LC 1075/01

INTRODUCED BY 1 2 3

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+"

```
10
```

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

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

"79~30]. Deposit of funds in the hands of the state 14 15 treasurer. (1) Under the direction of the board of investments, the state treasurer shall deposit public moneys 16 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 provided by law, subject to national supervision or state 20 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,

INTRODUCED BILL

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

R (2) No such deposits in excess of the amount insured by the federal deposit insurance corporation or federal 4 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 Q provided as security therefor, bonds or other obligations of 10 the kinds listed in section 4 of this act, having a market value at least equal to the amount of such deposits in 11 12 excess of the amount so insured. However, Security for 13 deposits of coal tax trust funds may be less than the amount deposited, as provided in subsection (5). The board of 14 investments may require security of a greater value. When 15 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 of receipt and the trustee have been approved by the board 20 of investments. 21

22 (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 occuring from any cause other than his own neglect or fraud.

-7-

#8 254

LC 1075/01

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 with the law. 9

10 (4) Any bank, building and loan association and savings and loan association pledging securities as provided 11 12 in this section may at any time substitute securities for 13 any part of the securities pledged. The collateral so substituted shall conform to section 4 of this act and have 14 15 a market value at least sufficient for compliance with 15 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 receipt specifically describing and identifying both the 20 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

to not less than 10% of the coal tax moneys deposited in 1 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.N. 1947, is amended to

9 Section 2. Section 79-309, R.C.N. 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, beguest 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

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:

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;

(b) the public employees" retirement system described
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;

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

(4) a fund consisting of gifts, donations, grants, 5 legacies, bequests, devises and other contributions made or 6 7 given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise or 8 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 (5) a fund consisting of the coal severance tax 15 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 expressly required by law, or may be determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with respect to funds from a 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

LC 1075/01

-5-

LC 1075/01

LC 1075/01

securities are permissible investments for all investment
 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 recognized rating agency among the top third of their 11 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 seventy18 (270) days or less; and

(ii) the issuing corporation, or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current liabilities long-term debt maturing within one (1) year, of at least one and one-half (1 1/2) to one (1); and had received net income averaging one million dollars (\$1,000,000) or more annually for the preceding five (5)
 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 of investments shall require pledged securities as specified 16 · 17 in section 79-301; interest on said deposits shall not be less than the prevailing rate of interest being paid on 18 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

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

(3) Retirement funds, only, may be invested in
preferred and common stocks of any corporation organized and
operating in any state of the United States, provided that:
(a) the corporation has assets of a value not less
than ten million dollars (\$10,000,000); and

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

consecutive years immediately before the date of investment. 1 2 have been at least one and one-half (1 1/2) times the 3 aggregate of interest and preferred dividends required to be paid during this period; and 4 5 (c) if the investment is common stock, (i) the stock has paid cash dividends in each of at 6 least five (5) years immediately before it is purchased; and 7 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 (iii) not more than two percent (2%) of the assets of 12 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.

-9-

-10-

LC 1075/01

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 educates in
10	public buildings or to install a recognized nonfossil form
11	of energy generation. as defined in 84-7402, in public
12	<u>buildings, or to enable political subdivisions to implement</u>
13	energy-conserving services to the public: or
14	(b) Of the corporate bonds mentioned in subsection
15	(1)(bl. 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	<u>(c) Of the interest-bearing deposits in Montana</u>
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	inabuildingorother_menergy-consuming_equipment_for_an
25	energy conservation_purpose: as defined in 84-7402.

LC 1075/01

1	(d) The costs of administering and accounting for the
z	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	<pre>(4)(5) The state board of investments shall endeavor</pre>
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-

-11-

-12-

STATE OF MONTANA

REQUEST NO. 599-77

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>March 2</u>, 19 <u>77</u>, there is hereby submitted a Fiscal Note for <u>House Bill 754</u> 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>	FY_79
Estimated decrease in investment return	\$ 56,000	\$152,000
Estimated increase in expenditures	59,190	<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.

