

SENATE BILL NO. 11

INTRODUCED BY NEUMAN, TOWE, DANIELS

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on State Administration.
January 11, 1985	On motion by Chief Sponsor, Senators Towe and Daniels added as sponsors.
January 26, 1985	Committee recommend bill do pass as amended. Report adopted.
January 28, 1985	Bill printed and placed on members' desks.
January 29, 1985	Second reading, do pass as amended.
January 30, 1985	Correctly engrossed.
January 31, 1985	Third reading, passed. Ayes, 26; Noes, 22. Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 13, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1985	On motion, consideration passed until 59th Legislative Day.

March 20, 1985 Motion pass consideration.
March 21, 1985 Second reading, concurred in.
March 22, 1985 Third reading, concurred in.
Returned to Senate with
amendments.

IN THE SENATE

March 22, 1985 Received from House.
March 27, 1985 Second reading, amendments
concurred in.
March 29, 1985 Third reading, amendments
concurred in.
Ayes, 38; Noes, 11.
Sent to enrolling.
Reported correctly enrolled.

1 SENATE BILL NO. 11
2 INTRODUCED BY NEUMAN
3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING THE UNIFIED
6 INVESTMENT PROGRAM WITH CONSTITUTIONAL AMENDMENTS IN SENATE
7 BILL 10, WHICH AMENDMENTS REMOVE RESTRICTIONS ON INVESTMENT
8 OF PUBLIC FUNDS AND PROVIDE A "PRUDENT EXPERT" STANDARD FOR
9 INVESTMENT OF PUBLIC FUNDS; AMENDING SECTIONS 17-6-201,
10 17-6-211, AND 17-6-324, MCA; AND PROVIDING A DELAYED
11 EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Section 17-6-201, MCA, is amended to read:
15 "17-6-201. Unified investment program -- general
16 provisions. (1) The uniform unified investment program
17 directed by Article VIII, section 13, of the 1972 Montana
18 constitution to be provided for public funds shall be
19 administered by the board of investments and the Montana
20 economic development board in accordance with the rules
21 ~~provided in this chapter and with that degree of judgment~~
22 ~~and care, under circumstances from time to time prevailing,~~
23 ~~which people of prudence, discretion, and intelligence~~
24 ~~exercise in the management of their own affairs, not for~~
25 ~~speculation but for investment, considering the probable~~

1 ~~safety of their capital as well as the probable income to be~~
2 ~~derived, and preservation of purchasing power of capital~~
3 ~~during periods of sustained high monetary inflation;~~
4 ~~investments by the Montana economic development board are~~
5 ~~limited to those made from the Montana in-state investment~~
6 ~~fund and for the purposes set forth in part 3;~~

7 {2} All state funds shall be invested and reinvested
8 in securities enumerated in 17-6-211 to the maximum extent
9 consistent with this policy and with the need and timing of
10 cash expenditures for particular purposes prudent expert
11 principle which requires any investment manager to:

12 (a) discharge his duties with the care, skill,
13 prudence, and diligence, under the circumstances then
14 prevailing, that a prudent person acting in a like capacity
15 with the same resources and familiar with like matters
16 exercises in the conduct of an enterprise of a like
17 character with like aims;

18 (b) diversify the holdings of each fund within the
19 unified investment program to minimize the risk of loss and
20 to maximize the rate of return, unless under the
21 circumstances it is clearly prudent not to do so, and

22 (c) discharge his duties solely in the interest of and
23 for the benefit of the funds forming the unified investment
24 program.

25 {3}(2) The board of investments has the sole authority

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

7 ~~(4)~~(3) The board of investments shall:

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

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

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

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

14 ~~(5)~~(4) The board of investments may:

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

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

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

25 ~~(6)~~(5) The state treasurer shall keep an account of

1 the total of each investment fund and of all the investments
 2 belonging to such fund and of the participation of each
 3 treasury fund account therein and shall make from time to
 4 time such reports with reference thereto as may be directed
 5 by the board of investments.

6 ~~(7)~~(6) The cost of administering and accounting for
 7 each investment fund shall be deducted from the income
 8 therefrom, except that such costs of the nonexpendable trust
 9 funds shall be paid from income otherwise receivable from
 10 the pooled investment fund, and the amounts required for
 11 this purpose shall be appropriated by the legislature from
 12 the respective investment funds."

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

14 "17-6-211. Permissible---investments Preference to
 15 in-state investment firms -- commitment agreement with board
 16 of housing. ~~(1) The following securities are permissible~~
 17 investments---for---all---investment---funds---referred---to---in
 18 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--(1)(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-highest-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-subsi-dary-issuing-commercial-paper,--at-the-time--of
 13 the-last-financial-reporting-period,--had-received-net-income
 14 averaging--\$1--million--or-more-annually-for-the-preceding-5
 15 years;--and

16 (iii)--no-investment-may-be-made-at-any-time-under--this
 17 subsection--(1)(c)--which-would-cause-the-book-value-of-such
 18 investments-in-any-investment-fund-to-exceed-10%--of-the-book
 19 value-of-such-fund-or-would-cause-the--commercial--paper--of
 20 any--one--corporation-to-exceed-2%--of-the-book-value-of-such
 21 fund;

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

25 (e)--interest-bearing--deposits--in-banks,--building-and

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

7 (f)--unencumbered-real-property,--first--mortgages,--and
 8 participations--in--first--mortgages--on--unencumbered--real
 9 property--as--provided--in--this--subsection--(1)(f)--and
 10 subsection--(5),--provided-that:

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

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

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

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

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

5 ~~{ii}--no investment shall be made at any time under~~
 6 ~~subsection (i)(f) which would cause the book value of such~~
 7 ~~investments in any investment fund to exceed 50% of the book~~
 8 ~~value of such fund; and~~

