

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON,
METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND,
KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN,
SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ,
REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON,
J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI,
MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH,
HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY,
SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUE,
ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG,
BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN,
ERNST, CRIPPEN, VAN VALKENBURG, ECK,
JACOBSON, CONOVER, BERG, MOHAR, MAZUREK,
HAFPEY, CHRISTIAENS, LANE, DANIELS,
THOMAS, R. MANNING, HAGER

BY REQUEST OF THE GOVERNOR

IN THE HOUSE

January 25, 1983	Introduced and referred to House Select Committee on Economic Development.
February 1, 1983	On motion by Chief Sponsor, Representatives Harrington, Metcalf, et al., were added as sponsors to the bill.
February 21, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 22, 1983	Bill printed and placed on members' desks.
February 23, 1983	Second reading, do pass as amended. Correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Business and Industry.
March 23, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 24, 1983	Second reading, pass consideration.
March 25, 1983	Second reading, pass consideration.
March 26, 1983	Second reading, concurred in as amended.
March 28, 1983	Third reading, concurred in. Ayes, 42; Noes, 5.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 1, 1983	Second reading, amendments not concurred in. On motion, Conference Committee requested and appointed.
April 14, 1983	Conference Committee dissolved. On motion, Free Conference Committee requested and appointed.
April 20, 1983	Free Conference Committee reported. Second reading, pass consideration.

April 20, 1983

Free Conference Committee dissolved.

On motion, new Free Conference Committee requested and appointed.

April 21, 1983

On motion, Free Conference Committee report #2 passed for the day.

April 21, 1983

New Free Conference Committee reported.

Second reading, new Free Conference Committee report adopted.

Third reading, new Free Conference Committee report adopted.

New Free Conference Committee report adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 100
2 INTRODUCED BY Demmis E. Vincent
3 BY REQUEST OF THE GOVERNOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3
6 OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE
7 ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD;
8 PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING
9 SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN
10 IMMEDIATE EFFECTIVE DATE."
11

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

13 NEW SECTION. Section 1. Short title. This act may be
14 cited as the "Montana In-State Investment Act of 1983".

15 NEW SECTION. Section 2. Definitions. As used in
16 [sections 1 through 16 and Initiative 95 approved by the
17 people at the election on November 2, 1982], unless the
18 context requires otherwise, the following definitions apply:

19 (1) "Board" means the Montana economic development
20 board established in [section 19].

21 (2) "Clean and healthful environment" means an
22 environment that is relatively free from pollution which
23 threatens human health, including as a minimum, compliance
24 with federal and state environmental and health standards.

25 (3) "Committee" means the economic development

1 oversight committee created by [section 17].

2 (4) "Financial institution" includes but is not
3 limited to a state- or federally chartered bank or a savings
4 and loan association, credit union, insurance company,
5 development company, or investment banking company.

6 (5) "Loan participation" means loans or portions
7 thereof bought from a financial institution.

8 (6) "Locally owned enterprise" means any enterprise
9 51% of whose stock, partnership interests, or other
10 ownership interests are owned and controlled by residents of
11 Montana.

12 (7) "Long-term benefit to the Montana economy" means
13 an activity that diversifies and stabilizes the Montana
14 economy and that has the potential to maintain and create
15 jobs, increase per capita income, or increase Montana tax
16 revenues in the future to the people of Montana, either
17 directly or indirectly.

18 (8) "Montana economy" means any business activity in
19 the state of Montana, including those which continue
20 existing jobs or create new jobs in Montana.

21 (9) "Montana in-state investment fund" means the fund
22 established by [section 3 of Initiative 95].

23 (10) "Service fees" means the fees normally charged by
24 a financial institution for servicing a loan, including
25 amounts charged for collecting payments and remitting

1 amounts to the fund.

2 NEW SECTION. Section 3. Montana in-state investment
3 fund. The Montana in-state investment fund consists of 25%
4 of the revenue deposited after June 30, 1983, into the
5 permanent coal tax trust fund established in 17-6-203(5) and
6 the principal and interest payments on all investments made
7 from the Montana in-state investment fund.

8 NEW SECTION. Section 4. Unified investment program.
9 The Montana economic development board and the board of
10 investments shall hold joint meetings at least twice a year
11 as a unified investment board for purposes of coordinating
12 investment strategies, policies, and programs as required by
13 Article VIII, section 13, of the Montana constitution.

14 NEW SECTION. Section 5. Authorized investments. The
15 Montana in-state investment fund must be invested in the
16 securities authorized as permissible investments under
17 17-6-211 and in any other type of in-state investment
18 authorized by rules adopted by the board.

19 NEW SECTION. Section 6. Investment preferences. In
20 deciding which of several investments of equal or comparable
21 security are to be made, the board shall give preference to
22 the business investments that:

23 (1) are for locally owned enterprises that are either
24 expanding or establishing new operations;

25 (2) provide jobs that will be substantially filled by

1 current Montana residents as opposed to providing jobs that
2 will be filled by nonresidents coming into the state to fill
3 such jobs;

4 (3) maintain and improve a clean and healthful
5 environment, with emphasis on conservation, renewable
6 resources, and alternative energy production; and

7 (4) benefit small- and medium-sized businesses as
8 defined in rules adopted by the board.

9 NEW SECTION. Section 7. No direct loans. No money
10 from the Montana in-state investment fund may be used to
11 make direct loans to individual borrowers. Loans or portions
12 thereof originated by a financial institution that are sold
13 to the trust are not direct loans.

14 NEW SECTION. Section 8. Limitation on size of
15 investments. No investment may be made that will result in
16 any one business enterprise or person receiving a benefit
17 from or incurring a debt to the Montana in-state investment
18 fund the total current accumulated amount of which exceeds
19 10% of the prior fiscal year's coal severance tax revenue
20 deposited in the Montana in-state investment fund.

21 NEW SECTION. Section 9. State participation in loans.
22 State participation in any loan to a business enterprise,
23 except for a loan guaranteed by a federal agency, must be
24 limited to 80% of the outstanding loan. The state shall
25 participate in the security for a loan in the same

1 proportion as the loan participation amount.

2 NEW SECTION. Section 10. Prior commitment of funds.
3 The board may authorize the commitment of funds to financial
4 institutions pursuant to rules adopted by the board, but the
5 determination as to credit with respect to individual
6 investments must be made by the financial institution and
7 the board.

8 NEW SECTION. Section 11. Rate of return. In
9 calculating the rate of return for any investment to be made
10 from the Montana in-state investment fund, the board shall
11 consider the long-term benefit to the Montana economy.

12 NEW SECTION. Section 12. Service charges. The board
13 shall by rule establish reasonable service fees that may be
14 charged on loans made from the Montana in-state investment
15 fund.

16 NEW SECTION. Section 13. Audit and performance
17 evaluation. (1) The board shall contract for an annual
18 independent financial audit of the board and the Montana
19 in-state investment fund.

20 (2) The board shall contract for biennial independent
21 operational and performance evaluations of the board and the
22 Montana in-state investment fund.

23 NEW SECTION. Section 14. Reports and publications.
24 (1) By September 30 of each year, the board shall publish a
25 report for distribution to the governor, the legislature,

1 and the public. The report must be written in easily
2 understandable language. The report must include:

3 (a) financial statements audited by independent
4 auditors;

5 (b) a statement of the amount of money received by the
6 Montana in-state investment fund from each investment during
7 the period covered;

8 (c) a statement of investments of the Montana in-state
9 investment fund, including an appraisal at market value;

10 (d) a description of investment activity during the
11 period covered by the report;

12 (e) a comparison of the Montana in-state investment
13 fund's performance in relation to intended goals contained
14 in [section 1 of Initiative 95];

15 (f) an examination of the impact of the investment
16 criteria of [sections 5 and 6];

17 (g) recommendations of any needed changes; and

18 (h) any other information the board believes would be
19 of interest to the governor, the legislature, and the
20 public.

21 (2) The annual income statement and balance sheet of
22 the Montana in-state investment fund must be published in at
23 least one newspaper in each judicial district of the state
24 by October 30 of each year.

25 NEW SECTION. Section 15. Report on potential uses of

1 coal tax trust fund. The board shall prepare for each
2 regular session of the legislature a report on potential
3 uses of the coal tax trust fund to develop a stable, strong,
4 and diversified Montana economy that meets the needs of
5 present and future generations of Montanans while
6 maintaining and improving a clean and healthful environment
7 as required by Article IX, section 1, of the Montana
8 constitution.

9 NEW SECTION. Section 16. Rulemaking authority. The
10 board may adopt rules to implement the provisions of
11 [sections 1 through 16] and 17-6-211(5). Rules adopted by
12 the board may include definitions of small- and medium-sized
13 businesses, a method of committing funds to financial
14 institutions, types of service fees, and types of
15 investments to be made. The board may also adopt procedural
16 rules to govern its proceedings.

17 NEW SECTION. Section 17. Economic development
18 oversight committee. (1) There is an economic development
19 oversight committee.

20 (2) The committee consists of:

21 (a) four members of the senate, appointed by the
22 committee on committees; and

23 (b) four members of the house of representatives,
24 appointed by the speaker of the house.

25 (3) No more than two members from each house may be of

1 the same political party.

2 (4) Members of the committee must be appointed before
3 the 90th legislative day of a regular session.

4 (5) Appointments to the committee are for 2 years. A
5 member of the committee serves until his term of office as a
6 legislator is ended or his successor is appointed, whichever
7 occurs first.

8 (6) Vacancies must be filled in the manner specified
9 in 5-18-104 for filling vacancies on the revenue oversight
10 committee.

11 (7) The committee shall elect one of its members as
12 chairman and any other officers it considers necessary.

13 NEW SECTION. Section 18. Powers and duties of
14 committee. (1) All rules proposed by the Montana economic
15 development board, created in [section 19], and filed with
16 the secretary of state must be reviewed by the committee.