P. Jrangfor

BUDGET DIRECTOR ⁶ Office of Budget and Program Planning Date: <u>3 8 - 27</u>

Approved	Ъy	Committee
on <u>Natura</u>	11	lesources

1	HOUSE BIIL NC. 754
2	INTRODUCED EY MELOY
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COAL
5	TAX TFUST FUND WITHIN THE UNIFIED INVESTMENT PROGRAM;
6	DIRECTING THE INVESTMENT OF THE FUND IN SECORITIES WHICH
7	FROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY
8	DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310,
9	R.C.H. 1947."

```
10
```

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

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

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

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

3 (2) No such deposits in excess of the amount insured i. by the federal deposit insurance corporation or federal 5 savings and lean insurance corporation shall be made unless 5 the bank building and loan association and savings and loan 7 association first delivers to the state treasurer cr 8 deposits in trust with scae solvent bank as hereinafter provided as security therefor, bonds or other obligations of 9 10 the kinds listed in section 4 of this act, having a market value at least equal to the amount of such deposits in 11 excess of the amount so insured. Howevery-security-for 12 13 deposite of coal tax trust funde may be less than the casest 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! receipt may be accepted instead of the actual securities if 17 the receipt is in favor of the state treasurer, his 18 successors in office, and the state of Montana, and the form 19 20 of receipt and the trustee have been approved by the board of investments. 21

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

SECOND READING

HE 754 -2-

HE 754

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

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

23 <u>151__for__ibyestments__of__coal__tar__trust_fund_moners</u>
 24 <u>under_79_310(4)__the_board_of_investments_shall_resuire_coch</u>
 25 <u>institution_to_deposit_securities_enumerated_in_79_367_equal</u>

-3-

1 to_mot_less_then_10%_of_the_coal__tax__someys__deposited__in 2 that--institution--In-the-event-of-default-of-locs-in-excess 3 of the deposited securities. the board phall process that 4 ergess-against-all-other_derseitery_institutions_in_which 5 <u>coal_tax_moneys_have_been_invested_to_the__extent__ef_their</u> 6 shares--of--such--total--ingestments---The--ligbility-of--a 7 Bondefaulting institution in such cases is littled - to - the 8 amount-of-collateral-securities-it-has-deposited,"

9 Section 2. Section 79-309, L.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 department. However, the securities purchased and cash on 16 17 hand for all treasury fund accounts not otherwise 18 specifically designated by law or by the provisions of a gift, denation, grant, legacy, bequest or devise from which 19 20 the fund account originates to be invested shall be pocled 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

-4-

EB 754

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:

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 acney 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 system18 described in title 31, chapter 2;

19 (b) the public employees' retirement system described20 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

-5-

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 given for a specific purpose or under conditions expressed 7 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 lointly 13 with other such gifts, departions, grants, legacies, 14 bequests, devises, or contributions; and 15 (5) a fund consisting of the coal severance tax

16 <u>collections_allocated_thereto_under_section_5. Article_II</u>,
 17 <u>of the Montana_constitution; and</u>

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 79-31C, R.C.#. 1947, is amended to
24 read as follows:

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

-6-

securities are permissible investments for all investment
 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 correctation 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, nct 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 seventy18 (270) days or less; and

(ii) the issuing corporation, or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current liabilities long-term debt maturing within one (1) year, of at least one and one-half (1 1/2) to one (1); and had received net income averaging one million dollars (\$1,000,000) or more annually for the preceding five (5)
 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 of investments shall require pledged securities as specified 16 17 in section 79-301; interest on said deposits shall not be less than the prevailing rate of interest being raid on 18 deposits of private funds; for the coal tax trust fund only. 19 20 interest-learing--deposits--in--credit-unions-logated-in-the 21 state_are_also_permitted_and the_restrictions_cn_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:

-8-

-7-

8B 754

EE 754

(A) the principal amount of the loan secured by the
 mortgage is seventy-five percent (75%) or less of the
 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 Onited 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 lean by an
10 agency of the United States; and

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

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

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

(c) if the investment is common stock,

5

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 gaid 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 raragraphs (i) and (ii) above, so long as the corporation maintains the asset value required in subsection (a) and 17 18 evidences appropriate growth potential and probable carnings 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.