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

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

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

22 ~~{a}--the corporation has assets of a value not less~~
 23 ~~than \$10 million;~~

24 ~~{b}--if the investment is preferred stock, the~~
 25 ~~corporation's aggregate earnings available for payment of~~

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

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

11 ~~{d}--subsection (3)(c) does not apply to funds provided~~
 12 ~~for in 17-6-203(4).~~

13 ~~{4}(1) The board of investments shall endeavor to~~
 14 ~~direct its portion of the state's investment business to~~
 15 ~~those investment firms and/or banks which maintain offices~~
 16 ~~in the state and thereby make contributions to the state~~
 17 ~~economy. Further, due consideration shall be given to~~
 18 ~~investments which will benefit the smaller communities in~~
 19 ~~the state. The state's investment business will be directed~~
 20 ~~to out-of-state firms only when there is a distinct economic~~
 21 ~~advantage to the state of Montana.~~

22 ~~{5}(2) The board may invest in mortgage loans financed~~
 23 ~~by the board of housing if the mortgages are not in default~~
 24 ~~and meet the requirements of subsection (i)(f). The board~~
 25 ~~may enter into a commitment agreement with the board of~~

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

10 ~~{6}--The-Montana-economic-development-board-created--in~~
 11 ~~2-15-1985-may-invest-the-Montana-in-state-investment-fund-in~~
 12 ~~any--in-state-investment-authorized-by-its-rules-in-addition~~
 13 ~~to-these-investments-authorized-by-this-section."~~

14 Section 3. Section 17-6-324, MCA, is amended to read:

15 "17-6-324. Rulemaking authority. The board may adopt
 16 rules to implement the provisions of this part and
 17 17-6-211~~{5}~~{2}. Rules adopted by the board may include
 18 definitions of small- and medium-sized businesses, a method
 19 of committing funds to financial institutions, types of
 20 service fees, and types of investments to be made. The board
 21 may also adopt procedural rules to govern its proceedings."

22 NEW SECTION. Section 4. Effective date. This act is
 23 effective January 1, 1987.

24 NEW SECTION. Section 5. Coordination instruction. If
 25 Senate Bill No. 10, including the section of that bill

1 amending Article VIII, section 13, of the Constitution of
 2 the State of Montana, fails upon submission to the
 3 electorate on November 4, 1986, this act is void in its
 4 entirety.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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8 OF PUBLIC FUNDS AND PROVIDE A "PRUDENT EXPERT" STANDARD FOR
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 17-6-201, MCA, is amended to read:

15 "17-6-201. Unified investment program -- general
16 provisions. (1) The uniform unified investment program
17 directed by Article VIII, section 13, of the 1972 Montana
18 constitution to be provided for public funds shall be
19 administered by the board of investments and the Montana
20 economic development board in accordance with ARTICLE VIII,
21 SECTION 13, OF THE MONTANA CONSTITUTION AND the rules
22 provided-in-this-chapter-and-with-that--degree--of--judgment
23 and--care,--under-circumstances-from-time-to-time-prevailing,
24 which--people--of--prudence,--discretion,--and--intelligence
25 exercise--in--the--management--of--their--own--affairs,--not--for

1 speculation-but-for--investment,--considering--the--probable
2 safety-of-their-capital-as-well-as-the-probable-income-to-be
3 derived,--and--preservation--of--purchasing-power-of-capital
4 during--periods--of--sustained--high--monetary--inflation;
5 investments--by--the--Montana-economic-development-board-are
6 limited-to-those-made-from-the-Montana--in-state--investment
7 fund-and-for-the-purposes-set-forth-in-part-3;

8 (2) ~~All state funds shall be invested and reinvested~~
9 ~~in securities enumerated in 17-6-211 to the maximum extent~~
10 ~~consistent with this policy and with the need and timing of~~
11 ~~cash expenditures for particular purposes~~ prudent expert
12 principle which requires any investment manager to:

13 (a) discharge his duties with the care, skill,
14 prudence, and diligence, under the circumstances then
15 prevailing, that a prudent person acting in a like capacity
16 with the same resources and familiar with like matters
17 exercises in the conduct of an enterprise of a like
18 character with like aims;

19 (b) diversify the holdings of each fund within the
20 unified investment program to minimize the risk of loss and
21 to maximize the rate of return, unless under the
22 circumstances it is clearly prudent not to do so; and

23 (c) discharge his duties solely in the interest of and
24 for the benefit of the funds forming the unified investment
25 program.

1 (2) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT
 2 THE INVESTMENT IN ANY BUSINESS ACTIVITY IN MONTANA,
 3 INCLUDING ACTIVITIES THAT CONTINUE EXISTING JOBS OR CREATE
 4 NEW JOBS IN MONTANA, IF THE INVESTMENT MEETS THE STANDARD OF
 5 CARE REQUIRED BY THIS SECTION. IN DISCHARGING ITS DUTIES,
 6 THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC
 7 DEVELOPMENT BOARD SHALL CONSIDER THE PRESERVATION OF
 8 PURCHASING POWER OF CAPITAL DURING PERIODS OF HIGH MONETARY
 9 INFLATION.

10 ~~(3)~~(2)(3) The board of investments has the sole
 11 authority to invest state funds other than the Montana
 12 in-state investment fund. No other agency may invest such
 13 state funds. The board shall direct the investment of state
 14 funds in accordance with the laws and constitution of this
 15 state. The board has the power to veto any investments made
 16 under its general supervision.