17 (2) The committee may:

18 (a) prepare written or oral recommendations for the
19 adoption, amendment, or rejection of a rule and submit the
20 recommendations to the board, whether or not a rulemaking
21 hearing is to be held;

22 (b) require that a rulemaking hearing be held in
23 accordance with the provisions of 2-4-302 through 2-4-305;

24 (c) recommend to the legislature the repeal,
25 amendment, or adoption of a rule through legislation.

(3) The committee may investigate and issue reports on any matter concerning economic development or any other area of the Montana economic development board's authority.

NEW SECTION. Section 19. Montana economic development board -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana economic development board. Except as otherwise provided in this section, the board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in [section 20].

(2) The board is composed of seven members, to be appointed by the governor as prescribed in 2-15-124. The board must be broadly representative of the state, seeking to balance professional experience and public accountability.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board may invest the Montana in-state investment fund according to the provisions of [sections 1 through 3 of Initiative 95 and sections 1 through 16] and 17-6-201 and 17-6-211.

NEW SECTION. Section 20. Personnel of board. (1) The Montana economic development board may employ an investment officer, who will have general responsibility for the

selection and management of the board's staff and direction of investment activity. The investment officer serves at the pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 21. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with the rules provided in this chapter and [sections 1 through 16] and with that degree of judgment and care, under circumstances from time to time prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through 16].

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent

1 consistent with this policy and with the need and timing of
2 cash expenditures for particular purposes.

3 (3) The board of investments has the sole authority to
4 invest state funds other than the Montana in-state
5 investment fund. No other agency may invest such state
6 funds. The board shall direct the investment of state funds
7 in accordance with the laws and constitution of this state.
8 The board has the power to veto any investments made under
9 its general supervision.

10 (4) The board of investments shall:

11 (a) assist agencies with public money to determine if,
12 when, and how much surplus cash is available for investment;

13 (b) determine the amount of surplus treasury cash to
14 be invested;

15 (c) determine the type of investment to be made; and

16 (d) prepare the claim to pay for the investment.

17 (5) The board of investments may:

18 (a) execute deeds of conveyance transferring all real
19 property obtained through foreclosure of any investments
20 purchased under the provisions of 17-6-211 when full payment
21 has been received therefor;

22 (b) direct the withdrawal of any funds deposited by or
23 for the state treasurer pursuant to 17-6-101 and 17-6-105;

24 (c) direct the sale of any securities in the program
25 at their full and true value when found necessary to raise

1 money for payments due from the treasury funds for which the
2 securities have been purchased.

3 (6) The state treasurer shall keep an account of the
4 total of each investment fund and of all the investments
5 belonging to such fund and of the participation of each
6 treasury fund account therein and shall make from time to
7 time such reports with reference thereto as may be directed
8 by the board of investments.

9 (7) The cost of administering and accounting for each
10 investment fund shall be deducted from the income therefrom,
11 except that such costs of the trust and legacy fund shall be
12 paid from income otherwise receivable from the pooled
13 investment fund, and the amounts required for this purpose
14 shall be appropriated by the legislature from the respective
15 investment funds."

16 Section 22. Section 17-6-211, MCA, is amended to read:

17 "17-6-211. Permissible investments. (1) The following
18 securities are permissible investments for all investment
19 funds referred to in 17-6-203, except as indicated:

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

22 (b) bonds, notes, debentures, equipment obligations,
23 or any other kind of absolute obligation of any corporation
24 organized and operating in any state of the United States or
25 in Canada, if the obligations purchased are payable in

1 United States dollars, or of any corporation in which the
 2 United States government is a voting shareholder by act of
 3 congress; provided that all investments under this
 4 subsection (b) must be rated by one nationally recognized
 5 rating agency among the top third of their quality
 6 categories, not applicable to defaulted bonds;

7 (c) commercial paper of prime quality, as defined by
 8 one nationally recognized rating agency, issued by any
 9 corporation organized and operating in any state of the
 10 United States, provided that:

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

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

19 (iii) no investment may be made at any time under this
 20 subsection (c) which would cause the book value of such
 21 investments in any investment fund to exceed 10% of the book
 22 value of such fund or would cause the commercial paper of
 23 any one corporation to exceed 2% of the book value of such
 24 fund;

25 (d) bankers' acceptances guaranteed by any bank having

1 its principal office in any state of the United States and
 2 having deposits in excess of \$500 million;

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

10 (f) unencumbered real property, first mortgages, and
 11 participations in first mortgages on unencumbered real
 12 property, provided that:

13 (i) no such mortgage or mortgage participation may be
 14 purchased unless:

15 (A) the principal amount of the loan secured by the
 16 mortgage or mortgage participation is 80% or less of the
 17 appraised value of the property;

18 (B) the principal amount of the loan secured by the
 19 mortgage or mortgage participation exceeds 80% of the
 20 appraised value of the property but the amount of the loan
 21 in excess of 80%, determined at the time the loan was made,
 22 is guaranteed or insured by a mortgage insurance company
 23 which the board of investments has determined to be a
 24 qualified private insurer;

25 (C) 25% or more of the loan or participation therein

1 secured is guaranteed or insured in the event of default by
2 the United States of America or an agency thereof; or

3 (D) the mortgagor has leased the mortgaged property to
4 a person, firm, or corporation whose rental payments under
5 the lease are guaranteed for the full term of the loan or
6 participation therein by an agency of the United States; and

7 (ii) no investment shall be made at any time under
8 subsection (1)(f) which would cause the book value of such
9 investments in any investment fund to exceed 50% of the book
10 value of such fund.

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

14 (3) Retirement funds and the fund provided for in
15 17-6-203, subsection (4) may be invested in preferred and
16 common stocks of any corporation organized and operating in
17 any state of the United States provided that:

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

20 (b) if the investment is preferred stock, the
21 corporation's aggregate earnings available for payment of
22 interest and preferred dividends, for a period of 5
23 consecutive years immediately before the date of investment,
24 have been at least 1 1/2 times the aggregate of interest and
25 preferred dividends required to be paid during this period;

1 (c) no investment may be made at any time under
2 subsection (3) which would cause the book value of such
3 investments in any retirement fund to exceed 50% of the book
4 value of such fund or would cause the stock of one
5 corporation to exceed 2% of the book value of such
6 retirement fund;

7 (d) subsection (c) does not apply to funds provided
8 for in 17-6-203(4).

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

18 (5) The Montana economic development board created in
19 [section 19] may invest the Montana in-state investment fund
20 in any in-state investment authorized by its rules in
21 addition to those investments authorized by this section.*

22 NEW SECTION. Section 23. Temporary investment limit.
23 Notwithstanding the percentage figure in [section 8], the
24 investment limit for fiscal year 1984 must be calculated
25 based on 25% of the total coal tax deposits to the permanent

1 coal tax trust fund made in fiscal year 1983.

2 NEW SECTION. Section 24. Severability. If a part of
3 this act is invalid, all valid parts that are severable from
4 the invalid part remain in effect. If a part of this act is
5 invalid in one or more of its applications, the part remains
6 in effect in all valid applications that are severable from
7 the invalid applications.

8 NEW SECTION. Section 25. Effective date. This act is
9 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 258-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, 19 83, there is hereby submitted a Fiscal Note for House Bill 100 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:

House Bill 100 creates an in-state investment fund to be administered by the Montana Economic Development Board.

ASSUMPTIONS:

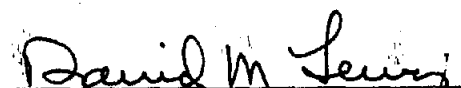
- 1) Funds available for investment will be \$12.332 million for FY 84 and \$15.384 million for FY 85.
- 2) The interest rate is assumed to be the market rate or the same as on the rest of the coal trust fund.
- 3) Seven (7) member board.
- 4) Three (3) person staff.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>	<u>Total Biennium</u>
Expenditures under proposed legislation			
Personal Services	\$122,984	\$122,521	\$245,505
Operating Expenses	77,401	80,389	157,790
Equipment	5,010	-0-	5,010
Legislative Oversight Committee	12,500	12,500	25,000
Total Expenditures Under Proposal	<u>\$217,895</u>	<u>\$214,410</u>	<u>\$433,305</u>
Expenditures Under Current Law	\$ -0-	\$ -0-	\$ -0-
Increased Expenditures to state investment fund	<u>\$217,895</u>	<u>\$215,410</u>	<u>\$433,305</u>

Revenue Impact:

General Fund revenues will be reduced because earnings on the in-state investment fund will be deposited in the state investment fund rather than into the general fund.

\$405,723\$2,076,124\$2,481,847Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-83

NOTE:

Section 11 of House Bill 100 requires the board to consider the long term benefit to the Montana economy when calculating the rate of return for any investment from the fund. If this means that loans are made at less than market rate, then interest earnings will be reduced.

FISCAL NOTE 9:Z/2

1 STATEMENT OF INTENT

2 HOUSE BILL 100

3 House Economic Development Committee
4

5 (1) A statement of intent is required for this bill
6 because it grants rulemaking authority to the Montana
7 economic development board in section 16. These rules will
8 include definitions of small- and medium-sized businesses, a
9 method of commitment of funds to financial institutions,
10 setting service fees for loans, defining types of
11 permissible investments, and procedural rules to govern the
12 board's proceedings.

13 (2) It is the intent of the legislature that:

14 (a) the definitions of small- and medium-sized
15 business be based on either the number of employees of the
16 business, the level of capitalization of the business, or a
17 combination of these factors;

18 (b) the method of committing funds to financial
19 institutions be similar to the method utilized by the board
20 of housing for committing funds for housing developments to
21 financial institutions;

22 (c) the level of service fees be set to cover the
23 costs associated with processing the investment and be
24 similar to those charged by financial institutions;

25 (d) the permissible investments adopted by rules be

1 based on the long-term benefit to the Montana economy and
2 adhere to the prudent-man rule. The investments should be
3 aimed at diversifying, strengthening, and stabilizing the
4 Montana economy and increasing employment opportunities
5 while maintaining and improving a clean and healthful
6 environment; and

7 (e) the procedural rules be based on the Attorney
8 General's model rules.