-10-

-9-

HE 754

RE 754

 1
 (4) The 10% OF THE coal_tax_trust_fund; coll;

 2
 COLLECTED_EFFORF_JANDARY_1, 1981, AND_AFTEB_JANDARY_1, 1981,

 3
 ONLY_THE_INTERFST_ON_THE COAL_TAX_IRUST_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 pentioned in 79-307, investments 8 shall be limited to those general obligation bonds and other 9 interest-bearing warrants of a colitical subdivision of the 10 state cf 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) Cf the interest-bearing deposits in Mcntana

23 <u>financial institutions, investments shall be limited to</u>
24 <u>certificates of deposit issued to enable the financial</u>
25 <u>institution to make loans at not more than</u> 74.cimple

-11-

1	interest 2 1/2% IN EXCESS OF THE INTEREST REQUIRED TO BE
2	PALO 3xDEB 19-310(1)(E) to enable the borrower to make a
د	<u>capital_investment_in_a_building_or_other_energy-consuming</u>
4	equipment for an energy conservation purposes as defined in
5	34-7402 e
6	(a)
Ţ	coal tax trust fund shall be deducted from the income
đ	therefrom. In the event of default of investments, other
4	COAL TAX IBUST income shall be allocated to reimburse the
LO	principal of the fund. Subject to the foregoing, income from
11	the fund shall be credited to the general fund.
12	(L)_INE_BOARD_OF_INVESTMENTS:_AFTER_CONSULTATION_HITH
13	THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION. THE
14	ENERGYRESOURCE_POLICY_DEFICE. THE_CITIZENS'_ADVISORY
15	COUNTITEE ON ENERGY, THE DEPARTMENT OF COUNDITY AFFAIRS,
16	AND THE PRIVATE EINANCIAL COMMUNITY, SHALL PROPOSE RULES
17	WHICH IN THER DEFINE STIGISTE INVESTMENTS BADE UNDER SECTION
18	73-310(4)(A). (B). AND (C) by AUGUST 31. 1977.
19	(+)[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
27	the state and thereby make contributions to the state
23	economy. Further, due consideration shall be given to
< 4	investments which will benefit the smaller communities in
25	the state of Montana. The state's investment business will

+12-

H3 754

HE 0754/02

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

. .

-End-

HB 754

Approved	by	Committee
on Taxati		

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
6	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	P79-301. 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.

(2) No such deposits in excess of the amount insured 3 by the federal deposit insurance corporation or federal 4 5 savings and loan insurance corporation shall be made unless the bank building and loan association and savings and loan 6 7 association first delivers to the state treasurer or я 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. Howevery-security-for 13 deposits_of_coal_tax_trust_funds_may_be-less_than_the-amount depositedy__ns__provided__in__subsection__15ix The board of 14 15 investments may require security of a greater value. When negotiable securities are placed in trust, the trustees! 16 17 receipt may be accepted instead of the actual securities if 18 the receipt is in favor of the state treasurer, his successors in office, and the state of Montana, and the form 19 20 of receipt and the trustee have been approved by the board 21 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 occuring from any cause other than his own neglect or fraud.

-2-

SECOND READING Second Printing

HB 0754/03

ł 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 instructed to by the board of investments. The state 5 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 preented 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 receipt specifically describing and identifying both the 20 21 securities substituted and those released and returned to 22 the depository bank.

23 <u>155--For--investments-of--cool--tox--trust-fund-moneys</u>
 24 <u>under-79-319(f)v-the-board-of-investments-shall-require-each</u>
 25 <u>institution-to-deposit-securities-enumerated-in-79-307-equal</u>

HB 0754/03

1 to-not-less-than-10%-of-the-coal--tax--moneya--deposited--in 2 that-institutions-in-the-event-of-default-or-loss-in-excess 3 of-the-deposited-securitiesy-the--board--shall--assess-that 4 excess-against-all-other-depository-institutions-in-which 5 coal-tax-coneva-have-been-invested-to-the--extent--of--their 6 sheres---of--such--total--investmentw--The--liability--of--e 7 nondefaulting_institution_in_such_coses_is__limited__to__the 8 amount-of-collateral-securities-it-has-depositeds"