17 ~~(4)~~(3)(4) The board of investments shall:

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

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

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

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

24 ~~(5)~~(4)(5) The board of investments may:

25 (a) execute deeds of conveyance transferring all real

1 property obtained through foreclosure of any investments
 2 purchased under the provisions of 17-6-211 when full payment
 3 has been received therefor;

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

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

10 ~~(6)~~(5)(6) The state treasurer shall keep an account of
 11 the total of each investment fund and of all the investments
 12 belonging to such fund and of the participation of each
 13 treasury fund account therein and shall make from time to
 14 time such reports with reference thereto as may be directed
 15 by the board of investments.

16 ~~(7)~~(6)(7) The cost of administering and accounting for
 17 each investment fund shall be deducted from the income
 18 therefrom, except that such costs of the nonexpendable trust
 19 funds shall be paid from income otherwise receivable from
 20 the pooled investment fund, and the amounts required for
 21 this purpose shall be appropriated by the legislature from
 22 the respective investment funds."

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

24 "17-6-211. Permissible---investments Preference to
 25 in-state investment firms -- commitment agreement with board

1 of housing. (i) The following securities are permissible
 2 investments for all investment funds referred to in
 3 17-6-203 except as indicated:

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

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

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

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

21 (ii) the issuing corporation or the parent company of a
 22 finance subsidiary issuing commercial paper, at the time of
 23 the last financial reporting period, had received net income
 24 averaging \$1 million or more annually for the preceding 5
 25 years; and

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

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

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

17 (f) unencumbered real property, first mortgages, and
 18 participations in first mortgages on unencumbered real
 19 property as provided in this subsection (i)(f) and
 20 subsection (5), provided that:

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

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

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

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

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

15 (i) no investment shall be made at any time under
16 subsection (i)(f) which would cause the book value of such
17 investments in any investment fund to exceed 50% of the book
18 value of such fund; and

19 (g) any other investment in any business activity in
20 the state, including activities that continue existing jobs
21 or create new jobs in Montana, provided that investments
22 which do not meet the requirements of subsections (i)(a)
23 through (i)(f) may not, in the aggregate, exceed 10% of the
24 fund from which each such investment is made;

25 (h) investments from the pooled investment fund shall

1 be restricted to fixed income securities described in
2 subsections (i)(a) to (i)(e) above;

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

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

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

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

21 (d) subsection (3)(c) does not apply to funds provided
22 for in 17-6-203(4);

23 (4)(1) The board of investments shall endeavor to
24 direct its portion of the state's investment business to
25 those investment firms and/or banks FINANCIAL INSTITUTIONS

1 which maintain offices in the state and thereby make
 2 contributions to the state economy. Further, due
 3 consideration shall be given to investments which will
 4 benefit the smaller communities in the state. The state's
 5 investment business will be directed to out-of-state firms
 6 only when there is a distinct economic advantage to the
 7 state of Montana.

8 ~~{5}{2} The board may invest in mortgage loans financed~~
 9 ~~by the board of housing if the mortgages are not in default~~
 10 ~~and meet the requirements of subsection (i)(f). The board~~
 11 may enter into a commitment agreement with the board of
 12 housing at the time of an issue of bonds or notes by the
 13 board of housing providing for the purchase at a specified
 14 future date, not to exceed 15 years from the date of the
 15 issue, of all or any portion of the amount of mortgage loans
 16 purchased with the proceeds of the issue. The board of
 17 investments may charge reasonable fees for any commitment
 18 and may agree to purchase the mortgage loans on terms that
 19 in the judgment of the board of investments provide a fair
 20 market rate of return to the purchasers.

21 ~~{6} The Montana economic development board created in~~
 22 ~~2-15-1985 may invest the Montana in-state investment fund in~~
 23 ~~any in-state investment authorized by its rules in addition~~
 24 ~~to those investments authorized by this section."~~

25 Section 3. Section 17-6-324, MCA, is amended to read:

1 "17-6-324. Rulemaking authority. The board may adopt
 2 rules to implement the provisions of this part and
 3 17-6-211(5)(2). Rules adopted by the board may include
 4 definitions of small- and medium-sized businesses, a method
 5 of committing funds to financial institutions, types of
 6 service fees, and types of investments to be made. The board
 7 may also adopt procedural rules to govern its proceedings."

8 NEW SECTION. Section 4. Effective date. This act is
 9 effective January 1, 1987.

10 NEW SECTION. Section 5. Coordination instruction. If
 11 Senate Bill No. 18, including the section of that bill
 12 amending Article VIII, section 13 of the Constitution of
 13 the State of Montana, fails upon submission to the
 14 electorate on November 4, 1986, this act is void in its
 15 entirety.

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16 provisions. (1) The uniform unified investment program
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18 constitution to be provided for public funds shall be
19 administered by the board of investments and the Montana
20 economic development board in accordance with ARTICLE VIII,
21 SECTION 13, OF THE MONTANA CONSTITUTION AND the rules
22 provided-in-this-chapter-and-with-that--degree--of--judgment
23 and--care,--under-circumstances-from-time-to-time-prevailing,
24 which--people--of--prudence,--discretion,--and--intelligence
25 exercise--in--the--management--of--their--own--affairs,--not--for

1 speculation-but-for--investment,--considering--the--probable
2 safety-of-their-capital-as-well-as-the-probable-income-to-be
3 derived,--and--preservation--of--purchasing-power-of-capital
4 during--periods--of--sustained--high--monetary--inflation--
5 investments--by--the--Montana-economic-development-board-are
6 limited-to-those-made-from-the-Montana--in-state--investment
7 fund-and-for-the-purposes-set-forth-in-part-3;

8 (2) All--state--funds--shall--be--invested--and--reinvested
9 in-securities-enumerated-in-17-6-211-to-the--maximum--extent
10 consistent--with-this-policy-and-with-the-need-and-timing-of
11 cash-expenditures-for-particular--purposes prudent expert
12 principle which requires any investment manager to:

13 (a) discharge his duties with the care, skill,
14 prudence, and diligence, under the circumstances then
15 prevailing, that a prudent person acting in a like capacity
16 with the same resources and familiar with like matters
17 exercises in the conduct of an enterprise of a like
18 character with like aims;

19 (b) diversify the holdings of each fund within the
20 unified investment program to minimize the risk of loss and
21 to maximize the rate of return, unless under the
22 circumstances it is clearly prudent not to do so; and

23 (c) discharge his duties solely in the interest of and
24 for the benefit of the funds forming the unified investment
25 program.