Approved by Committee
on Economic Development

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOME, VINCENT, HARRINGTON,
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PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING
SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. This act may be
cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 16 and Initiative 95 approved by the
people at the election on November 2, 1982], unless the
context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development
board established in [section 19].

(2) "Clean and healthful environment" means an
environment that is relatively free from pollution which
threatens human health, including as a minimum, compliance
with federal and state environmental and health standards.

(3) "Committee" means the economic development
oversight committee created by [section 17].

(4) "Financial institution" includes but is not
limited to a state- or federally chartered bank or a savings
and loan association, credit union, insurance company,
development company, or investment banking company.

(5) "Loan participation" means loans or portions
thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise
51% of whose stock, partnership interests, or other
ownership interests are owned and controlled by residents of
Montana.

(7) "Long-term benefit to the Montana economy" means an activity that ~~diversifies-and-stabilizes~~ SIRENGIHENS the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

(8) "Montana economy" means any business activity in the state of Montana, including those which continue existing jobs or create new jobs in Montana.

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~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE FOR ANY~~

CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT:

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OR

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(2) The committee consists of:

(a) four members of the senate, appointed by the committee on committees; and

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(3) No more than two members from each house may be of the same political party.

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2 (5) Appointments to the committee are for 2 years. A
3 member of the committee serves until his term of office as a
4 legislator is ended or his successor is appointed, whichever
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6 (6) Vacancies must be filled in the manner specified
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3 board -- allocation -- composition -- quasi-judicial
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5 Except as otherwise provided in this section, the board is
6 allocated to the department of commerce for administrative
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8 authority over its own personnel as provided in [section
9 20].

10 (2) The board is composed of seven members, to be
11 appointed by the governor as prescribed in 2-15-124. The
12 board must be broadly representative of the state, seeking
13 to balance professional experience and public ~~INTEREST AND~~
14 accountability.

15 (3) The board is designated as a quasi-judicial board
16 for the purposes of 2-15-124.

17 (4) The board may ~~may~~ **SHALL** invest the Montana in-state
18 investment fund according to the provisions of [sections 1
19 through 3 of Initiative 95 and sections 1 through 16] and
20 17-6-201 and 17-6-211.

21 **NEW SECTION.** Section 20. Personnel of board. (1) The
22 Montana economic development board may employ an investment
23 officer, who will have general responsibility for the
24 selection and management of the board's staff and direction
25 of investment activity. The investment officer serves at the

pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 21. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments ~~and the Montana economic development board~~ in accordance with the rules provided in this chapter ~~and [sections 1 through 16]~~ and with that degree of judgment and care, under circumstances from time to time prevailing, which men ~~PEOPLE~~ of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. ~~Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through 16].~~

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent consistent with this policy and with the need and timing of

cash expenditures for particular purposes.

(3) The board of investments has the sole authority to invest state funds ~~other than the Montana in-state investment fund~~. No other agency may invest ~~such~~ state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4) The board ~~of investments~~ shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the

1 securities have been purchased.

2 (6) The state treasurer shall keep an account of the
3 total of each investment fund and of all the investments
4 belonging to such fund and of the participation of each
5 treasury fund account therein and shall make from time to
6 time such reports with reference thereto as may be directed
7 by the board of investments.

8 (7) The cost of administering and accounting for each
9 investment fund shall be deducted from the income therefrom,
10 except that such costs of the trust and legacy fund shall be
11 paid from income otherwise receivable from the pooled
12 investment fund, and the amounts required for this purpose
13 shall be appropriated by the legislature from the respective
14 investment funds."

15 Section 22. Section 17-6-211, MCA, is amended to read:

16 "17-6-211. Permissible investments. (1) The following
17 securities are permissible investments for all investment
18 funds referred to in 17-6-203, except as indicated:

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

21 (b) bonds, notes, debentures, equipment obligations,
22 or any other kind of absolute obligation of any corporation
23 organized and operating in any state of the United States or
24 in Canada, if the obligations purchased are payable in
25 United States dollars, or of any corporation in which the

1 United States government is a voting shareholder by act of
2 congress; provided that all investments under this
3 subsection (b) must be rated by one nationally recognized
4 rating agency among the top third of their quality
5 categories, not applicable to defaulted bonds;

6 (c) commercial paper of prime quality, as defined by
7 one nationally recognized rating agency, issued by any
8 corporation organized and operating in any state of the
9 United States, provided that:

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

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

18 (iii) no investment may be made at any time under this
19 subsection (c) which would cause the book value of such
20 investments in any investment fund to exceed 10% of the book
21 value of such fund or would cause the commercial paper of
22 any one corporation to exceed 2% of the book value of such
23 fund;

24 (d) bankers' acceptances guaranteed by any bank having
25 its principal office in any state of the United States and

1 having deposits in excess of \$500 million;

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

9 (f) unencumbered real property, first mortgages, and
10 participations in first mortgages on unencumbered real
11 property, provided that:

12 (i) no such mortgage or mortgage participation may be
13 purchased unless:

14 (A) the principal amount of the loan secured by the
15 mortgage or mortgage participation is 80% or less of the
16 appraised value of the property;

17 (B) the principal amount of the loan secured by the
18 mortgage or mortgage participation exceeds 80% of the
19 appraised value of the property but the amount of the loan
20 in excess of 80%, determined at the time the loan was made,
21 is guaranteed or insured by a mortgage insurance company
22 which the board of investments has determined to be a
23 qualified private insurer;

24 (C) 25% or more of the loan or participation therein
25 secured is guaranteed or insured in the event of default by

1 the United States of America or an agency thereof; or

2 (D) the mortgagor has leased the mortgaged property to
3 a person, firm, or corporation whose rental payments under
4 the lease are guaranteed for the full term of the loan or
5 participation therein by an agency of the United States; and

6 (ii) no investment shall be made at any time under
7 subsection (1)(f) which would cause the book value of such
8 investments in any investment fund to exceed 50% of the book
9 value of such fund.

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

13 (3) Retirement funds and the fund provided for in
14 17-6-203, subsection (4) may be invested in preferred and
15 common stocks of any corporation organized and operating in
16 any state of the United States provided that:

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

19 (b) if the investment is preferred stock, the
20 corporation's aggregate earnings available for payment of
21 interest and preferred dividends, for a period of 5
22 consecutive years immediately before the date of investment,
23 have been at least 1 1/2 times the aggregate of interest and
24 preferred dividends required to be paid during this period;

25 (c) no investment may be made at any time under

subsection (3) which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund;

(d) subsection (c) does not apply to funds provided for in 17-6-203(4).

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

~~(5) The Montana economic development board created in [section 19] may invest the Montana in-state investment fund in any in-state investment authorized by its rules in addition to those investments authorized by this section."~~

NEW SECTION. Section 23. Temporary investment limit. Notwithstanding the percentage figure in [section 8], the investment limit for fiscal year 1984 must be calculated based on 25% of the total coal tax deposits to the permanent coal tax trust fund made in fiscal year 1983.

NEW SECTION. Section 24. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 25. Effective date. This act is effective on passage and approval.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 100

3 House Economic Development Committee

4
5 (1) A statement of intent is required for this bill
6 because it grants rulemaking authority to the Montana
7 economic development board in section 16. These rules will
8 include definitions of small- and medium-sized businesses, a
9 method of commitment of funds to financial institutions,
10 setting service fees for loans, defining types of
11 permissible investments, and procedural rules to govern the
12 board's proceedings.

13 (2) It is the intent of the legislature that:

14 (a) the definitions of small- and medium-sized
15 business be based on either the number of employees of the
16 business, the level of capitalization of the business, or a
17 combination of these factors;

18 (b) the method of committing funds to financial
19 institutions be similar to the method utilized by the board
20 of housing for committing funds for housing developments to
21 financial institutions;

22 (c) the level of service fees be set to cover the
23 costs associated with processing the investment and be
24 similar to those charged by financial institutions;

25 (d) the permissible investments adopted by rules be

1 based on the long-term benefit to the Montana economy and
2 adhere to the prudent-man rule. The investments should be
3 aimed at diversifying, strengthening, and stabilizing the
4 Montana economy and increasing employment opportunities
5 while maintaining and improving a clean and healthful
6 environment; and
7 (e) the procedural rules be based on the Attorney
8 General's model rules.

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOME, VINCENT, HARRINGTON,
METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND,
KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN,
SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ,
REAN, BACHINI, PECK, FARRIS, O'CONNELL, NILSON,
J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI,
MCCORMICK, HOME, DRISCOLL, DAILY, PAVLOVICH,
HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY,
SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE,
ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG,
BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN,
ERNST, CRIPPEN, VAN VALKENBURG, ECK,
JACOBSON, CONOVER, BERG, MOHAR, MAZUREK,
HAFFEY, CHRISTIAENS, LANE, DANIELS,
THOMAS, R. MANNING, HAGER
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3
OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE
ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD;
PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING
SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. This act may be
cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 16 and Initiative 95 approved by the
people at the election on November 2, 1982], unless the
context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development
board established in [section 19].

(2) "Clean and healthful environment" means an
environment that is relatively free from pollution which
threatens human health, including as a minimum, compliance
with federal and state environmental and health standards.

(3) "Committee" means the economic development
oversight committee created by [section 17].

(4) "Financial institution" includes but is not
limited to a state- or federally chartered bank or a savings
and loan association, credit union, insurance company,
development company, or investment banking company.

