

SENATE BILL NO. 106

INTRODUCED BY HIMSL, GALT

IN THE SENATE

January 12, 1981	Introduced and referred to Committee on Business and Industry.
January 28, 1981	Committee recommend bill do pass. Report adopted.
January 29, 1981	Bill printed and placed on members' desks.
January 30, 1981	Second reading, do pass.
January 31, 1981	Correctly engrossed.
February 2, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

February 3, 1981	Introduced and referred to Committee on Business and Industry.
March 6, 1981	Committee recommend bill be concurred in. Report adopted.
March 9, 1981	Second reading, concurred in.
March 11, 1981	Third reading, concurred in. Ayes, 88; Nocs, 5.

IN THE SENATE

March 12, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Amata* BILL NO. *106*
 2 INTRODUCED BY *Stansel* _____
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A TRUSTEE TO
 5 INVEST TRUST FUNDS IN DEMAND TIME SAVINGS ACCOUNTS AND TIME
 6 CERTIFICATES OF DEPOSIT; AMENDING SECTION 72-21-202, MCA."
 7

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

9 Section 1. Section 72-21-202, MCA, is amended to read:

10 "72-21-202. Powers of trustee. (1) From time of
 11 creation of the trust until final distribution of the assets
 12 of the trust, a trustee has the power to perform, without
 13 court authorization, every act which a prudent man would
 14 perform for the purposes of the trust, including but not
 15 limited to the powers specified in subsection (2).

16 (2) A trustee has the power, subject to subsection (1)
 17 of this section and to 72-21-203:

18 (a) to collect, hold, and retain trust assets received
 19 from a trustor until, in the judgment of the trustee,
 20 disposition of the assets should be made; and the assets may
 21 be retained even though they include an asset in which the
 22 trustee is personally interested or which is not otherwise a
 23 qualified investment;

24 (b) to receive additions to the assets of the trust
 25 from any source;

1 (c) to continue or participate in the operation of any
 2 business or other enterprise and to effect incorporation,
 3 dissolution, or other change in the form of the organization
 4 of the business or enterprise;

5 (d) to acquire an undivided interest in a trust asset
 6 in which the trustee, in any trust capacity, holds an
 7 undivided interest;

8 (e) to invest and reinvest trust assets in accordance
 9 with the provisions of the trust or as provided by law;

10 (f) to deposit trust funds in a bank, including a bank
 11 operated by the trustee;

12 ~~(g) to invest trust funds, including investments, in~~
 13 ~~demand time savings accounts and time certificates of~~
 14 ~~deposit in any bank, including a bank operated by the~~
 15 ~~trustee;~~

16 ~~(g)(h)~~ to acquire or dispose of an asset, for cash or
 17 on credit, at public or private sale; and to manage,
 18 develop, improve, exchange, partition, change the character
 19 of, or abandon a trust asset or any interest therein; and to
 20 encumber, mortgage, or pledge a trust asset for a term
 21 within or extending beyond the term of the trust, in
 22 connection with the exercise of any power vested in the
 23 trustee;

24 ~~(h)(i)~~ to make ordinary or extraordinary repairs or
 25 alterations in buildings or other structures, to demolish

1 any improvements, to raze existing or erect new party walls
2 or buildings;

3 (f)(j) to subdivide, develop, or dedicate land to
4 public use; or to make or obtain the vacation of plats and
5 adjust boundaries; or to adjust differences in valuation on
6 exchange or partition by giving or receiving consideration;
7 or to dedicate easements to public use without
8 consideration;

9 (f)(k) to enter for any purpose into a lease as lessor
10 or lessee, with or without option to purchase or renew, for
11 a term within or extending beyond the term of the trust;

12 (f)(l) to enter into a lease or arrangement for
13 exploration and removal of minerals or other natural
14 resources or enter into a pooling or unitization agreement;

15 (f)(m) to grant an option involving disposition of a
16 trust asset, or to take an option for the acquisition of any
17 asset;

18 (f)(n) to vote a security, in person or by general or
19 limited proxy, and enter into voting trusts;

20 (f)(o) to pay calls, assessments, and any other sums
21 chargeable or accruing against or on account of securities;

22 (f)(p) to sell or exercise stock subscription or
23 conversion rights; to consent, directly or through a
24 committee or other agent, to the reorganization,
25 consolidation, merger, dissolution, or liquidation of a

1 corporation or other business enterprise and retain any
2 property received pursuant thereto;

3 (f)(q) to hold a security in the name of a nominee or
4 in other form without disclosure of the trust so that title
5 to the security may pass by delivery, but the trustee is
6 liable for any act of the nominee in connection with the
7 stock so held;

8 (f)(r) to insure the assets of the trust against
9 damage or loss and the trustee against liability with
10 respect to third persons;

11 (f)(s) to borrow money from any source to be repaid
12 from trust assets or otherwise; to advance money for the
13 protection of the trust and for all expenses, losses, and
14 liability sustained in the administration of the trust or
15 because of the holding or ownership of any trust assets, for
16 which advances with any interest the trustee has a lien on
17 the trust assets as against the beneficiary;

18 (f)(t) to pay or contest any claim; to settle a claim
19 by or against the trust by compromise, arbitration, or
20 otherwise; and to release, in whole or in part, any claim
21 belonging to the trust to the extent that the claim is
22 uncollectible;

23 (f)(u) to pay taxes, assessments, compensation of the
24 trustee, and other expenses incurred in the collection,
25 care, administration, and protection of the trust;