1 (2) LONG-TERM FUNDS MAY BE INVESTED IN COMMON STOCKS
 2 OF ANY CORPORATION PROVIDED THAT NO INVESTMENT MAY BE MADE
 3 AT ANY TIME WHICH WOULD CAUSE THE BOOK VALUE OF SUCH
 4 INVESTMENTS IN ANY LONG-TERM 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 LONG-TERM
 7 FUND.

8 (2)(3) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT
 9 THE INVESTMENT IN ANY BUSINESS ACTIVITY IN MONTANA,
 10 INCLUDING ACTIVITIES THAT CONTINUE EXISTING JOBS OR CREATE
 11 NEW JOBS IN MONTANA, IF THE INVESTMENT MEETS THE STANDARD OF
 12 CARE REQUIRED BY THIS SECTION. IN DISCHARGING ITS DUTIES,
 13 THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC
 14 DEVELOPMENT BOARD SHALL CONSIDER THE PRESERVATION OF
 15 PURCHASING POWER OF CAPITAL DURING PERIODS OF HIGH MONETARY
 16 INFLATION.

17 (3)(2)(3)(4) The board of investments has the sole
 18 authority to invest state funds other than the Montana
 19 in-state investment fund. No other agency may invest such
 20 state funds. The board shall direct the investment of state
 21 funds in accordance with the laws and constitution of this
 22 state. The board has the power to veto any investments made
 23 under its general supervision.

24 (4)(3)(4)(5) The board of investments shall:
 25 (a) assist agencies with public money to determine if,

1 when, and how much surplus cash is available for investment;

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

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

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

6 (5)(4)(5)(6) The board of investments may:

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

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

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

17 (6)(5)(6)(7) The state treasurer shall keep an account
 18 of the total of each investment fund and of all the
 19 investments belonging to such fund and of the participation
 20 of each treasury fund account therein and shall make from
 21 time to time such reports with reference thereto as may be
 22 directed by the board of investments.

23 (7)(6)(7)(8) The cost of administering and accounting
 24 for each investment fund shall be deducted from the income
 25 therefrom, except that such costs of the nonexpendable trust

1 funds shall be paid from income otherwise receivable from
2 the pooled investment fund, and the amounts required for
3 this purpose shall be appropriated by the legislature from
4 the respective investment funds."

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

6 "17-6-211. ~~Permissible~~ Preference to
7 in-state investment firms -- commitment agreement with board
8 of housing. ~~{i}--The--following--securities--are--permissible~~
9 ~~investments--for--all--investment--funds--referred--to--in~~
10 ~~17-6-203,--except--as--indicated:~~

11 ~~{a}--any--securities--authorized--to--be--pledged--to--secure~~
12 ~~deposits--of--public--funds--under--17-6-103;~~

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

23 ~~{c}--commercial--paper--of--highest--quality,--as--defined--by~~
24 ~~one--nationally--recognized--rating--agency,--issued--by--any~~
25 ~~corporation--organized--and--operating--in--any--state--of--the~~

1 ~~United--States,--provided--that:~~

2 ~~{i}--such--securities--mature--in--270--days--or--less;~~

3 ~~{ii}--the--issuing--corporation--or--the--parent--company--of--a~~
4 ~~finance--subsidiary--issuing--commercial--paper,--at--the--time--of~~
5 ~~the--last--financial--reporting--period,--had--received--net--income~~
6 ~~averaging--\$1--million--or--more--annually--for--the--preceding--5~~
7 ~~years;--and~~

8 ~~{iii}--no--investment--may--be--made--at--any--time--under--this~~
9 ~~subsection--(i)(c)--which--would--cause--the--book--value--of--such~~
10 ~~investments--in--any--investment--fund--to--exceed--10%--of--the--book~~
11 ~~value--of--such--fund--or--would--cause--the--commercial--paper--of~~
12 ~~any--one--corporation--to--exceed--2%--of--the--book--value--of--such~~
13 ~~fund;~~

14 ~~{d}--bankers'--acceptances--guaranteed--by--any--bank--having~~
15 ~~its--principal--office--in--any--state--of--the--United--States--and~~
16 ~~having--deposits--in--excess--of--\$500--million;~~

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

24 ~~{f}--unencumbered--real--property,--first--mortgages,--and~~
25 ~~participations--in--first--mortgages--on--unencumbered--real~~

1 property---as---provided---in---this---subsection---(i)(f)---and
2 subsection-(5), provided that:

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

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

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

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

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

22 (ii)---no---investment---shall---be---made---at---any---time---under
23 subsection-(i)(f)---which---would---cause---the---book---value---of---such
24 investments---in---any---investment---fund---to---exceed---50%---of---the---book
25 value---of---such---fund,---and

1 (g)---any---other---investment---in---any---business---activity---in
2 the---state,---including---activities---that---continue---existing---jobs
3 or---create---new---jobs---in---Montana,---provided---that---investments
4 which---do---not---meet---the---requirements---of---subsections---(i)(a)
5 through---(i)(f)---may---not,---in---the---aggregate,---exceed---10%---of---the
6 fund---from---which---each---such---investment---is---made;

7 (2)---investments---from---the---pooled---investment---fund---shall
8 be---restricted---to---fixed---income---securities---described---in
9 subsections-(i)(a)---to---(i)(e)---above.