(5) "Loan participation" means loans or portions
thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise
51% of whose stock, partnership interests, or other
ownership interests are owned and controlled by residents of
Montana.

(7) "Long-term benefit to the Montana economy" means an activity that diversifies and stabilizes ~~SIRENGIHENS~~ the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

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16 AGRICULTURE, ORGANIZED LABOR, AND THE GENERAL PUBLIC.

17 (3) The board is designated as a quasi-judicial board
18 for the purposes of 2-15-124.

19 (4) The board may SHALL invest the Montana in-state
20 investment fund according to the provisions of [sections 1
21 through 3 of Initiative 95 and sections 1 through 16] and
22 17-6-201 and 17-6-211.

23 NEW SECTION. Section 20. Personnel of board. (1) The
24 Montana economic development board may employ an investment
25 officer, who will have general responsibility for the

1 selection and management of the board's staff and direction
2 of investment activity. The investment officer serves at the
3 pleasure of the board.

4 (2) The board may prescribe the duties and annual
5 salary for professional staff positions.

6 Section 21. Section 17-6-201, MCA, is amended to read:

7 "17-6-201. Unified investment program — general
8 provisions. (1) The uniform investment program directed by
9 Article VIII, section 13, of the 1972 Montana constitution
10 to be provided for public funds shall be administered by the
11 board of investments ~~and the Montana economic development~~
12 ~~board~~ in accordance with the rules provided in this chapter
13 ~~and [sections 1 through 16]~~ and with that degree of judgment
14 and care, under circumstances from time to time prevailing,
15 which men ~~PEOPLE~~ of prudence, discretion, and intelligence
16 exercise in the management of their own affairs, not for
17 speculation but for investment, considering the probable
18 safety of their capital as well as the probable income to be
19 derived, and preservation of purchasing power of capital
20 during periods of sustained high monetary inflation.
21 ~~Investments by the Montana economic development board are~~
22 ~~limited to those made from the Montana in-state investment~~
23 ~~fund and for the purposes set forth in [sections 1 through~~
24 ~~16].~~

25 (2) All state funds shall be invested and reinvested

1 in securities enumerated in 17-6-211 to the maximum extent
2 consistent with this policy and with the need and timing of
3 cash expenditures for particular purposes.

4 (3) The board of investments has the sole authority to
5 invest state funds ~~other than the Montana in-state~~
6 ~~investment fund~~. No other agency may invest such state
7 funds. The board shall direct the investment of state funds
8 in accordance with the laws and constitution of this state.
9 The board has the power to veto any investments made under
10 its general supervision.

11 (4) The board ~~of investments~~ shall:

12 (a) assist agencies with public money to determine if,
13 when, and how much surplus cash is available for investment;
14 (b) determine the amount of surplus treasury cash to
15 be invested;

16 (c) determine the type of investment to be made; and

17 (d) prepare the claim to pay for the investment.

18 (5) The board of investments may:

19 (a) execute deeds of conveyance transferring all real
20 property obtained through foreclosure of any investments
21 purchased under the provisions of 17-6-211 when full payment
22 has been received therefor;

23 (b) direct the withdrawal of any funds deposited by or
24 for the state treasurer pursuant to 17-6-101 and 17-6-105;

25 (c) direct the sale of any securities in the program

1 at their full and true value when found necessary to raise
2 money for payments due from the treasury funds for which the
3 securities have been purchased.

4 (6) The state treasurer shall keep an account of the
5 total of each investment fund and of all the investments
6 belonging to such fund and of the participation of each
7 treasury fund account therein and shall make from time to
8 time such reports with reference thereto as may be directed
9 by the board of investments.

10 (7) The cost of administering and accounting for each
11 investment fund shall be deducted from the income therefrom,
12 except that such costs of the trust and legacy fund shall be
13 paid from income otherwise receivable from the pooled
14 investment fund, and the amounts required for this purpose
15 shall be appropriated by the legislature from the respective
16 investment funds."

17 Section 22. Section 17-6-211, MCA, is amended to read:

18 "17-6-211. Permissible investments. (1) The following
19 securities are permissible investments for all investment
20 funds referred to in 17-6-203, except as indicated:

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

23 (b) bonds, notes, debentures, equipment obligations,
24 or any other kind of absolute obligation of any corporation
25 organized and operating in any state of the United States or

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

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

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

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

20 (iii) no investment may be made at any time under this
21 subsection (c) which would cause the book value of such
22 investments in any investment fund to exceed 10% of the book
23 value of such fund or would cause the commercial paper of
24 any one corporation to exceed 2% of the book value of such
25 fund;

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

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

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

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

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

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company which the board of investments has determined to be a qualified private insurer;

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

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

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

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

(3) Retirement funds and the fund provided for in 17-6-203, subsection (4) 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 \$10 million;

(b) if the investment is preferred stock, the corporation's aggregate earnings available for payment of interest and preferred dividends for a period of 5 consecutive years immediately before the date of investment, have been at least 1 1/2 times the aggregate of interest and

1 preferred dividends required to be paid during this period;

2 (c) no investment may be made at any time under
3 subsection (3) which would cause the book value of such
4 investments in any retirement fund to exceed 50% of the book
5 value of such fund or would cause the stock of one
6 corporation to exceed 2% of the book value of such
7 retirement fund;

8 (d) subsection (c) does not apply to funds provided
9 for in 17-6-203(4).

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

19 (5) The Montana economic development board created in
20 [section 19] may invest the Montana in-state investment fund
21 in any in-state investment authorized by its rules in
22 addition to those investments authorized by this section."

23 NEW SECTION. Section 23. Temporary investment limit.
24 Notwithstanding the percentage figure in [section 8], the
25 investment limit for fiscal year 1984 must be calculated

1 based on 25% of the total coal tax deposits to the permanent
2 coal tax trust fund made in fiscal year 1983.

3 NEW SECTION. Section 24. Severability. If a part of
4 this act is invalid, all valid parts that are severable from
5 the invalid part remain in effect. If a part of this act is
6 invalid in one or more of its applications, the part remains
7 in effect in all valid applications that are severable from
8 the invalid applications.

9 NEW SECTION. Section 25. Effective date. This act is
10 effective on passage and approval.

-End-

March 23, 1983

SENATE STANDING COMMITTEE REPORT
(Business and Industry)

That House Bill 100 be amended as follows:

1. Page 2, line 11.

Following: "is"

Strike: remainder of line 11 through "as" on line 12.

Insert: "at"

2. Page 2, line 12.

Following: "minimum,"

Insert: "in"

3. Page 2, line 18.

Following: "union,"

Strike: remainder of line 18 in its entirety.

Insert: "or"

4. Page 2, line 19.

Following: "development"

Strike: remainder of line 19 through "banking company"

Insert: "corporation created pursuant to Title 32, Chapter 4"

5. Page 4, line 10.

Following: "made"

Insert: "when sufficient funds are not available to fund all possible investments"

Strike: "shall"

Insert: "may"

6. Page 4, line 19.

Following: "environment"

Strike: remainder of line 19 through "production" on line 20.

7. Page 4, line 24, through line 1 on page 5.

Strike: subsection (5) in its entirety.

Renumber: subsequent sections

8. Page 10, line 14.

Following: "accountability"

Strike: remainder of line 14 through "PUBLIC" on line 16.

Insert: "be broadly representative of the state, seeking to balance professional expertise and public interest and accountability"

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Elliott Committee of the Whole Amendment subsection (2) be amended as follows:

1. Following: "2."
- Insert: "In deciding which of several investments of equal or comparable security and return are to be made"
- Strike: "The"
- Insert: "the"

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Committee of the Whole Amendment of Senator Elliott, be amended as follows:

1. Following: subsection 3.
- Insert: "4. The board shall give preference to the business investments that maintain and improve a clean and healthful environment."

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Standing Committee Report, Business & Industry, be amended as follows:

1. Strike: Amendments 1 and 2

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100 be amended as follows:

1. Page 8, line 15.
- Strike: Sections 17 and 18 in their entirety
- Renumber: subsequent sections

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill NO. 100 be amended as follows:

1. Page 4, line 8.

Strike: Section 6 in its entirety

Insert: "New Section. Section 6. Investment Preferences.

1. The provisions of Article II, Section 4 of the Montana Constitution prohibiting discrimination shall be strictly applied with relation to any investment made under this act.

2. The board shall give preference to the business investments that:

(a) are for locally owned enterprises that are either expanding existing operations or establishing new operations;

and

(b) provide jobs that will be substantially filled by current Montana residents.

3. Preference shall be given to small and medium-sized businesses as defined in rules adopted by the board."

1 STATEMENT OF INTENT

2 HOUSE BILL 100

3 House Economic Development Committee

4
5 (1) A statement of intent is required for this bill
6 because it grants rulemaking authority to the Montana
7 economic development board in section 16. These rules will
8 include definitions of small- and medium-sized businesses, a
9 method of commitment of funds to financial institutions,
10 setting service fees for loans, defining types of
11 permissible investments, and procedural rules to govern the
12 board's proceedings.

13 (2) It is the intent of the legislature that:

14 (a) the definitions of small- and medium-sized
15 business be based on either the number of employees of the
16 business, the level of capitalization of the business, or a
17 combination of these factors;

18 (b) the method of committing funds to financial
19 institutions be similar to the method utilized by the board
20 of housing for committing funds for housing developments to
21 financial institutions;

22 (c) the level of service fees be set to cover the
23 costs associated with processing the investment and be
24 similar to those charged by financial institutions;

25 (d) the permissible investments adopted by rules be

1 based on the long-term benefit to the Montana economy and
2 adhere to the prudent-man rule. The investments should be
3 aimed at diversifying, strengthening, and stabilizing the
4 Montana economy and increasing employment opportunities
5 while maintaining and improving a clean and healthful
6 environment; and
7 (e) the procedural rules be based on the Attorney
8 General's model rules.

