

HOUSE BILL NO. 645

2/04 Introduced
2/04 Referred to State Administration
2/05 Fiscal Note Requested
2/11 Fiscal Note Received
2/15 Hearing
2/15 Adverse Committee Report
2/18 Bill Killed

1 HOUSE BILL NO. 645
2 INTRODUCED BY Kadas

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
5 INVESTMENT OF STATE PUBLIC FUNDS IN FIRMS THAT PRODUCE
6 NUCLEAR WARHEADS, WEAPONS SYSTEMS, OR WEAPONS COMPONENTS AND
7 PROVIDING A SCHEDULE FOR THE DIVESTITURE OF ANY CURRENT
8 PUBLIC INVESTMENTS IN SUCH FIRMS; AMENDING SECTION 17-6-211,
9 MCA; AND PROVIDING AN EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Prohibited investments.

13 (1) (a) After July 1, 1988, no state public funds may remain
14 invested or be invested in the stock, securities, or other
15 obligations of any firm, including its parent company,
16 subsidiary, or affiliate, that is engaged in the production
17 of nuclear warheads, primary nuclear weapons systems, or
18 primary nuclear weapons components.

19 (b) For purposes of this section, "primary nuclear
20 weapons systems" or "primary nuclear weapons components"
21 means systems or components that are designed for the
22 transport, launch, guidance, or delivery of nuclear warheads
23 and which are not used for other military or nonmilitary
24 applications.

25 (2) Firms in which investment is prohibited pursuant

1 to subsection (1) may be identified by reference to current
2 department of defense, department of energy, and national
3 aeronautic and space administration publications; the
4 investor responsibility research center list of nuclear
5 weapons contractors; the list maintained by nuclear free
6 America of the "top 50 nuclear weapons contractors"; and
7 other reliable sources as determined by the investing
8 authority.

9 (3) State public investments in such firms must be
10 divested at the rate of at least one-third of the portfolio
11 each state fiscal year.

12 (4) While any public funds remain invested in such
13 firm, the investing authority in any annual fiscal report
14 shall identify the investment and state its market value as
15 of publication of the report.

16 Section 2. 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 otherwise indicated
20 in [section 1] and subsection (1) of this section:

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



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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 (1)(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 highest 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 received net income
 16 averaging \$1 million or more annually for the preceding 5
 17 years; and

18 (iii) no investment may be made at any time under this
 19 subsection (1)(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, savings and loan associations, and credit
 4 unions located in Montana; provided, however, that the board
 5 of investments shall require pledged securities as specified
 6 in 17-6-102 (interest on said deposits shall not be less
 7 than the prevailing rate of interest being paid on deposits
 8 of private funds);

9 (f) unencumbered real property, first mortgages, and
 10 participations in first mortgages on unencumbered real
 11 property as provided in this subsection (1)(f) and
 12 subsection (5), 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; and

11 (g) any other investment in any business activity in
12 the state, including activities that continue existing jobs
13 or create new jobs in Montana, provided that investments
14 which do not meet the requirements of subsections (1)(a)
15 through (1)(f) may not, in the aggregate, exceed 10% of the
16 fund from which each such investment is made.

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

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

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

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

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

13 (d) subsection (3)(c) does not apply to funds provided
14 for in 17-6-203(4).

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

24 (5) The board may invest in mortgage loans financed by
25 the board of housing if the mortgages are not in default and

1 meet the requirements of subsection (1)(f). The board may
2 enter into a commitment agreement with the board of housing
3 at the time of an issue of bonds or notes by the board of
4 housing providing for the purchase at a specified future
5 date, not to exceed 15 years from the date of the issue, of
6 all or any portion of the amount of mortgage loans purchased
7 with the proceeds of the issue. The board of investments
8 may charge reasonable fees for any commitment and may agree
9 to purchase the mortgage loans on terms that in the judgment
10 of the board of investments provide a fair market rate of
11 return to the purchasers.

12 (6) The Montana economic development board created in
13 2-15-1805 may invest the Montana in-state investment fund in
14 any in-state investment authorized by its rules in addition
15 to those investments authorized by this section."

16 NEW SECTION. Section 3. Extension of authority. Any
17 existing authority of the board of investments or Montana
18 economic development board to make rules on the subject of
19 the provisions of this act is extended to the provisions of
20 this act.

21 NEW SECTION. Section 4. Codification instruction.
22 Section 1 is intended to be codified as an integral part of
23 Title 17, chapter 6.

24 NEW SECTION. Section 5. Effective date. This act is
25 effective July 1, 1985.

In compliance with a written request received February 5, 19 85, there is hereby submitted a Fiscal Note for House Bill 645 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

"AN ACT PROHIBITING THE INVESTMENT OF STATE PUBLIC FUNDS IN FIRMS THAT PRODUCE NUCLEAR WARHEADS, WEAPONS SYSTEMS, OR WEAPONS COMPONENTS AND PROVIDING A SCHEDULE FOR THE DEVESTITURE OF ANY CURRENT PUBLIC INVESTMENTS IN SUCH FIRMS; AMENDING SECTION 17-6-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

ASSUMPTIONS:

1. Section 1, paragraph (2) defines firms in which investment is prohibited. Since none of the identification sources were available, the Board of Investments generated their own list for this fiscal note.
2. a. 130,000 common shares of stock will be divested at \$.20 per share.
b. 32,900,000 par value of bonds will be divestd @ \$2.50 per 1,000 par value.
3. It is not known at this time if any of the action in assumption 2a. and b. would be part of the Board's current work load for FY 86 and FY 87.

FISCAL IMPACT:

	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Commission Expense	\$36,083	\$36,083	\$36,083
Research for Reinvestment	46,293	46,293	46,293
Proprietary Fund Cost*	\$82,376	\$82,376	\$82,376

*This cost would reduce the amount of earnings available for transfer to the General Fund in proportion to the amount of General Fund invested. Other funds such as pension funds are also impacted.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 11, 1985

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