10 (3)---Retirement---funds---and---the---fund---provided---for---in
11 17-6-203,---subsection---(4)---may---be---invested---in---preferred---and
12 common---stocks---of---any---corporation---organized---and---operating---in
13 any---state---of---the---United---States,---provided---that:

14 (a)---the---corporation---has---assets---of---a---value---not---less
15 than---\$10---million;

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

22 (c)---no---investment---may---be---made---at---any---time---under
23 subsection---(3)---which---would---cause---the---book---value---of---such
24 investments---in---any---retirement---fund---to---exceed---50%---of---the---book
25 value---of---such---fund---or---would---cause---the---stock---of---one

1 corporation--to-exceed--2%--of--the--book--value--of--such
2 retirement-fund;

3 {d}--subsection-(3)(c)-does-not-apply-to-funds-provided
4 for-in-17-6-203(4);

5 {4}(1) The board of investments shall endeavor to
6 direct its portion of the state's investment business to
7 those investment firms and/or banks FINANCIAL INSTITUTIONS
8 which maintain offices in the state and thereby make
9 contributions to the state economy. Further, due
10 consideration shall be given to investments which will
11 benefit the smaller communities in the state. The state's
12 investment business will be directed to out-of-state firms
13 only when there is a distinct economic advantage to the
14 state of Montana.

15 {5}(2) ~~The board may invest in mortgage loans financed~~
16 ~~by the board of housing if the mortgages are not in default~~
17 ~~and meet the requirements of subsection--(1)(f);~~ The board
18 may enter into a commitment agreement with the board of
19 housing at the time of an issue of bonds or notes by the
20 board of housing providing for the purchase at a specified
21 future date, not to exceed 15 years from the date of the
22 issue, of all or any portion of the amount of mortgage loans
23 purchased with the proceeds of the issue. The board of
24 investments may charge reasonable fees for any commitment
25 and may agree to purchase the mortgage loans on terms that

1 in the judgment of the board of investments provide a fair
2 market rate of return to the purchasers.

3 {6}--The--Montana-economic-development-board-created-in
4 2-15-1985-may-invest-the-Montana-in-state-investment-fund-in
5 any-in-state-investment-authorized-by-its-rules-in--addition
6 to-these-investments-authorized-by-this-section;"

7 Section 3. Section 17-6-324, MCA, is amended to read:
8 "17-6-324. Rulemaking authority. The board may adopt
9 rules to implement the provisions of this part and
10 17-6-211{5}{2}. Rules adopted by the board may include
11 definitions of small- and medium-sized businesses, a method
12 of committing funds to financial institutions, types of
13 service fees, and types of investments to be made. The board
14 may also adopt procedural rules to govern its proceedings."

15 NEW SECTION. Section 4. Effective date. This act is
16 effective January 1, 1987.

17 NEW SECTION.--Section-5--Coordination-instruction--If
18 Senate--Bill--No--107--including--the--section-of-that-bill
19 amending-Article-VIII--section-137--of--the--Constitution--of
20 the--State--of--Montana--fails--upon--submission--to--the
21 electorate-on-November-4, 1986,--this--act--is--void--in--its
22 entirety;

-End-

March 12 1985

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 11

Third reading copy (Blue color)

REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE FOR INVESTMENTS

Respectfully report as follows: That Senate Bill No. 11

BE AMENDED AS FOLLOWS:

1. Title, line 5.
Strike: "CONFORMING"
Insert: "REVISING LAWS CONCERNING"
2. Title, line 6.
Following: "PROGRAM"
Insert: ";"
3. Title, lines 6 and 7.
Strike: "WITH" on line 6 through "REMOVE" on line 7
Insert: "REMOVING CERTAIN"
4. Title, line 8.
Strike: "PROVIDE"
Insert: "PROVIDING"

CONTINUED

Chairman

March 12 1985

5. Title, line 9.
Following: "SECTIONS"
Insert: "17-5-609, 17-5-619,"
Following: "17-6-201,"
Insert: "17-6-203,"

6. Title, line 10.
Following: "17-6-211,"
Insert: "17-6-305, 17-6-308,"
Strike: "A DELAYED"

7. Title, line 11.
Strike: "DATE"
Insert: "DATES"

8. Page 1.
Following: line 13
Insert: "Section 1. Section 17-5-609, MCA, is amended to read:

"17-5-609. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-601 through 17-5-610 with moneys from the investment funds, notwithstanding the provisions of 17-6-211."

Section 2. Section 17-5-619, MCA, is amended to read:

"17-5-619. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-611 through 17-5-620 with moneys from the investment funds, notwithstanding the provisions of 17-6-211."

Renumber: subsequent sections

9. Page 3, line 1.
Strike: "LONG-TERM"
Insert: "Retirement"

10. Page 3, line 4.
Strike: "LONG-TERM"
Insert: "Retirement"

11. Page 3, line 6.
Strike: "LONG-TERM"
Insert: "Retirement"

12. Page 3, line 8.
Strike: "SHALL PREVENT"
Insert: "prevents"

CONTINUED

Chairman

March 12 1985

13. Page 5.
Following: line 4
Insert: "Section 4. Section 17-6-203, MCA, is amended to read:

"17-6-203. Separate investment funds. Separate investment funds shall be maintained as follows:

(1) the nonexpendable trust funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in sections 2 and 10, Article X, of the 1972 Montana constitution and all money referred to in 17-2-102(8). The principal and any part thereof of each and every fund constituting the Montana nonexpendable trust fund type shall be subject to payment at any time when due under the statutory provisions applicable thereto and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system now or hereafter maintained by the state, including those now maintained under the following statutes:

(a) the highway patrolmen's retirement system described in Title 19, chapter 6;

(b) the public employees' retirement system described in Title 19, chapter 3;

(c) the game wardens' retirement system described in Title 19, chapter 8;

(d) the teachers' retirement system described in Title 19, chapter 4; and

(e) the industrial accident insurance program described in Title 39, chapter 71, part 23;

(3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;

(4) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution on the part of the state of Montana to be observed. If such gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other such gifts, donations, grants, legacies, bequests, devises, or contributions.