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 priginates 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

-4-

-3-

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:

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 described20 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

-5-

HB 754

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;

(4) a fund consisting of gifts, donations, grants, 5 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 otherwise restricted by its terms, it may be treated jointly 12 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 IXx
17 of the Montana constitution: and
18 (55)(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

-6-

securities are permissible investments for all investment
 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, or any other kind of absolute obligation of any corporation 6 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 subsection (b) must be rated by one (1) nationally 10 recognized rating agency among the top third of their 11 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:

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

(ii) the issuing corporation, or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current liabilities long-term debt maturing within one (1) year, of at least one and one-half (1 1/2) to one (1); and 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);

(e) interest-bearing deposits in banks, building and 13 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 in section 79-301; interest on said deposits shall not be 17 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 stote-ore-olso-permitted-and the restrictions on interest 22 paid de 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:

-8-

-7-

HB 754

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

(B) thirty percent (30%) or more of the loan secured
is guaranteed or insured in the event of default by the
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

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

consecutive years immediately before the date of investment.
 have been at least one and one-half (1 1/2) times the
 aggregate of interest and preferred dividends required to be
 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.

-10+

-9-

HB 0754/03

1	(4) The DNLY 10% DE_IHE coal_tax_trust_fundy-onlyg-may
2	MAY <u>COLLECTED-BEFORE_JANUARY-ly_l901y-AND-AFTERJANUARY-ly</u>
3	±98±±==9NL¥==THE==±NTEREST==0N==THE==E9AL==TAX=TRUST=FUND 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 nonfoss l 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	(l)(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	MONIANA
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 porrower to make a capital investment in a building or
4	<u>other energy-consuming equipment for an energy conservation</u>
5	purposes 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 IRUST 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 DEPARIMENT OF NATURAL RESOURCES AND CONSERVATION. THE
14	ENERGYRESOURCE_POLICY_OFFICETHE_CITIZENS*_ADVISORY
15	COMMITTEE ON ENERGY. THE DEPARIMENT 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	<pre>t4+151 The state board of investments shall endeavor</pre>
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

-12-

HS 754

HB 0754/03

l be directed to out-of-state firms only when there is a

2 distinct economic advantage to the state of Montana."