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON,
METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND,
KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN,
SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ,
REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON,
J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI,
MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH,
HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY,
SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE,
ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG,
BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN,
ERNST, CRIPPEN, VAN VALKENBURG, ECK,
JACOBSON, CONOVER, BERG, MOHAR, HAZUREK,
HAFFEY, CHRISTIAENS, LANE, DANIELS,
THOMAS, R. MANNING, HAGER
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3
OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE
ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD;
PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING
SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Short title. This act may be
cited as the "Montana In-State Investment Act of 1983".

~~NEW SECTION.~~ Section 2. Definitions. As used in
[sections 1 through 16 and Initiative 95 approved by the
people at the election on November 2, 1982], unless the
context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development
board established in [section 19].

(2) "Clean and healthful environment" means an
environment that is ~~relatively--free--from--pollution--which~~
~~threatens--human--health--including--any--~~ RELATIVELY FREE
FROM POLLUTION WHICH THREATENS HUMAN HEALTH, INCLUDING AS a
minimum, ~~in~~ compliance with federal and state environmental
and health standards.

(3) "Committee" means the economic development
oversight committee created by [section 17].

(4) "Financial institution" includes but is not
limited to a state- or federally chartered bank or a savings
and loan association, credit union, ~~insurance--company, or~~
~~development company--or--investment--banking--company~~
CORPORATION CREATED PURSUANT TO TITLE 32, CHAPTER 4.

(5) "Loan participation" means loans or portions
thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise

51% of whose stock, partnership interests, or other ownership interests are owned and controlled by residents of Montana.

(7) "Long-term benefit to the Montana economy" means an activity that ~~diversifies-and-stabilizes~~ STRENGTHENS the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

(8) "Montana economy" means any business activity in the state of Montana, including those which continue existing jobs or create new jobs in Montana.

(9) "Montana in-state investment fund" means the fund established by [section 3 of Initiative 95].

(10) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

NEW_SECTION. Section 3. Montana in-state investment fund. The Montana in-state investment fund consists of 25% of the revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) and the principal ~~and-interest~~ payments on all investments made from the Montana in-state investment fund.

NEW_SECTION. Section 4. Unified investment program.

The Montana economic development board and the board of investments shall hold joint meetings at least twice a year as a unified investment board for purposes of coordinating investment strategies, policies, and programs as required by Article VIII, section 13, of the Montana constitution.

NEW_SECTION. Section 5. Authorized investments. The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment authorized by rules adopted by the board.

~~NEW_SECTION. Section 6. Investment preferences. In deciding which of several investments of equal or comparable security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board shall:~~
~~(1) give preference to the business investments that:~~
~~(a) are for locally-owned enterprises that are either expanding or establishing new operations;~~
~~(b) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;~~

~~(3) maintain and improve a clean and healthful environment with emphasis on conservation, renewable resources, and alternative energy production; and~~

~~(4) encourage or benefit the professions, refining,~~

~~MARKETING, AND INNOVATIVE USE, AND PROMOTION OF MONTANA'S
AGRICULTURAL PRODUCTS;~~

~~1) PAY THE PREVAILING WAGE FOR THAT OCCUPATION OR
UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE FOR ANY
CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT;~~

~~1) HAVE RESPONSIBLE AFFIRMATIVE ACTION PLANS FOR
EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED;
OR~~

~~(4) (i) (6) benefit small and medium-sized businesses
as defined in rules adopted by the board;~~

THERE IS A NEW MCA SECTION THAT READS:

Section 6. Investment preferences. (1) The provisions
of Article II, section 4, of the Montana constitution
prohibiting discrimination shall be strictly applied with
relation to any investment made under [this act].

(2) The IN DECIDING WHICH OF SEVERAL INVESTMENTS OF
EQUAL OR COMPARABLE SECURITY AND RETURN ARE TO BE MADE, THE
board shall give preference to the business investments
that:

(a) are for locally owned enterprises that are either
expanding existing operations or establishing new
operations; and

(b) provide jobs that will be substantially filled by
current Montana residents.

(3) Preference shall be given to small and

medium-sized businesses as defined in rules adopted by the
board.

(4) THE BOARD SHALL GIVE PREFERENCE TO THE BUSINESS
INVESTMENTS THAT MAINTAIN AND IMPROVE A CLEAN AND HEALTHFUL
ENVIRONMENT.

NEW SECTION. Section 7. No direct loans. No money
from the Montana in-state investment fund may be used to
make direct loans to individual borrowers. Loans or portions
thereof originated by a financial institution that are sold
to the trust are not direct loans.

NEW SECTION. Section 8. Limitation on size of
investments. No investment may be made that will result in
any one business enterprise or person receiving a benefit
from or incurring a debt to the Montana in-state investment
fund the total current accumulated amount of which exceeds
10% of the prior fiscal year's coal severance tax revenue
deposited in the Montana in-state investment fund.

NEW SECTION. Section 9. State participation in loans.
State participation in any loan to a business enterprise,
except for a loan guaranteed by a federal agency, must be
limited to 80% of the outstanding loan. The state shall
participate in the security for a loan in the same
proportion as the loan participation amount.

NEW SECTION. Section 10. Prior commitment of funds.
The board may authorize the commitment of funds to financial

1 institutions pursuant to rules adopted by the board, but the
2 determination as to credit with respect to individual
3 investments must be made by the financial institution and
4 the board.

5 NEW_SECTION. Section 11. Rate of return. In
6 calculating the rate of return for any investment to be made
7 from the Montana in-state investment fund, the board shall
8 consider the long-term benefit to the Montana economy.

9 NEW_SECTION. Section 12. Service charges. The board
10 shall by rule establish reasonable service fees that may be
11 charged on loans made from the Montana in-state investment
12 fund.

13 NEW_SECTION. Section 13. Audit and performance
14 evaluation. (1) The board shall contract for an annual
15 independent financial audit of the board and the Montana
16 in-state investment fund.

17 (2) The board shall contract for biennial independent
18 operational and performance evaluations of the board and the
19 Montana in-state investment fund.

20 NEW_SECTION. Section 14. Reports and publications.
21 (1) By September 30 of each year, the board shall publish a
22 report for distribution to the governor, the legislature,
23 and the public. The report must be written in easily
24 understandable language. The report must include:

25 (a) financial statements audited by independent

1 auditors;

2 (b) a statement of the amount of money received by the
3 Montana in-state investment fund from each investment during
4 the period covered;

5 (c) a statement of investments of the Montana in-state
6 investment fund, including an appraisal at market value;

7 (d) a description of investment activity during the
8 period covered by the report;

9 (e) a comparison of the Montana in-state investment
10 fund's performance in relation to intended goals contained
11 in [section 1 of Initiative 95];

12 (f) an examination of the impact of the investment
13 criteria of [sections 5 and 6];

14 (g) recommendations of any needed changes; and

15 (h) any other information the board believes would be
16 of interest to the governor, the legislature, and the
17 public.

18 (2) The annual income statement and balance sheet of
19 the Montana in-state investment fund must be published in at
20 least one newspaper in each judicial district of the state
21 by October 30 of each year.

22 NEW_SECTION. Section 15. Report on potential uses of
23 coal tax trust fund. The board shall prepare for each
24 regular session of the legislature a report on potential
25 uses of the coal tax trust fund to develop a stable, strong,

1 and diversified Montana economy that meets the needs of
2 present and future generations of Montanans while
3 maintaining and improving a clean and healthful environment
4 as required by Article IX, section 1, of the Montana
5 constitution.

6 ~~NEW SECTION.~~ Section 16. Rulemaking authority. The
7 board may adopt rules to implement the provisions of
8 [sections 1 through 16] and 17-6-211(5). Rules adopted by
9 the board may include definitions of small- and medium-sized
10 businesses, a method of committing funds to financial
11 institutions, types of service fees, and types of
12 investments to be made. The board may also adopt procedural
13 rules to govern its proceedings.

14 ~~NEW SECTION.~~ Section 17. Economic development
15 oversight committee. (1) There is an economic development
16 oversight committee.

17 (2) The committee consists of:

18 (a) four members of the senate appointed by the
19 committee on committees; and

20 (b) four members of the house of representatives
21 appointed by the speaker of the house.

22 (3) No more than two members from each house may be of
23 the same political party.

24 (4) Members of the committee must be appointed before
25 the 90th legislative day of a regular session.

1 (5) Appointments to the committee are for 2 years. A
2 member of the committee serves until his term of office as a
3 legislator is ended or his successor is appointed, whichever
4 occurs first.

5 (6) Vacancies must be filled in the manner specified
6 in 5-10-104 for filling vacancies on the revenue oversight
7 committee.

8 (7) The committee shall elect one of its members as
9 chairman and any other officers it considers necessary.

10 ~~NEW SECTION.~~ Section 18. Powers and duties of
11 committee. (1) All rules proposed by the Montana economic
12 development board created in [section 19], and filed with
13 the secretary of state must be reviewed by the committee.

14 (2) The committee may:

15 (a) prepare written or oral recommendations for the
16 adoption, amendment, or rejection of a rule and submit the
17 recommendations to the board, whether or not a rulemaking
18 hearing is to be held;

19 (b) require that a rulemaking hearing be held in
20 accordance with the provisions of 2-4-302 through 2-4-305;

21 (c) recommend to the legislature the repealing
22 amendment or adoption of a rule through legislation.

23 (3) The committee may investigate and issue reports on
24 any matter concerning economic development or any other area
25 of the Montana economic development board's authority.

1 **NEW SECTION.** Section 17. Montana economic development
2 board -- allocation -- composition -- quasi-judicial
3 powers. (1) There is a Montana economic development board.
4 Except as otherwise provided in this section, the board is
5 allocated to the department of commerce for administrative
6 purposes only as provided in 2-15-121. The board has
7 authority over its own personnel as provided in [section
8 20].