(5) a fund consisting of coal severance taxes allocated thereto under section 5, Article IX, of the Montana constitution; the principal of this trust fund shall be permanent and--invested--in--the--permissible--investments--enumerated--in--17-6-211; in the event the legislature appropriates any part of the principal of this fund by vote of three-fourths of the members of each house, such liquidation may create a gain or loss in the principal; and

CONTINUED

Chairman.

March 12 1985

(6) such additional investment funds as may be expressly required by law or may be determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

Renumber: subsequent sections

14. Page 10.
Following: line 6
Insert: "Section 6. Section 17-6-305, MCA, is amended to read:

"17-6-305. Investment of twenty-five percent of the coal tax trust fund in the Montana economy. (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) shall be invested in the Montana economy with special emphasis on investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, ~~as required by 17-6-201(1)~~, the long-term benefit to the Montana economy shall be considered.

(3) The legislature may provide additional procedures to implement this section."

Section 7. Section 17-6-308, MCA, is amended to read:

"17-6-308. 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~~ as authorized by rules adopted by the board."

Renumber: subsequent sections

15. Page 10.
Following: line 14
Insert: "NEW SECTION. Section 9. Extension of authority. Any existing authority of the Board of Investments and the Montana Economic Development Board to make rules on the subject of the provisions of this act is extended to the provisions of this act."

"NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 10, including the section of that bill amending Article VIII, section 13, of the Montana Constitution, is approved by the electorate on November 4, 1986, the word "retirement" appearing three times in 17-6-201(2) is changed to "long-term"."

Renumber: subsequent section

CONTINUED

Chairman.

March 12.....1985.....

16. Page 10, line 15.

Strike: "date"

Insert: "dates"

Strike: "This act is"

Insert: "(1) Sections 1 through 9 and this section are effective
October 1, 1985.

(2) Section 10 is"

AND AS AMENDED
BE CONCURRED IN

MA 3-13-85


.....
REP. WALTER SALES Chairman.

1 SENATE BILL NO. 11

2 INTRODUCED BY NEUMAN, TOWE, DANIELS

3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING REVISING
6 LAWS CONCERNING THE UNIFIED INVESTMENT PROGRAM; WITH
7 CONSTITUTIONAL--AMENDMENTS--IN--SENATE--Bills--10,--WHICH
8 AMENDMENTS--REMOVE REMOVING CERTAIN RESTRICTIONS ON
9 INVESTMENT OF PUBLIC FUNDS AND PROVIDE PROVIDING A "PRUDENT
10 EXPERT" STANDARD FOR INVESTMENT OF PUBLIC FUNDS; AMENDING
11 SECTIONS 17-5-609, 17-5-619, 17-6-201, 17-6-203, 17-6-211,
12 17-6-305, 17-6-308, AND 17-6-324, MCA; AND PROVIDING A
13 DELAYED EFFECTIVE DATE DATES."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 SECTION 1. SECTION 17-5-609, MCA, IS AMENDED TO READ:

17 "17-5-609. Purchase of bonds. The board of investments
18 is authorized to purchase the bonds provided for by 17-5-601
19 through 17-5-610 with moneys from the investment funds,
20 notwithstanding the provisions of 17-6-211."

21 SECTION 2. SECTION 17-5-619, MCA, IS AMENDED TO READ:

22 "17-5-619. Purchase of bonds. The board of investments
23 is authorized to purchase the bonds provided for by 17-5-611
24 through 17-5-620 with moneys from the investment funds,
25 notwithstanding the provisions of 17-6-211."

1 Section 3. Section 17-6-201, MCA, is amended to read:

2 "17-6-201. Unified investment program -- general
3 provisions. (1) The uniform unified investment program
4 directed by Article VIII, section 13, of the 1972 Montana
5 constitution to be provided for public funds shall be
6 administered by the board of investments and the Montana
7 economic development board in accordance with ARTICLE VIII,
8 SECTION 13, OF THE MONTANA CONSTITUTION AND the rules
9 provided in this chapter and with that degree of judgment
10 and care, under circumstances from time to time prevailing,
11 which people of prudence, discretion, and intelligence
12 exercise in the management of their own affairs, not for
13 speculation but for investment, considering the probable
14 safety of their capital as well as the probable income to be
15 derived, and preservation of purchasing power of capital
16 during periods of sustained high monetary inflation.
17 Investments by the Montana economic development board are
18 limited to those made from the Montana in-state investment
19 fund and for the purposes set forth in part 3.

20 (2) All state funds shall be invested and reinvested
21 in securities enumerated in 17-6-211 to the maximum extent
22 consistent with this policy and with the need and timing of
23 cash expenditures for particular purposes prudent expert
24 principle which requires any investment manager to:

25 (a) discharge his duties with the care, skill,

1 prudence, and diligence, under the circumstances then
 2 prevailing, that a prudent person acting in a like capacity
 3 with the same resources and familiar with like matters
 4 exercises in the conduct of an enterprise of a like
 5 character with like aims;

6 (b) diversify the holdings of each fund within the
 7 unified investment program to minimize the risk of loss and
 8 to maximize the rate of return, unless under the
 9 circumstances it is clearly prudent not to do so; and

10 (c) discharge his duties solely in the interest of and
 11 for the benefit of the funds forming the unified investment
 12 program.

