating therein, which shall share all
5 capital gains and losses and income pro rata. Separate
6 investment funds shall be maintained as follows:

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

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

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

19 (b) the public employees' retirement system described
20 in title 68;

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

23 (d) the teachers' retirement system described in title
24 75, chapter 62; and

25 (e) the industrial accident insurance program

1 described in title 92, chapter 11;

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

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

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

18 ~~(5)(6)~~ such additional investment funds as may be
19 expressly required by law, or may be determined by the board
20 of investments to be necessary to fulfill fiduciary
21 responsibilities of the state with respect to funds from a
22 particular source."

23 Section 3. Section 79-310, R.C.M. 1947, is amended to
24 read as follows:

25 "79-310. Permissible investments. (1) The following

1 securities are permissible investments for all investment
2 funds referred to in 79-309, except as indicated:

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

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

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

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

19 (ii) the issuing corporation, or the parent company of
20 a finance subsidiary issuing commercial paper, at the time
21 of the last financial reporting period, had a ratio of
22 current assets to current liabilities, including among
23 current liabilities long-term debt maturing within one (1)
24 year, of at least one and one-half (1 1/2) to one (1); and
25 had received net income averaging one million dollars

1 (\$1,000,000) or more annually for the preceding five (5)
2 years; and

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

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

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

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 of one corporation to exceed one percent (1%) of the
 25 book value of such retirement fund.

1 ~~(4) The ONLY 10% OF THE coal tax trust fund may~~
 2 ~~MAY BE ALLEGED BEFORE JANUARY 1, 1991 AND AFTER JANUARY 1,~~
 3 ~~1991 ONLY THE INTEREST ON THE COAL TAX TRUST FUND~~ be
 4 ~~invested in the securities described in subsections (1)(a),~~
 5 ~~(1)(b), and (1)(c) of this section and subject to these~~
 6 ~~further restrictions:~~

7 ~~(a) Of the securities mentioned in 79-307, investments~~
 8 ~~shall be limited to those general obligation bonds and other~~
 9 ~~interest-bearing warrants of a political subdivision of the~~
 10 ~~state of Montana which are issued to enable the political~~
 11 ~~subdivision to install energy conservation measures in~~
 12 ~~public buildings or to install a recognized nonfossil form~~
 13 ~~of energy generation, as defined in 84-7402, in public~~
 14 ~~buildings, or to enable political subdivisions to implement~~
 15 ~~energy-conserving services to the public; or~~

16 ~~(b) Of the corporate bonds mentioned in subsection~~
 17 ~~(1)(b), only those which enable an industrial or business~~
 18 ~~firm to install energy conservation GENERATION measures or~~
 19 ~~recognized nonfossil forms of energy conservation in~~
 20 ~~buildings and in production processes WITHIN THE STATE OF~~
 21 ~~MONTANA.~~

22 ~~(c) Of the interest-bearing deposits in Montana~~
 23 ~~financial institutions, investments shall be limited to~~
 24 ~~certificates of deposit issued to enable the financial~~
 25 ~~institution to make loans at not more than 7% simple~~

1 ~~interest 2-1/2% 2 1/2 PERCENTAGE POINTS IN EXCESS OF THE~~
 2 ~~INTEREST REQUIRED TO BE PAID UNDER 79-310(1)(E) to enable~~
 3 ~~the borrower to make a capital investment in a building or~~
 4 ~~other energy-consuming equipment for an energy conservation~~
 5 ~~purpose, as defined in 84-7402.~~

6 ~~(d) The costs of administering and accounting for the~~
 7 ~~coal tax trust fund shall be deducted from the income~~
 8 ~~therefrom. In the event of default of investments, other~~
 9 ~~COAL TAX TRUST income shall be allocated to reimburse the~~
 10 ~~principal of the fund. Subject to the foregoing, income from~~
 11 ~~the fund shall be credited to the general fund.~~

12 ~~(E) THE BOARD OF INVESTMENTS, AFTER CONSULTATION WITH~~
 13 ~~THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE~~
 14 ~~ENERGY RESOURCE POLICY OFFICE, THE CITIZENS' ADVISORY~~
 15 ~~COMMITTEE ON ENERGY, THE DEPARTMENT OF COMMUNITY AFFAIRS,~~
 16 ~~AND THE PRIVATE FINANCIAL COMMUNITY, SHALL PROPOSE RULES~~
 17 ~~WHICH FURTHER DEFINE ELIGIBLE INVESTMENTS MADE UNDER SECTION~~
 18 ~~79-310(4)(A), (B), AND (C) BY AUGUST 31, 1977.~~

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-

1 HOUSE BILL NO. 754

2 INTRODUCED BY MELOY

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 SECURITIES WHICH
7 PROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY
8 DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310,
9 R.C.M. 1947."