9 (2) The board is composed of seven members, to be
10 appointed by the governor as prescribed in 2-15-124. The
11 board must be broadly representative of the state, seeking
12 to balance professional experience and public interest and
13 accountability ~~include at least one person representing each~~
14 ~~of the following: the financial community, small business,~~
15 ~~agriculture, organized labor, and the general public~~ BE
16 BROADLY REPRESENTATIVE OF THE STATE, SEEKING TO BALANCE
17 PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND
18 ACCOUNTABILITY.

19 (3) The board is designated as a quasi-judicial board
20 for the purposes of 2-15-124.

21 (4) The board may ~~shall~~ invest the Montana in-state
22 investment fund according to the provisions of [sections 1
23 through 3 of Initiative 95 and sections 1 through 16] and
24 17-6-201 and 17-6-211.

25 **NEW SECTION.** Section 18. Personnel of board. (1) The

1 Montana economic development board may employ an investment
2 officer, who will have general responsibility for the
3 selection and management of the board's staff and direction
4 of investment activity. The investment officer serves at the
5 pleasure of the board.

6 (2) The board may prescribe the duties and annual
7 salary for professional staff positions.

8 Section 19. Section 17-6-201, MCA, is amended to read:
9 "17-6-201. Unified investment program -- general
10 provisions. (1) The uniform investment program directed by
11 Article VIII, section 13, of the 1972 Montana constitution
12 to be provided for public funds shall be administered by the
13 board of investments ~~and the Montana economic development~~
14 ~~board~~ in accordance with the rules provided in this chapter
15 ~~and [sections 1 through 16]~~ and with that degree of judgment
16 and care, under circumstances from time to time prevailing,
17 which men ~~people~~ of prudence, discretion, and intelligence
18 exercise in the management of their own affairs, not for
19 speculation but for investment, considering the probable
20 safety of their capital as well as the probable income to be
21 derived, and preservation of purchasing power of capital
22 during periods of sustained high monetary inflation.
23 ~~Investments by the Montana economic development board are~~
24 ~~limited to those made from the Montana in-state investment~~
25 ~~fund and for the purposes set forth in [sections 1 through~~

1 161a

2 (2) All state funds shall be invested and reinvested
3 in securities enumerated in 17-6-211 to the maximum extent
4 consistent with this policy and with the need and timing of
5 cash expenditures for particular purposes.

6 (3) The board of investments has the sole authority to
7 invest state funds ~~other than the Montana in-state~~
8 ~~investment fund~~. No other agency may invest such state
9 funds. The board shall direct the investment of state funds
10 in accordance with the laws and constitution of this state.
11 The board has the power to veto any investments made under
12 its general supervision.

13 (4) The board of investments shall:

14 (a) assist agencies with public money to determine if,
15 when, and how much surplus cash is available for investment;

16 (b) determine the amount of surplus treasury cash to
17 be invested;

18 (c) determine the type of investment to be made; and

19 (d) prepare the claim to pay for the investment.

20 (5) The board of investments may:

21 (a) execute deeds of conveyance transferring all real
22 property obtained through foreclosure of any investments
23 purchased under the provisions of 17-6-211 when full payment
24 has been received therefor;

25 (b) direct the withdrawal of any funds deposited by or

1 for the state treasurer pursuant to 17-6-101 and 17-6-105;

2 (c) direct the sale of any securities in the program
3 at their full and true value when found necessary to raise
4 money for payments due from the treasury funds for which the
5 securities have been purchased.

6 (6) The state treasurer shall keep an account of the
7 total of each investment fund and of all the investments
8 belonging to such fund and of the participation of each
9 treasury fund account therein and shall make from time to
10 time such reports with reference thereto as may be directed
11 by the board of investments.

12 (7) The cost of administering and accounting for each
13 investment fund shall be deducted from the income therefrom,
14 except that such costs of the trust and legacy fund shall be
15 paid from income otherwise receivable from the pooled
16 investment fund, and the amounts required for this purpose
17 shall be appropriated by the legislature from the respective
18 investment funds."

19 Section 20. Section 17-6-211, MCA, is amended to read:

20 "17-6-211. Permissible investments. (1) The following
21 securities are permissible investments for all investment
22 funds referred to in 17-6-203, except as indicated:

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

25 (b) bonds, notes, debentures, equipment obligations,

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

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

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

(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 1 year, of at least 1 1/2 to 1 and had received net income averaging \$1 million or more annually for the preceding 5 years; and

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

any one corporation to exceed 2% of the book value of such fund;

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

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

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

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

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

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company

1 which the board of investments has determined to be a
2 qualified private insurer;

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

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

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

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

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

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

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 5

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

4 (c) no investment may be made at any time under
5 subsection (3) which would cause the book value of such
6 investments in any retirement fund to exceed 50% of the book
7 value of such fund or would cause the stock of one
8 corporation to exceed 2% of the book value of such
9 retirement fund;

10 (d) subsection (c) does not apply to funds provided
11 for in 17-6-203(4).

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

21 ~~(5) The Montana economic development board created in~~
22 ~~[section 19] may invest the Montana in-state investment fund~~
23 ~~in any in-state investment authorized by its rules in~~
24 ~~addition to those investments authorized by this section."~~

25 ~~NEW SECTION.~~ Section 21. Temporary investment limit.

1 Notwithstanding the percentage figure in [section 8], the
2 investment limit for fiscal year 1984 must be calculated
3 based on 25% of the total coal tax deposits to the permanent
4 coal tax trust fund made in fiscal year 1983.

5 NEW SECTION. Section 22. Severability. If a part of
6 this act is invalid, all valid parts that are severable from
7 the invalid part remain in effect. If a part of this act is
8 invalid in one or more of its applications, the part remains
9 in effect in all valid applications that are severable from
10 the invalid applications.

11 NEW SECTION. Section 23. Effective date. This act is
12 effective on passage and approval.

-End-

19
April 20, 1983

FREE CONFERENCE COMMITTEE
HOUSE BILL 100
(Report No. 2)

Mr. Speaker:

We, your Free Conference Committee on House Bill 100, met and considered:

House Bill 100, third reading copy (Blue);
Senate Standing Committee amendments of March 23, 1983; and
Senate Committee of the Whole amendments of March 26, 1983.

We respectfully recommend as follows:

That the House accede to Senate Standing Committee amendments 3, 4, 5, 7, and 8;

That the Senate recede from Senate Standing Committee amendments 1, 2, and 6;

That the House accede to Senate Committee of the Whole amendments amending the Senate Standing Committee Report and striking sections 17 and 18;

That the Senate recede from the remainder of the Senate Committee of the Whole amendments dated March 26, 1983;

That House Bill 100 be further amended as specified in Clerical Instructions 1 through 5; and

That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 4, line 15.

Following: "~~shall~~"

Strike: "~~MAY~~"

Insert: "shall"

2. Page 4, line 23.

Following: "emphasis on"

Strike: the remainder of line 23 through line 24 in its entirety

Insert: "energy efficiency;"

3. Page 5, line 6.

Following: "HAVE"

Strike: "DEMONSTRABLE"

4. Page 5, line 11.

Following: line 10

Insert: "(7) Nothing in this section shall give rise to a civil action against a financial institution or lender."

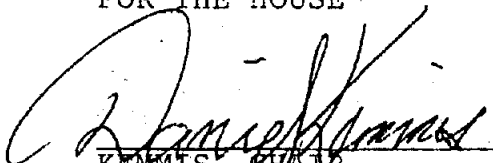
5. Page 11, line 18.

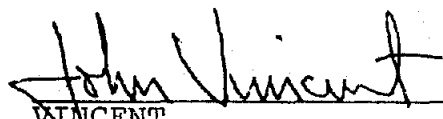
Following: "ACCOUNTABILITY"

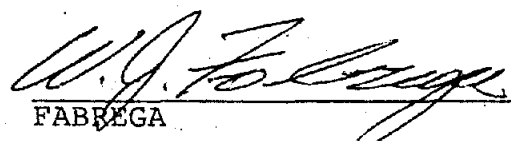
Insert: "and shall include at least one person representing each of the following:

- (a) the financial community;
- (b) small business
- (c) agriculture; and
- (d) labor."

FOR THE HOUSE

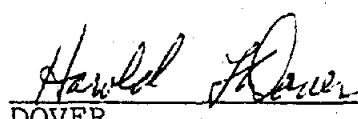

KEMMIS, CHAIR

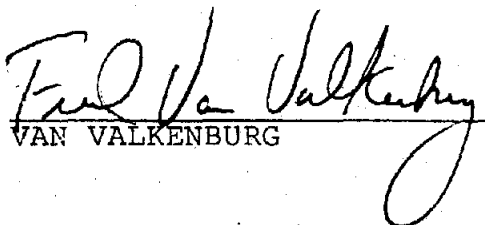

VINCENT


FABREGA

FOR THE SENATE

ELLIOTT, CHAIR


DOVER


VAN VALKENBURG

April 21, 1983

NEW FREE CONFERENCE COMMITTEE
HOUSE BILL 100
(Report No. 3)

Mr. Speaker:

We, your Free Conference Committee on House Bill 100, met and considered:

House Bill 100, third reading copy (Blue);
Senate Standing Committee amendments of March 23, 1983; and
Senate Committee of the Whole amendments of March 26, 1983.

We respectfully recommend as follows:

That the House accede to Senate Standing Committee amendments 3, 4, 5, 7, and 8;

That the Senate recede from Senate Standing Committee amendments 1, 2, and 6;

That the House accede to Senate Committee of the Whole amendments amending the Senate Standing Committee Report and striking sections 17 and 18;

That the Senate recede from the remainder of the Senate Committee of the Whole amendments dated March 26, 1983;

That House Bill 100 be further amended as specified in Clerical Instructions 1 through 4; and

That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 4, line 15.