-End-

HOUSE BILL NO. 754 1 2 INTRODUCED BY MELOY 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COAL 4 TAX TRUST FUND WITHIN THE UNIFIED INVESTMENT PROGRAM; 5 DIRECTING THE INVESTMENT OF THE FUND IN SECURITIES WHICH 6 PROMOTE ENERGY CONSERVATION AND ALTERNATIVE ENERGY 7 DEVELOPMENT; AMENDING SECTIONS 79-301, 79-309, AND 79-310, 8 R.C.M. 1947.* 9

```
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. 13 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 depository banks, building and loan associations, and 24 savings and loan associations and the board of investments, 25

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 3 by the federal deposit insurance corporation or federal 4 5 savings and loan insurance corporation shall be made unless 6 the bank building and loan association and savings and loan association first delivers to the state treasurer or 7 8 deposits in trust with some solvent bank as hereinafter provided as security therefor, bonds or other obligations of 9 the kinds listed in section 4 of this act, having a market 10 11 value at least equal to the amount of such deposits in 12 excess of the amount so insured. Howevery-security-for 13 deposits-of-coal-tax-trust-funds-may-be-less-than-the-amount 14 denositedy-as-provided-in-subsection-151x 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 successors in office, and the state of Montana, and the form 19 of receipt and the trustee have been approved by the board 20 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 occuring from any cause other than his own neglect or fraud.

-2-

THIRD READING

The state treasurar shall deposit funds in such banks, 1 2 building and loan associations and savings and loan 3 associations, and in such amounts as may be designated by the board of investments, and withdraw such deposits when 4 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 obligations of the state, duly preented to him in accordance 8 Q with the law.

10 (4) Any bank, building and loan association and savings and loan association pledging securities as provided 11 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 <u>151-For-investments-of-cool-tax-trust-fund-moneys</u>
 24 <u>under-79-310141x-the-board-of-investments-shall-require-coch</u>
 25 <u>institution-to-deposit-securities-enumerated-in-79-307-coucl</u>

-3-

HB 0754/04

1	<u>to-not-less-than-10%-of-the-coaltaxmoneysdepositedin</u>
2	<u>thatinstitution-in-the-event-of-default-or-loss-in-excess</u>
3	<u>of-the-deposited-securitiesy-the-board-shall-assess-that</u>
4	exc <u>ssagainstallother-depository-institutions-in-which</u>
5	<u>cool-tox-moneys-have-been-invested-to-theextentoftheir</u>
6	sharesofsuchtotalinvestmentyTheliabilityofa
7	<u>nondefaulting-institution-in-such-cases-islimitedtothe</u>
8	<u>omount-of-collaterel-securities-it-has-deposited</u> "
9	Section 2. Section 79-309, R.C.N. 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 department. However, the securities purchased and cash on 16 17 hand for all treasury fund accounts not otherwise specifically designated by law or by the provisions of a 18 19 gift, donation, grant, ledacy, 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

-4-

H8 754

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:

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;

(b) the public employees' retirement system described
in title 58;

(c) the game wardens⁴ retirement system described in
 title 68, chaoter 14;

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

25 (e) the industrial accident insurance program

-5-

HB 754

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;

(4) a fund consisting of gifts, donations, grants, 5 legacies, bequests, devises and other contributions made or ۴. given for a specific purpose or under conditions expressed 7 in the gift, donation, grant, legacy, bequest, devise or 8 contribution on the part of the state of Montana to be 9 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 expressly required by law, or may be determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

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

25 M79-310. Permissible investments. (1) The following

-6-

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^a acceptances quaranteed 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);

(e) interest-bearing deposits in banks, building and 13 loan associations, and savings and loan associations located 14 in the state of Montana, provided, however, that the board 15 of investments shall require pledged securities as specified 16 in section 79-301; interest on said deposits shall not be 17 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: (f) unencumbered real property and first mortgages on 23 24 unencumbered real property, provided that:

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

-8-

-7-

H8 754

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

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

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

(c) if the investment is common stock.

5

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 any retirement fund may be invested in common stocks or in 13 14 fixed income securities convertible into common stock not conforming to the dividend and earnings standards stated in 15 paragraphs (i) and (ii) above, so long as the corporation 16 maintains the asset value required in subsection (a) and 17 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.

-9-

.

HB 754

-10-

HB 0754/04

1	[4] The DNLY 10% OF THE coal tax trust funde-onlys-may
2	MAY <u>EGLLEETED-BEFORE-JANUARY-1y-1981y-ANB-AFTER-JANUARY1y</u>
3	±981+BNEYTHEINTERESTBNTHEEBAETAX-TRUST-FUND 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	<u>(a). Of the securities mentioned in 79-307, investments</u>
B	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	<pre>(1)(b)+ only_those_which_enable_an_industrial_or_business</pre>
18	firm to install energy conservation GENERATION CONSERVATION
19	measures or recognized nonfossil forms of energy
20	conservation in buildings and in production processes WIIHIN
21	THE STATE OF MONTANA.
22	<u>(c) Of the interest-bearing deposits in Montana</u>
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	INTERESI REQUIRED TO BE PAID UNDER 79-310(1)(E) to enable
3	<u>the borrower to make a capital investment in a building or</u>
4	otrerenergy_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_IAX_IRUSI income shall be allocated to reinburse 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	<u>WHICH FURTHER DEFINE ELIGIBLE INVESTMENTS MADE UNDER SECTION</u>
18	79-310(4)(A), (B), AND (C) BY AUGUST 31, 1977.
19	<pre>(4)[5] The state board of investments shall endeavor</pre>
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

-11-

-12-

H8 0754/04

1 be directed to out-of-state firms only when there is a

2 distinct economic advantage to the state of Montana."

-End-

-13-

HB 754

e .

.