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

12 Section 1. Section 79-301, R.C.M. 1947, is amended to
13 read as follows:

14 "79-301. Deposit of funds in the hands of the state
15 treasurer. (1) Under the direction of the board of
16 investments, the state treasurer shall deposit public moneys
17 in his possession and under his control in solvent banks,
18 building and loan associations, and savings and loan
19 associations located in the state, except as otherwise
20 provided by law, subject to national supervision or state
21 examination. The board of investments may require the
22 payment of quarter annual interest on daily balances of
23 collected funds at a rate to be agreed upon between the
24 depository banks, building and loan associations, and
25 savings and loan associations and the board of investments,

1 which rate shall be fixed semiannually during the months of
2 July and January of each year.

3 (2) No such deposits in excess of the amount insured
4 by the federal deposit insurance corporation or federal
5 savings and loan insurance corporation shall be made unless
6 the bank building and loan association and savings and loan
7 association first delivers to the state treasurer or
8 deposits in trust with some solvent bank as hereinafter
9 provided as security therefor, bonds or other obligations of
10 the kinds listed in section 4 of this act, having a market
11 value at least equal to the amount of such deposits in
12 excess of the amount so insured. ~~However, security for~~
13 ~~deposits of coal tax trust funds may be less than the amount~~
14 ~~deposited, as provided in subsection (5).~~ The board of
15 investments may require security of a greater value. When
16 negotiable securities are placed in trust, the trustees'
17 receipt may be accepted instead of the actual securities if
18 the receipt is in favor of the state treasurer, his
19 successors in office, and the state of Montana, and the form
20 of receipt and the trustee have been approved by the board
21 of investments.

22 (3) When moneys have been deposited, under the board
23 of investments and in accordance with the law, the treasurer
24 is not liable for loss on account of any such deposit
25 occurring from any cause other than his own neglect or fraud.

1 The state treasurer shall deposit funds in such banks,
 2 building and loan associations and savings and loan
 3 associations, and in such amounts as may be designated by
 4 the board of investments, and withdraw such deposits when
 5 instructed to by the board of investments. The state
 6 treasurer shall withdraw all deposits, or any part thereof,
 7 from time to time, to pay and discharge the legal
 8 obligations of the state, duly presented to him in accordance
 9 with the law.

10 (4) Any bank, building and loan association and
 11 savings and loan association pledging securities as provided
 12 in this section may at any time substitute securities for
 13 any part of the securities pledged. The collateral so
 14 substituted shall conform to section 4 of this act and have
 15 a market value at least sufficient for compliance with
 16 subsection (2) above. If the securities so substituted are
 17 held in trust, the trustee shall, on the same day the
 18 substitution is made, forward by registered or certified
 19 mail to the state treasurer and to the depository bank, a
 20 receipt specifically describing and identifying both the
 21 securities substituted and those released and returned to
 22 the depository bank.

23 ~~(5) For investments of coal tax trust fund moneys~~
 24 ~~under 79-310(4), the board of investments shall require each~~
 25 ~~institution to deposit securities enumerated in 79-307 equal~~

1 ~~to not less than 10% of the coal tax moneys deposited in~~
 2 ~~that institutions in the event of default or loss in excess~~
 3 ~~of the deposited securities, the board shall assess that~~
 4 ~~excess against all other depository institutions in which~~
 5 ~~coal tax moneys have been invested to the extent of their~~
 6 ~~shares of such total investment. The liability of a~~
 7 ~~nondefaulting institution in such cases is limited to the~~
 8 ~~amount of collateral securities it has deposited."~~

9 Section 2. Section 79-309, R.C.M. 1947, is amended to
 10 read as follows:

11 *79-309. Investment funds. For each treasury fund
 12 account into which state funds are segregated by the
 13 department of administration pursuant to section 79-413,
 14 individual transactions and totals of all investments shall
 15 be separately recorded to the extent directed by the
 16 department. However, the securities purchased and cash on
 17 hand for all treasury fund accounts not otherwise
 18 specifically designated by law or by the provisions of a
 19 gift, donation, grant, legacy, bequest or devise from which
 20 the fund account originates to be invested shall be pooled
 21 in an account to be designated "Treasury Cash Account" and
 22 placed in one of the investment funds designated below. The
 23 share of the income for this account shall be credited to
 24 the general fund. If within the list hereinafter of separate
 25 investment funds, more than one investment fund is included