Following: "shall"

Strike: "MAY"

Insert: "shall"

2. Page 4, line 23.

Following: "emphasis on"

Strike: the remainder of line 23 through line 24 in its entirety

Insert: "energy efficiency;"

3. Page 5, line 6.

Strike: subsection 5

Renumber: subsequent subsection

4. Page 11, line 18.

Following: "ACCOUNTABILITY"

Insert: "and shall include at least one person representing each of the following:

- (a) the financial community;
- (b) small business
- (c) agriculture; and
- (d) labor."

FOR THE HOUSE

Kenneth
KENNIS, CHAIR

Vincent
VINCENT

Fabrega
FABREGA

FOR THE SENATE

Elliott
ELLIOTT, CHAIR

Dover
DOVER

Van Valkenburg
VAN VALKENBURG

1 STATEMENT OF INTENT

2 HOUSE BILL 100

3 House Economic Development Committee

4
5 (1) A statement of intent is required for this bill
6 because it grants rulemaking authority to the Montana
7 economic development board in section 16. These rules will
8 include definitions of small- and medium-sized businesses, a
9 method of commitment of funds to financial institutions,
10 setting service fees for loans, defining types of
11 permissible investments, and procedural rules to govern the
12 board's proceedings.

13 (2) It is the intent of the legislature that:

14 (a) the definitions of small- and medium-sized
15 business be based on either the number of employees of the
16 business, the level of capitalization of the business, or a
17 combination of these factors;

18 (b) the method of committing funds to financial
19 institutions be similar to the method utilized by the board
20 of housing for committing funds for housing developments to
21 financial institutions;

22 (c) the level of service fees be set to cover the
23 costs associated with processing the investment and be
24 similar to those charged by financial institutions;

25 (d) the permissible investments adopted by rules be

1 based on the long-term benefit to the Montana economy and
2 adhere to the prudent-man rule. The investments should be
3 aimed at diversifying, strengthening, and stabilizing the
4 Montana economy and increasing employment opportunities
5 while maintaining and improving a clean and healthful
6 environment; and

7 (e) the procedural rules be based on the Attorney
8 General's model rules.

REFERENCE BILL: Includes Free Joint
Conference Committee Report
Dated 4-21-83

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON,
METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND,

KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN,
SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ,

REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON,
J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI,

MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH,
HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY,

SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE,

ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG,

BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN,

ERNST, CRIPPEN, VAN VALKENBURG, ECK,

JACOBSON, CONOVER, BERG, MOHAR, MAZUREK,

HAFFEY, CHRISTIAENS, LANE, DANIELS,

THOMAS, R. MANNING, HAGER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3
OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE
ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD;
PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING
SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. This act may be
cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 16 and Initiative 95 approved by the
people at the election on November 2, 1982], unless the
context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development
board established in [section 19].

(2) "Clean and healthful environment" means an
environment that is ~~relatively--free--from--pollution--which~~
~~threatens--human--health--including--any--~~ AT RELATIVELY FREE
FROM POLLUTION WHICH THREATENS HUMAN HEALTH, INCLUDING AS a
minimum, ~~in~~ compliance with federal and state environmental
and health standards.

(3) "Committee" means the economic development
oversight committee created by [section 17].

(4) "Financial institution" includes but is not
limited to a state- or federally chartered bank or a savings
and loan association, credit union, ~~insurance--company, or~~
~~development company,--or--investment--banking--company~~
CORPORATION CREATED PURSUANT TO TITLE 32, CHAPTER 4.

(5) "Loan participation" means loans or portions
thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise

1 51% of whose stock, partnership interests, or other
2 ownership interests are owned and controlled by residents of
3 Montana.

4 (7) "Long-term benefit to the Montana economy" means
5 an activity that ~~diversifies and stabilizes~~ SIRENGTHENS the
6 Montana economy and that has the potential to maintain and
7 create jobs, increase per capita income, or increase Montana
8 tax revenues in the future to the people of Montana, either
9 directly or indirectly.

10 (8) "Montana economy" means any business activity in
11 the state of Montana, including those which continue
12 existing jobs or create new jobs in Montana.

13 (9) "Montana in-state investment fund" means the fund
14 established by [section 3 of Initiative 95].

15 (10) "Service fees" means the fees normally charged by
16 a financial institution for servicing a loan, including
17 amounts charged for collecting payments and remitting
18 amounts to the fund.

19 NEW SECTION. Section 3. Montana in-state investment
20 fund. The Montana in-state investment fund consists of 25%
21 of the revenue deposited after June 30, 1983, into the
22 permanent coal tax trust fund established in 17-6-203(5) and
23 the principal and interest payments on all investments made
24 from the Montana in-state investment fund.

25 NEW SECTION. Section 4. Unified investment program.

1 The Montana economic development board and the board of
2 investments shall hold joint meetings at least twice a year
3 as a unified investment board for purposes of coordinating
4 investment strategies, policies, and programs as required by
5 Article VIII, section 13, of the Montana constitution.

6 NEW SECTION. Section 5. Authorized investments. The
7 Montana in-state investment fund must be invested in the
8 securities authorized as permissible investments under
9 17-6-211 and in any other type of in-state investment
10 authorized by rules adopted by the board.

11 ~~NEW SECTION. Section 6. Investment preferences. In~~
12 ~~deciding which of several investments of equal or comparable~~
13 ~~security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE~~
14 ~~NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board~~
15 ~~shall MAY give preference to the business investments that:~~
16 ~~(1) are for locally owned enterprises that are either~~
17 ~~expanding or establishing new operations;~~
18 ~~(2) provide jobs that will be substantially filled by~~
19 ~~current Montana residents as opposed to providing jobs that~~
20 ~~will be filled by nonresidents coming into the state to fill~~
21 ~~such jobs;~~

22 ~~(3) maintain and improve a clean and healthful~~
23 ~~environment, with emphasis on conservation, renewable~~
24 ~~resources, and alternative energy production; and~~

25 ~~(4) ENCOURAGE OR BENEFIT THE PROCESSING, REFINING,~~

~~MARKETING, AND INNOVATIVE USE AND PROMOTION OF MONTANA'S
AGRICULTURAL PRODUCTS;~~

~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR
UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE, FOR ANY
CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT;~~

~~(6)(5) HAVE DEMONSTRABLE AFFIRMATIVE ACTION PLANS FOR
EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED;~~
OR

~~(4)(5) benefit small and medium-sized businesses
as defined in rules adopted by the board;~~

~~THERE IS A NEW MGA SECTION THAT READS:~~

~~Section 6. Investment preferences. (1) The provisions
of Article II, section 4, of the Montana constitution
prohibiting discrimination shall be strictly applied with
relation to any investment made under [this act].~~

~~(2) The IN DECIDING WHICH OF SEVERAL INVESTMENTS OF
EQUAL OR COMPARABLE SECURITY AND RETURN ARE TO BE MADE, THE
board shall give preference to the business investments
that:~~

~~(a) are for locally owned enterprises that are either
expanding existing operations or establishing new
operations; and~~

~~(b) provide jobs that will be substantially filled by
current Montana residents;~~

~~(3) Preference shall be given to small and~~

~~medium-sized businesses as defined in rules adopted by the
boards~~

~~(4) THE BOARD SHALL GIVE PREFERENCE TO THE BUSINESS
INVESTMENTS THAT MAINTAIN AND IMPROVE A CLEAN AND HEALTHFUL
ENVIRONMENT;~~

~~NEW SECTION. Section 6. Investment preferences. In
deciding which of several investments of equal or comparable
security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE
NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board
shall MAY SHALL give preference to the business investments
that:~~

~~(1) are for locally owned enterprises that are either
expanding or establishing new operations;~~

~~(2) provide jobs that will be substantially filled by
current Montana residents as opposed to providing jobs that
will be filled by nonresidents coming into the state to fill
such jobs;~~

~~(3) maintain and improve a clean and healthful
environment, with emphasis on conservation, renewable
resources, and alternative energy production ENERGY
EFFICIENCY; and~~

~~(4) ENCOURAGE OR BENEFIT THE PROCESSING, REFINING,
MARKETING, AND INNOVATIVE USE AND PROMOTION OF MONTANA'S
AGRICULTURAL PRODUCTS;~~

~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR~~

1 ~~UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE FOR ANY~~
2 ~~CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT.~~

3 ~~161151 HAVE DEMONSTRABLE AFFIRMATIVE ACTION PLANS FOR~~
4 ~~EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED.~~
5 OR

6 ~~161151(61151)~~ benefit small- and medium-sized
7 businesses as defined in rules adopted by the board.

8 NEW SECTION. Section 7. No direct loans. No money
9 from the Montana in-state investment fund may be used to
10 make direct loans to individual borrowers. Loans or portions
11 thereof originated by a financial institution that are sold
12 to the trust are not direct loans.

13 NEW SECTION. Section 8. Limitation on size of
14 investments. No investment may be made that will result in
15 any one business enterprise or person receiving a benefit
16 from or incurring a debt to the Montana in-state investment
17 fund the total current accumulated amount of which exceeds
18 10% of the prior fiscal year's coal severance tax revenue
19 deposited in the Montana in-state investment fund.

20 NEW SECTION. Section 9. State participation in loans.
21 State participation in any loan to a business enterprise,
22 except for a loan guaranteed by a federal agency, must be
23 limited to 80% of the outstanding loan. The state shall
24 participate in the security for a loan in the same
25 proportion as the loan participation amount.

1 NEW SECTION. Section 10. Prior commitment of funds.
2 The board may authorize the commitment of funds to financial
3 institutions pursuant to rules adopted by the board, but the
4 determination as to credit with respect to individual
5 investments must be made by the financial institution and
6 the board.

7 NEW SECTION. Section 11. Rate of return. In
8 calculating the rate of return for any investment to be made
9 from the Montana in-state investment fund, the board shall
10 consider the long-term benefit to the Montana economy.

