

Senate Bill 443

In The Senate

February 12, 1981

Introduced and referred
to Committee on Finance
and Claims.

February 20, 1981

Committee recommend bill
do not pass.

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INTRODUCED BY *Sen. Norman F. ...* ^{SENATE BILL NO. 443}
Ue Valkenburg Thomas Ryan Eok B... Speddon
Conover Berg Lindstedt Hussain Walk ...
 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH PREFERENCE

FOR INVESTMENT OF CERTAIN STATE FUNDS IN INVESTMENTS DIRECTLY BENEFITING MONTANA; PROVIDING FOR ACCEPTABLE SECURITY FOR SUCH INVESTMENTS IN LOANS; AND AMENDING SECTION 17-6-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
NEW SECTION. Section 1. Preference for Montana

investments. (1) The board of investments shall invest to the maximum extent possible, without jeopardizing the quality of the investments or the need for liquidity, the funds enumerated in subsections (1) and (3) through (6) of 17-6-203, excluding any retirement funds, in investments directly benefiting the state of Montana either because the company or property is located in Montana or the investment has some direct relationship to Montana.

(2) The following are permissible investments under this section:

- (a) securities, other than private corporate capital stock, issued by Montana corporations;
- (b) farm ownership loans in which the farmers home administration has participated or has subordinated leaving

the state of Montana in a preferred position as to collateral;

(c) farmers home administration guaranteed loans made to farmers and ranchers in Montana;

(d) small business administration (SBA) guaranteed loans made to businesses in Montana;

(e) any other federally guaranteed loans made to Montana residents or other permissible investments that will directly benefit Montana residents; and

(f) housing loans guaranteed by the federal housing administration or any other comparable guarantee authority made to Montana residents.

(3) The board shall make the investments under this section even if the investment will produce up to 2% less annual income than comparable out-of-state investments.

(4) The board shall report to each session of the legislature the amount from each fund invested pursuant to this section.

Section 2. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The Except as provided in [section 3] the following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

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

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

15 (i) such securities mature in 270 days or less;

16 (ii) the issuing corporation or the parent company of a
 17 finance subsidiary issuing commercial paper, at the time of
 18 the last financial reporting period, had a ratio of current
 19 assets to current liabilities, including among current
 20 liabilities long-term debt maturing within 1 year, of at
 21 least 1 1/2 to 1 and had received net income averaging \$1
 22 million or more annually for the preceding 5 years; and

23 (iii) no investment may be made at any time under this
 24 subsection (c) which would cause the book value of such
 25 investments in any investment fund to exceed 10% of the book

1 value of such fund or would cause the commercial paper of
 2 any one corporation to exceed 2% of the book value of such
 3 fund;

4 (d) bankers' acceptances guaranteed by any bank having
 5 its principal office in any state of the United States and
 6 having deposits in excess of \$500 million;

7 (e) interest-bearing deposits in banks, building and
 8 loan associations, and savings and loan associations located
 9 in Montana, provided, however, that the board of investments
 10 shall require pledged securities as specified in 17-6-102
 11 (interest on said deposits shall not be less than the
 12 prevailing rate of interest being paid on deposits of
 13 private funds);

14 (f) unencumbered real property, first mortgages, and
 15 participations in first mortgages on unencumbered real
 16 property, provided that:

17 (i) no such mortgage or mortgage participation may be
 18 purchased unless:

19 (A) the principal amount of the loan secured by the
 20 mortgage or mortgage participation is 80% or less of the
 21 appraised value of the property;

22 (B) the principal amount of the loan secured by the
 23 mortgage or mortgage participation exceeds 80% of the
 24 appraised value of the property but the amount of the loan
 25 in excess of 80%, determined at the time the loan was made,

1 is guaranteed or insured by a mortgage insurance company
 2 which the board of investments has determined to be a
 3 qualified private insurer;

4 (C) 25% or more of the loan or participation therein
 5 secured is guaranteed or insured in the event of default by
 6 the United States of America or an agency thereof; or

7 (D) 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 or
 10 participation therein by an agency of the United States; and

11 (ii) no investment shall be made at any time under
 12 subsection (1)(f) which would cause the book value of such
 13 investments in any investment fund to exceed 50% of the book
 14 value of such fund.

15 (2) Investments from the pooled investment fund shall
 16 be restricted to fixed income securities described in
 17 subsections (1)(a) to (1)(e) above.

18 (3) Retirement funds and the fund provided for in
 19 17-6-203, subsection (4) may be invested in preferred and
 20 common stocks of any corporation organized and operating in
 21 any state of the United States provided that:

22 (a) the corporation has assets of a value not less
 23 than \$10 million;

24 (b) if the investment is preferred stock, the
 25 corporation's aggregate earnings available for payment of

1 interest and preferred dividends, for a period of 5
 2 consecutive years immediately before the date of investment,
 3 have been at least 1 1/2 times the aggregate of interest and
 4 preferred dividends required to be paid during this period;
 5 and

6 (c) if the investment is common stock:

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

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

13 (iii) not more than 2% of the assets of any retirement
 14 fund may be invested in common stocks or in fixed income
 15 securities convertible into common stock not conforming to
 16 the dividend and earnings standards stated in subsections
 17 (3)(c)(i) and (3)(c)(ii) above, so long as the corporation
 18 maintains the asset value required in subsection (3)(a) and
 19 evidences appropriate growth potential and probable earnings
 20 gain; and

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

1 retirement fund;

2 (e) subsections (c)(iii) and (d) herein do not apply
3 to funds provided for in 17-6-203(4).

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

13 NEW SECTION. Section 3. Security for investments in
14 loans. (1) The restrictions on investments in 17-5-211 do
15 not apply for any fund enumerated in subsections (1) and (3)
16 through (6) of 17-6-203, excluding any retirement funds,
17 provided:

18 (a) a loan is secured by property that has been
19 appraised at 130% of the loan or higher; and

20 (b) at least 1% of the amount of the loan is charged
21 to the borrower in addition to the ordinary market interest
22 rate, which sum is placed in a sinking fund for the purpose
23 of assisting the sinking fund to cover any defaults that
24 might occur from the loan.

25 (2) All loans made under [section 1] shall be made

1 through and serviced by an existing financial institution.
2 The 1% to be deposited in the sinking fund under subsection
3 (1)(b) may be waived if the loan is guaranteed by a federal
4 agency or other reputable and adequately sound insurer.

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