13 (2) LONG-TERM RETIREMENT FUNDS MAY BE INVESTED IN
 14 COMMON STOCKS OF ANY CORPORATION PROVIDED THAT NO INVESTMENT
 15 MAY BE MADE AT ANY TIME WHICH WOULD CAUSE THE BOOK VALUE OF
 16 SUCH INVESTMENTS IN ANY LONG-TERM RETIREMENT FUND TO EXCEED
 17 50% OF THE BOOK VALUE OF SUCH FUND OR WOULD CAUSE THE STOCK
 18 OF ONE CORPORATION TO EXCEED 2% OF THE BOOK VALUE OF SUCH
 19 LONG-TERM RETIREMENT FUND.

20 (2)(3) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT
 21 PREVENTS THE INVESTMENT IN ANY BUSINESS ACTIVITY IN MONTANA,
 22 INCLUDING ACTIVITIES THAT CONTINUE EXISTING JOBS OR CREATE
 23 NEW JOBS IN MONTANA, IF THE INVESTMENT MEETS THE STANDARD OF
 24 CARE REQUIRED BY THIS SECTION. IN DISCHARGING ITS DUTIES,
 25 THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC

1 DEVELOPMENT BOARD SHALL CONSIDER THE PRESERVATION OF
 2 PURCHASING POWER OF CAPITAL DURING PERIODS OF HIGH MONETARY
 3 INFLATION.

4 (3)(2)(3)(4) The board of investments has the sole
 5 authority to invest state funds other than the Montana
 6 in-state investment fund. No other agency may invest such
 7 state funds. The board shall direct the investment of state
 8 funds in accordance with the laws and constitution of this
 9 state. The board has the power to veto any investments made
 10 under its general supervision.

11 (4)(3)(4)(5) 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)(4)(5)(6) 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)~~(5)~~(6)~~(7) The state treasurer shall keep an account
5 of the total of each investment fund and of all the
6 investments belonging to such fund and of the participation
7 of each treasury fund account therein and shall make from
8 time to time such reports with reference thereto as may be
9 directed by the board of investments.

10 ~~(7)~~(6)~~(7)~~(8) The cost of administering and accounting
11 for each investment fund shall be deducted from the income
12 therefrom, except that such costs of the nonexpendable trust
13 funds shall be paid from income otherwise receivable from
14 the pooled investment fund, and the amounts required for
15 this purpose shall be appropriated by the legislature from
16 the respective investment funds."

17 SECTION 4. SECTION 17-6-203, MCA, IS AMENDED TO READ:

18 "17-6-203. Separate investment funds. Separate
19 investment funds shall be maintained as follows:

20 (1) the nonexpendable trust funds, including all
21 public school funds and funds of the Montana university
22 system and other state institutions of learning referred to
23 in sections 2 and 10, Article X, of the 1972 Montana
24 constitution and all money referred to in 17-2-102(8). The
25 principal and any part thereof of each and every fund

1 constituting the Montana nonexpendable trust fund type shall
2 be subject to payment at any time when due under the
3 statutory provisions applicable thereto and according to
4 the provisions of the gift, donation, grant, legacy,
5 bequest, or devise through or from which the particular fund
6 arises.

7 (2) a separate investment fund, which may not be held
8 jointly with other funds, for money pertaining to each
9 retirement or insurance system now or hereafter maintained
10 by the state, including those now maintained under the
11 following statutes:

12 (a) the highway patrolmen's retirement system
13 described in Title 19, chapter 6;

14 (b) the public employees' retirement system described
15 in Title 19, chapter 3;

16 (c) the game wardens' retirement system described in
17 Title 19, chapter 8;

18 (d) the teachers' retirement system described in Title
19 19, chapter 4; and

20 (e) the industrial accident insurance program
21 described in Title 39, chapter 71, part 23;

22 (3) a pooled investment fund, including all other
23 accounts within the treasury fund structure established by
24 17-2-102;

25 (4) a fund consisting of gifts, donations, grants,

1 legacies, bequests, devises, and other contributions made or
 2 given for a specific purpose or under conditions expressed
 3 in the gift, donation, grant, legacy, bequest, devise, or
 4 contribution on the part of the state of Montana to be
 5 observed. If such gift, donation, grant, legacy, bequest,
 6 devise, or contribution permits investment and is not
 7 otherwise restricted by its terms, it may be treated jointly
 8 with other such gifts, donations, grants, legacies,
 9 bequests, devises, or contributions.

10 (5) a fund consisting of coal severance taxes
 11 allocated thereto under section 5, Article IX, of the
 12 Montana constitution; the principal of this trust fund shall
 13 be permanent ~~and invested in the permissible investments~~
 14 ~~enumerated in 17-6-211~~; in the event the legislature
 15 appropriates any part of the principal of this fund by vote
 16 of three-fourths of the members of each house, such
 17 liquidation may create a gain or loss in the principal; and

18 (6) such additional investment funds as may be
 19 expressly required by law or may be determined by the board
 20 of investments to be necessary to fulfill fiduciary
 21 responsibilities of the state with respect to funds from a
 22 particular source."