11 NEW SECTION. Section 12. Service charges. The board
12 shall by rule establish reasonable service fees that may be
13 charged on loans made from the Montana in-state investment
14 fund.

15 NEW SECTION. Section 13. Audit and performance
16 evaluation. (1) The board shall contract for an annual
17 independent financial audit of the board and the Montana
18 in-state investment fund.

19 (2) The board shall contract for biennial independent
20 operational and performance evaluations of the board and the
21 Montana in-state investment fund.

22 NEW SECTION. Section 14. Reports and publications.
23 (1) By September 30 of each year, the board shall publish a
24 report for distribution to the governor, the legislature,
25 and the public. The report must be written in easily

1 understandable language. The report must include:

2 (a) financial statements audited by independent
3 auditors;

4 (b) a statement of the amount of money received by the
5 Montana in-state investment fund from each investment during
6 the period covered;

7 (c) a statement of investments of the Montana in-state
8 investment fund, including an appraisal at market value;

9 (d) a description of investment activity during the
10 period covered by the report;

11 (e) a comparison of the Montana in-state investment
12 fund's performance in relation to intended goals contained
13 in [section 1 of Initiative 95];

14 (f) an examination of the impact of the investment
15 criteria of [sections 5 and 6];

16 (g) recommendations of any needed changes; and

17 (h) any other information the board believes would be
18 of interest to the governor, the legislature, and the
19 public.

20 (2) The annual income statement and balance sheet of
21 the Montana in-state investment fund must be published in at
22 least one newspaper in each judicial district of the state
23 by October 30 of each year.

24 NEW SECTION. Section 15. Report on potential uses of
25 coal tax trust fund. The board shall prepare for each

1 regular session of the legislature a report on potential
2 uses of the coal tax trust fund to develop a stable, strong,
3 and diversified Montana economy that meets the needs of
4 present and future generations of Montanans while
5 maintaining and improving a clean and healthful environment
6 as required by Article IX, section 1, of the Montana
7 constitution.

8 NEW SECTION. Section 16. Rulemaking authority. The
9 board may adopt rules to implement the provisions of
10 [sections 1 through 16] and 17-6-211(5). Rules adopted by
11 the board may include definitions of small- and medium-sized
12 businesses, a method of committing funds to financial
13 institutions, types of service fees, and types of
14 investments to be made. The board may also adopt procedural
15 rules to govern its proceedings.

16 ~~NEW SECTION. Section 17. Economic development~~
17 ~~oversight committee. (1) There is an economic development~~
18 ~~oversight committee.~~

19 ~~(2) The committee consists of:~~

20 ~~(a) four members of the senate, appointed by the~~
21 ~~committee on committees; and~~

22 ~~(b) four members of the house of representatives,~~
23 ~~appointed by the speaker of the house;~~

24 ~~(3) No more than two members from each house may be of~~
25 ~~the same political party.~~

1 (4) Members of the committee must be appointed before
2 the 98th legislative day of a regular session;
3 (5) Appointments to the committee are for 2 years. A
4 member of the committee serves until his term of office as a
5 legislator is ended or his successor is appointed, whichever
6 occurs first;
7 (6) Vacancies must be filled in the manner specified
8 in 5-18-184 for filling vacancies on the revenue oversight
9 committee;
10 (7) The committee shall elect one of its members as
11 chairman and any other officers it considers necessary;
12 ~~NEW SECTION: Section 18. Powers and duties of~~
13 ~~committee. (1) All rules proposed by the Montana economic~~
14 ~~development board, created in [section 19], and filed with~~
15 ~~the secretary of state must be reviewed by the committee.~~
16 (2) The committee may:
17 (a) prepare written or oral recommendations for the
18 adoption, amendment, or rejection of a rule and submit the
19 recommendations to the board, whether or not a rulemaking
20 hearing is to be held;
21 (b) require that a rulemaking hearing be held in
22 accordance with the provisions of 2-4-302 through 2-4-305;
23 (c) recommend to the legislature the repealing
24 amendment, or adoption of a rule through legislation;
25 (3) The committee may investigate and issue reports on

1 any matter concerning economic development or any other area
2 of the Montana economic development board's authority;
3 ~~NEW SECTION: Section 17. Montana economic development~~
4 ~~board -- allocation -- composition -- quasi-judicial~~
5 ~~powers. (1) There is a Montana economic development board.~~
6 ~~Except as otherwise provided in this section, the board is~~
7 ~~allocated to the department of commerce for administrative~~
8 ~~purposes only as provided in 2-15-121. The board has~~
9 ~~authority over its own personnel as provided in [section~~
10 ~~20].~~
11 (2) The board is composed of seven members, to be
12 appointed by the governor as prescribed in 2-15-124. The
13 board must be broadly representative of the state, seeking
14 to balance professional experience and public ~~INTEREST AND~~
15 ~~accountability INCLUDE AT LEAST ONE PERSON REPRESENTING EACH~~
16 ~~OF THE FOLLOWING: THE FINANCIAL COMMUNITY, SMALL BUSINESS,~~
17 ~~AGRICULTURE, ORGANIZED LABOR, AND THE GENERAL PUBLIC BE~~
18 ~~BROADLY REPRESENTATIVE OF THE STATE, SEEKING TO BALANCE~~
19 ~~PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND~~
20 ~~ACCOUNTABILITY AND SHALL INCLUDE AT LEAST ONE PERSON~~
21 ~~REPRESENTING EACH OF THE FOLLOWING:~~
22 ~~(A) THE FINANCIAL COMMUNITY;~~
23 ~~(B) SMALL BUSINESS;~~
24 ~~(C) AGRICULTURE; AND~~
25 ~~(D) LABOR.~~

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board ~~may~~ SHALL invest the Montana in-state investment fund according to the provisions of [sections 1 through 3 of Initiative 95 and sections 1 through 16] and 17-6-201 and 17-6-211.

NEW SECTION. Section 18. Personnel of board. (1) The Montana economic development board may employ an investment officer, who will have general responsibility for the selection and management of the board's staff and direction of investment activity. The investment officer serves at the pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 19. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with the rules provided in this chapter and [sections 1 through 16] and with that degree of judgment and care, under circumstances from time to time prevailing, which ~~men~~ PEOPLE of prudence, discretion, and intelligence exercise in the management of their own affairs, not for

speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through 16].

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent consistent with this policy and with the need and timing of cash expenditures for particular purposes.

(3) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4) The board of investments shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(6) The state treasurer shall keep an account of the total of each investment fund and of all the investments belonging to such fund and of the participation of each treasury fund account therein and shall make from time to time such reports with reference thereto as may be directed by the board of investments.

(7) The cost of administering and accounting for each investment fund shall be deducted from the income therefrom, except that such costs of the trust and legacy fund shall be paid from income otherwise receivable from the pooled investment funds, and the amounts required for this purpose shall be appropriated by the legislature from the respective investment funds."

Section 20. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) 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;

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

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

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

(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

1 liabilities long-term debt maturing within 1 year, of at
2 least 1 1/2 to 1 and had received net income averaging \$1
3 million or more annually for the preceding 5 years; and

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

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

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

20 (f) unencumbered real property, first mortgages, and
21 participations in first mortgages on unencumbered real
22 property, provided that:

23 (i) no such mortgage or mortgage participation may be
24 purchased unless:

25 (A) the principal amount of the loan secured by the

1 mortgage or mortgage participation is 80% or less of the
2 appraised value of the property;

3 (B) the principal amount of the loan secured by the
4 mortgage or mortgage participation exceeds 80% of the
5 appraised value of the property but the amount of the loan
6 in excess of 80%, determined at the time the loan was made,
7 is guaranteed or insured by a mortgage insurance company
8 which the board of investments has determined to be a
9 qualified private insurer;

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

13 (D) the mortgagor has leased the mortgaged property to
14 a person, firm, or corporation whose rental payments under
15 the lease are guaranteed for the full term of the loan or
16 participation therein by an agency of the United States; and

17 (ii) no investment shall be made at any time under
18 subsection (1)(f) which would cause the book value of such
19 investments in any investment fund to exceed 50% of the book
20 value of such fund.

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

24 (3) Retirement funds and the fund provided for in
25 17-6-203, subsection (4) may be invested in preferred and

1 common stocks of any corporation organized and operating in
2 any state of the United States provided that:

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

5 (b) if the investment is preferred stock, the
6 corporation's aggregate earnings available for payment of
7 interest and preferred dividends, for a period of 5
8 consecutive years immediately before the date of investment,
9 have been at least 1 1/2 times the aggregate of interest and
10 preferred dividends required to be paid during this period;

11 (c) no investment may be made at any time under
12 subsection (3) which would cause the book value of such
13 investments in any retirement fund to exceed 50% of the book
14 value of such fund or would cause the stock of one
15 corporation to exceed 2% of the book value of such
16 retirement fund;

17 (d) subsection (c) does not apply to funds provided
18 for in 17-6-203(4).

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

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

3 ~~(5) The Montana economic development board created in~~
4 ~~[section 19] may invest the Montana in-state investment fund~~
5 ~~in any in-state investment authorized by its rules in~~
6 ~~addition to those investments authorized by this section."~~

7 NEW SECTION. Section 21. Temporary investment limit.
8 Notwithstanding the percentage figure in [section 8], the
9 investment limit for fiscal year 1984 must be calculated
10 based on 25% of the total coal tax deposits to the permanent
11 coal tax trust fund made in fiscal year 1983.

12 NEW SECTION. Section 22. Severability. If a part of
13 this act is invalid, all valid parts that are severable from
14 the invalid part remain in effect. If a part of this act is
15 invalid in one or more of its applications, the part remains
16 in effect in all valid applications that are severable from
17 the invalid applications.

18 NEW SECTION. Section 23. Effective date. This act is
19 effective on passage and approval.

-End-