1 which may be held jointly with others under the same
 2 separate listing, all investments purchased for that
 3 separate investment fund shall be held jointly for all the
 4 accounts participating therein, which shall share all
 5 capital gains and losses and income pro rata. Separate
 6 investment funds shall be maintained as follows:

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

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

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

19 (b) the public employees' retirement system described
 20 in title 68;

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

23 (d) the teachers' retirement system described in title
 24 75, chapter 62; and

25 (e) the industrial accident insurance program

1 described in title 92, chapter 11;

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

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

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

18 ~~(5)~~(6) such additional investment funds as may be
 19 expressly required by law, or may be determined by the board
 20 of investments to be necessary to fulfill fiduciary
 21 responsibilities of the state with respect to funds from a
 22 particular source."

23 Section 3. Section 79-310, R.C.M. 1947, is amended to
 24 read as follows:

25 "79-310. Permissible investments. (1) The following

1 securities are permissible investments for all investment
2 funds referred to in 79-309, except as indicated:

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

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

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

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

19 (ii) the issuing corporation, or the parent company of
20 a finance subsidiary issuing commercial paper, at the time
21 of the last financial reporting period, had a ratio of
22 current assets to current liabilities, including among
23 current liabilities long-term debt maturing within one (1)
24 year, of at least one and one-half (1 1/2) to one (1); and
25 had received net income averaging one million dollars

1 (\$1,000,000) or more annually for the preceding five (5)
2 years; and

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

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

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

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 of one corporation to exceed one percent (1%) of the
25 book value of such retirement fund.

1 (4) The ONLY 10% OF THE coal tax trust funds-onlyx-may
 2 MAY COLLECTED BEFORE JANUARY 1, 1981, AND AFTER JANUARY 1,
 3 1981--ONLY--THE--INTEREST--ON--THE--COAL--TAX--TRUST--FUNDS be
 4 invested in the securities described in subsections (1)(a),
 5 (1)(b), and (1)(e) of this section and subject to these
 6 further restrictions:

7 (a) Of the securities mentioned in 79-307, investments
 8 shall be limited to those general obligation bonds and other
 9 interest-bearing warrants of a political subdivision of the
 10 state of Montana which are issued to enable the political
 11 subdivision to install energy conservation measures in
 12 public buildings or to install a recognized nonfossil form
 13 of energy generation, as defined in 84-7402, in public
 14 buildings, or to enable political subdivisions to implement
 15 energy-conserving services to the public; or

16 (b) Of the corporate bonds mentioned in subsection
 17 (1)(b), only those which enable an industrial or business
 18 firm to install energy conservation GENERATION CONSERVATION
 19 measures or recognized nonfossil forms of energy
 20 conservation in buildings and in production processes WITHIN
 21 THE STATE OF MONTANA.

22 (c) Of the interest-bearing deposits in Montana
 23 financial institutions, investments shall be limited to
 24 certificates of deposit issued to enable the financial
 25 institution to make loans at not more than 7% simple

1 interest 2-1/2% 2 1/2 PERCENTAGE POINTS IN EXCESS OF THE
 2 INTEREST REQUIRED TO BE PAID UNDER 79-310(1)(E) to enable
 3 the borrower to make a capital investment in a building or
 4 other energy-consuming equipment for an energy conservation
 5 purpose, as defined in 84-7402.

6 (d) The costs of administering and accounting for the
 7 coal tax trust fund shall be deducted from the income
 8 therefrom. In the event of default of investments, other
 9 COAL TAX TRUST income shall be allocated to reimburse the
 10 principal of the fund. Subject to the foregoing, income from
 11 the fund shall be credited to the general fund.

12 (E) THE BOARD OF INVESTMENTS, AFTER CONSULTATION WITH
 13 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE
 14 ENERGY RESOURCE POLICY OFFICE, THE CITIZENS' ADVISORY
 15 COMMITTEE ON ENERGY, THE DEPARTMENT OF COMMUNITY AFFAIRS,
 16 AND THE PRIVATE FINANCIAL COMMUNITY, SHALL PROPOSE RULES
 17 WHICH FURTHER DEFINE ELIGIBLE INVESTMENTS MADE UNDER SECTION
 18 79-310(4)(A), (B), AND (C) BY AUGUST 31, 1977.

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-