23 Section 5. Section 17-6-211, MCA, is amended to read:

24 "17-6-211. Permissible investments Preference to
 25 in-state investment firms -- commitment agreement with board

1 of housing. (i) The following securities are permissible
 2 investments for all investment funds referred to in
 3 17-6-203, except as indicated:

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

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

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

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

21 (ii) the issuing corporation or the parent company of a
 22 finance subsidiary issuing commercial paper, at the time of
 23 the last financial reporting period, had received net income
 24 averaging \$1 million or more annually for the preceding 5
 25 years; and

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

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

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

17 (f) unencumbered real property, first mortgages, and
18 participations in first mortgages on unencumbered real
19 property as provided in this subsection (i)(f) and
20 subsection (5), provided that:

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

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

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

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

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

15 (ii) no investment shall be made at any time under
16 subsection (i)(f) which would cause the book value of such
17 investments in any investment fund to exceed 50% of the book
18 value of such fund; and

19 (g) any other investment in any business activity in
20 the state, including activities that continue existing jobs
21 or create new jobs in Montana, provided that investments
22 which do not meet the requirements of subsections (i)(A)
23 through (i)(F) may not, in the aggregate, exceed 10% of the
24 fund from which each such investment is made;

25 (2) investments from the pooled investment fund shall

1 be--restricted--to--fixed--income--securities--described--in
2 subsections--(1)(a)--to--(1)(e)--above:

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

7 (a)--the--corporation--has--assets--of-a-value-not-less
8 than-\$10-million;

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

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

21 (d)--subsection--(3)(c)--does-not-apply-to-funds-provided
22 for-in-17-6-203(4);

23 (4)(1) The board of investments shall endeavor to
24 direct its portion of the state's investment business to
25 those investment firms and/or banks FINANCIAL INSTITUTIONS

1 which maintain offices in the state and thereby make
2 contributions to the state economy. Further, due
3 consideration shall be given to investments which will
4 benefit the smaller communities in the state. The state's
5 investment business will be directed to out-of-state firms
6 only when there is a distinct economic advantage to the
7 state of Montana.

8 (5)(2) The board may invest in mortgage loans financed
9 by the board of housing if the mortgages are not in default
10 and meet the requirements of subsection--(1)(f). The board
11 may enter into a commitment agreement with the board of
12 housing at the time of an issue of bonds or notes by the
13 board of housing providing for the purchase at a specified
14 future date, not to exceed 15 years from the date of the
15 issue, of all or any portion of the amount of mortgage loans
16 purchased with the proceeds of the issue. The board of
17 investments may charge reasonable fees for any commitment
18 and may agree to purchase the mortgage loans on terms that
19 in the judgment of the board of investments provide a fair
20 market rate of return to the purchasers.

21 (6)--The--Montana-economic-development-board-created-in
22 2-15-1805-may-invest-the-Montana-in-state-investment-fund-in
23 any-in-state-investment-authorized-by-its-rules-in-addition
24 to-those-investments-authorized-by-this-section."

25 SECTION 6. SECTION 17-6-305, MCA, IS AMENDED TO READ:

1 "17-6-305. Investment of twenty-five percent of the
2 coal tax trust fund in the Montana economy. (1) Twenty-five
3 percent of all revenue deposited after June 30, 1983, into
4 the permanent coal tax trust fund established in 17-6-203(5)
5 shall be invested in the Montana economy with special
6 emphasis on investments in new or expanding locally owned
7 enterprises.

8 (2) In determining the probable income to be derived
9 from investment of this revenue, ~~as required by 17-6-201(1)~~
10 the long-term benefit to the Montana economy shall be
11 considered.

12 (3) The legislature may provide additional procedures
13 to implement this section."

14 SECTION 7. SECTION 17-6-308, MCA, IS AMENDED TO READ:

15 "17-6-308. Authorized investments. The Montana
16 in-state investment fund must be invested ~~in the securities~~
17 ~~authorized as permissible investments under 17-6-211 and in~~
18 ~~any other type of in-state investment~~ as authorized by rules
19 adopted by the board."

20 Section 8. Section 17-6-324, MCA, is amended to read:

21 "17-6-324. Rulemaking authority. The board may adopt
22 rules to implement the provisions of this part and
23 17-6-211~~(5)~~(2). Rules adopted by the board may include
24 definitions of small- and medium-sized businesses, a method
25 of committing funds to financial institutions, types of

1 service fees, and types of investments to be made. The board
2 may also adopt procedural rules to govern its proceedings."

3 NEW SECTION. SECTION 9. EXTENSION OF AUTHORITY. ANY
4 EXISTING AUTHORITY OF THE BOARD OF INVESTMENTS AND THE
5 MONTANA ECONOMIC DEVELOPMENT BOARD TO MAKE RULES ON THE
6 SUBJECT OF THE PROVISIONS OF THIS ACT IS EXTENDED TO THE
7 PROVISIONS OF THIS ACT.

8 NEW SECTION. SECTION 10. COORDINATION INSTRUCTION. IF
9 SENATE BILL NO. 10, INCLUDING THE SECTION OF THAT BILL
10 AMENDING ARTICLE VIII, SECTION 13, OF THE MONTANA
11 CONSTITUTION, IS APPROVED BY THE ELECTORATE ON NOVEMBER 4,
12 1986, THE WORD "RETIREMENT" APPEARING THREE TIMES IN
13 17-6-201(2) IS CHANGED TO "LONG-TERM".

14 NEW SECTION. Section 11. Effective date DATES. This
15 act is (1) SECTIONS 1 THROUGH 9 AND THIS SECTION ARE
16 EFFECTIVE OCTOBER 1, 1985.

17 (2) SECTION 10 IS effective January 1, 1987.

18 NEW SECTION:--Section 5.--Coordination instruction:--If
19 Senate--Bill--No--10,--including--the--section--of--that--bill
20 amending--Article--VIII,--section--13,--of--the--Constitution--of
21 the--State--of--Montana,--fails--upon--submission--to--the
22 electorate--on--November--4,--1986,--this--act--is--void--in--its
23 entirety.

-End-