1 ~~(u)~~(v) to allocate items of income or expense to
2 either trust income or principal, as provided by law,
3 including creation of reserves out of income for
4 depreciation, obsolescence, or amortization or for depletion
5 in mineral or timber properties;

6 ~~(v)~~(w) to pay any property distributable to a
7 beneficiary under disability, without liability to the
8 trustee, to the beneficiary or for use of the beneficiary
9 either to his parent, his guardian, person with whom he
10 resides, or others;

11 ~~(w)~~(x) to effect distribution of property and money in
12 divided or undivided interests and to adjust resulting
13 differences in valuation;

14 ~~(x)~~(y) to employ persons, including attorneys,
15 auditors, investment advisors, or agents, even if they are
16 associated with the trustee, to advise or assist the trustee
17 in the performance of his administrative duties;

18 ~~(y)~~(z) to prosecute or defend actions, claims, or
19 proceedings for the protection of trust assets and of the
20 trustee in the performance of his duties;

21 ~~(z)~~(aa) to execute and deliver all instruments which
22 will accomplish or facilitate the exercise of the powers
23 vested in the trustee."

-End-

Approved by Committee
on Business and Industry

1
2 INTRODUCED BY Sen. [Signature] BILL NO. 106
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13 court authorization, every act which a prudent man would
14 perform for the purposes of the trust, including but not
15 limited to the powers specified in subsection (2).

16 (2) A trustee has the power, subject to subsection (1)
17 of this section and to 72-21-203:

18 (a) to collect, hold, and retain trust assets received
19 from a trustor until, in the judgment of the trustee,
20 disposition of the assets should be made; and the assets may
21 be retained even though they include an asset in which the
22 trustee is personally interested or which is not otherwise a
23 qualified investment;

24 (b) to receive additions to the assets of the trust
25 from any source;

1 (c) to continue or participate in the operation of any
2 business or other enterprise and to effect incorporation,
3 dissolution, or other change in the form of the organization
4 of the business or enterprise;

5 (d) to acquire an undivided interest in a trust asset
6 in which the trustee, in any trust capacity, holds an
7 undivided interest;

8 (e) to invest and reinvest trust assets in accordance
9 with the provisions of the trust or as provided by law;

10 (f) to deposit trust funds in a bank, including a bank
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17 on credit, at public or private sale; and to manage,
18 develop, improve, exchange, partition, change the character
19 of, or abandon a trust asset or any interest therein; and to
20 encumber, mortgage, or pledge a trust asset for a term
21 within or extending beyond the term of the trust, in
22 connection with the exercise of any power vested in the
23 trustee;

24 (h)(i) to make ordinary or extraordinary repairs or
25 alterations in buildings or other structures, to demolish

1 any improvements, to raze existing or erect new party walls
2 or buildings;

3 ~~(j)(l)~~ to subdivide, develop, or dedicate land to
4 public use; or to make or obtain the vacation of plats and
5 adjust boundaries; or to adjust differences in valuation on
6 exchange or partition by giving or receiving consideration;
7 or to dedicate easements to public use without
8 consideration;

9 ~~(j)(k)~~ to enter for any purpose into a lease as lessor
10 or lessee, with or without option to purchase or renew, for
11 a term within or extending beyond the term of the trust;

12 ~~(k)(l)~~ to enter into a lease or arrangement for
13 exploration and removal of minerals or other natural
14 resources or enter into a pooling or unitization agreement;

15 ~~(j)(m)~~ to grant an option involving disposition of a
16 trust asset, or to take an option for the acquisition of any
17 asset;

18 ~~(m)(n)~~ to vote a security, in person or by general or
19 limited proxy, and enter into voting trusts;

20 ~~(n)(o)~~ to pay calls, assessments, and any other sums
21 chargeable or accruing against or on account of securities;

22 ~~(o)(p)~~ to sell or exercise stock subscription or
23 conversion rights; to consent, directly or through a
24 committee or other agent, to the reorganization,
25 consolidation, merger, dissolution, or liquidation of a

1 corporation or other business enterprise and retain any
2 property received pursuant thereto;

3 ~~(p)(q)~~ to hold a security in the name of a nominee or
4 in other form without disclosure of the trust so that title
5 to the security may pass by delivery, but the trustee is
6 liable for any act of the nominee in connection with the
7 stock so held;

8 ~~(q)(r)~~ to insure the assets of the trust against
9 damage or loss and the trustee against liability with
10 respect to third persons;

11 ~~(r)(s)~~ to borrow money from any source to be repaid
12 from trust assets or otherwise; to advance money for the
13 protection of the trust and for all expenses, losses, and
14 liability sustained in the administration of the trust or
15 because of the holding or ownership of any trust assets, for
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17 the trust assets as against the beneficiary;

18 ~~(s)(t)~~ to pay or contest any claim; to settle a claim
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7 beneficiary under disability, without liability to the
8 trustee, to the beneficiary or for use of the beneficiary
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18 (y)(z) to prosecute or defend actions, claims, or
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20 trustee in the performance of his duties;

21 (z)(aa) to execute and deliver all instruments which
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23 vested in the trustee."

-End-

SB106

1 *Amended* BILL NO. *406*
 2 INTRODUCED BY *Strom* *Butt*

3
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24 ~~(i) to~~ to make ordinary or extraordinary repairs or
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11 a term within or extending beyond the term of the trust;

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13 exploration and removal of minerals or other natural
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15 (f)(4) to grant an option involving disposition of a
16 trust asset, or to take an option for the acquisition of any
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19 limited proxy, and enter into voting trusts;

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22 (f)(7) to sell or exercise stock subscription or
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20 trustee in the performance of his duties;

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-End-

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