

SB 244 INTRODUCED BY YELLOWTAIL, JR.  
PROHIBIT INVESTMENT OF PUBLIC FUNDS IN FIRMS DOING  
BUSINESS IN SOUTH AFRICA

1/29 INTRODUCED  
1/29 REFERRED TO BUSINESS & INDUSTRY  
1/29 FISCAL NOTE REQUESTED  
2/03 REREFERRED TO STATE ADMINISTRATION  
2/10 FISCAL NOTE RECEIVED  
2/14 REVISED FISCAL NOTE PREPARED  
2/16 HEARING  
2/19 REVISED FISCAL NOTE RECEIVED  
NOT SIGNED BY SPONSOR  
DIED IN COMMITTEE

1 *Senate* BILL NO. *244*  
 2 INTRODUCED BY *Yallowitz*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING INVESTMENT  
 5 OF STATE PUBLIC FUNDS IN A FIRM THAT IS DOING BUSINESS IN  
 6 THE REPUBLIC OF SOUTH AFRICA; PROVIDING A SCHEDULE FOR  
 7 DIVESTITURE OF CURRENT INVESTMENT IN SUCH FIRMS; AMENDING  
 8 SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN  
 9 EFFECTIVE DATE."  
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 NEW SECTION. Section 1. Prohibited investments. (1)  
 13 No state public funds may remain invested after July 1,  
 14 1990, or be invested after July 1, 1987, in the stock,  
 15 securities, or other obligations of a firm, including its  
 16 parent company, subsidiary, or affiliate, that is doing  
 17 business in the Republic of South Africa.  
 18 (2) To identify those firms in which investment is  
 19 prohibited, the investing authority shall refer to the most  
 20 recent annual report of the United States consulate general  
 21 of Johannesburg entitled "American Firms, Subsidiaries and  
 22 Affiliates--South Africa" and publications of the united  
 23 nations. The investing authority may use other sources it  
 24 finds reliable in addition to the required publications.  
 25 (3) State public investments in such firms must be

1 divested at a rate of at least one-third of the portfolio  
 2 each state fiscal year.

3 (4) While any funds remain invested in such firms, the  
 4 investing authority in any annual fiscal report shall  
 5 identify the investment and state its market value as of  
 6 publication of the report.

7 (5) For the purpose of this section, a security for  
 8 which a bank or financial institution is acting solely as  
 9 custodian is not considered an investment in that bank or  
 10 financial institution.

11 Section 2. Section 17-6-201, MCA, is amended to read:  
 12 "17-6-201. Unified investment program -- general  
 13 provisions. (1) The unified investment program directed by  
 14 Article VIII, section 13, of the 1972 Montana constitution  
 15 to be provided for public funds shall be administered by the  
 16 board of investments and the Montana economic development  
 17 board in accordance with Article VIII, section 13, of the  
 18 Montana constitution and the prudent expert principle which  
 19 requires any investment manager to:

20 (a) discharge his duties with the care, skill,  
 21 prudence, and diligence, under the circumstances then  
 22 prevailing, that a prudent person acting in a like capacity  
 23 with the same resources and familiar with like matters  
 24 exercises in the conduct of an enterprise of a like  
 25 character with like aims;

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

5 (c) discharge his duties solely in the interest of and  
 6 for the benefit of the funds forming the unified investment  
 7 program.

8 (2) Retirement funds may be invested in common stocks  
 9 of any corporation provided that such investment is not  
 10 prohibited under [section 1] and that no investment may be  
 11 made at any time which would cause the book value of such  
 12 investments in any retirement fund to exceed 50% of the book  
 13 value of such fund or would cause the stock of one  
 14 corporation to exceed 2% of the book value of such  
 15 retirement fund.

16 (3) Nothing contained in this section prevents the  
 17 investment in any business activity in Montana, including  
 18 activities that continue existing jobs or create new jobs in  
 19 Montana, if the investment meets the standard of care  
 20 required by this section. In discharging its duties, the  
 21 board of investments and the Montana economic development  
 22 board shall consider the preservation of purchasing power of  
 23 capital during periods of high monetary inflation.

24 (4) The board of investments has the sole authority to  
 25 invest state funds other than the Montana in-state

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

6 (5) The board of investments shall:

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

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

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

12 (d) prepare the claim to pay for the investment; and

13 (e) keep an account of the total of each investment  
 14 fund and of all the investments belonging to such fund and a  
 15 record of the participation of each treasury fund account  
 16 therein.

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

10 Section 3. Section 17-6-211, MCA, is amended to read:

11 "17-6-211. Preference to in-state investment firms --  
12 commitment agreement with board of housing. (1) The Subject  
13 to the restriction contained in [section 1], the board of  
14 investments shall endeavor to direct its portion of the  
15 state's investment business to those investment firms and/or  
16 financial institutions which maintain offices in the state  
17 and thereby make contributions to the state economy.  
18 Further, due consideration shall be given to investments  
19 which will benefit the smaller communities in the state. The  
20 state's investment business will be directed to out-of-state  
21 firms, subject to the restriction contained in [section 1],  
22 only when there is a distinct economic advantage to the  
23 state of Montana.

24 (2) The board may enter into a commitment agreement  
25 with the board of housing at the time of an issue of bonds

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

9 NEW SECTION. Section 4. Extension of authority. Any  
10 existing authority of the board of investments to make rules  
11 on the subject of the provisions of this act is extended to  
12 the provisions of this act.

13 NEW SECTION. Section 5. Effective date. This act is  
14 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB244, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting investment of state public funds in a firm that is doing business in the Republic of South Africa; providing a schedule for divestiture of current investment in such firms.

ASSUMPTIONS:

1. The market value of common stock affected by this legislation is \$61.5 million as of December 31, 1986.
2. The market value of bonds affected by this legislation is \$170 million as of December 31, 1986.
3. The transaction cost, including commission and market impact will be 1.4% of market value of the common stock and bonds affected by this legislation. (1.4% is from the Semi-Annual Report to the New Jersey Legislature by the Division of Investments of the State of New Jersey. New Jersey is currently in the process of divestiture.)
4. The state will replace the impacted stock and bonds with investments of equal value.
5. Additional research may be required due to divestiture of investments, no cost estimate is made for the research required.


FISCAL IMPACT:

Revenue from investments:

(Transaction cost impact)

Assumption #3

	<u>FY88</u>	<u>FY89</u>	<u>FY90</u>
	(\$1,080,000)	(\$1,080,000)	(\$1,080,000)

  
DATE 2/4/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

DATE \_\_\_\_\_  
WILLIAM P. YELLOWTAIL, JR., PRIMARY SPONSOR

Fiscal Note for SB244, as introduced.

**SB 244**

SOUTH AFRICA

February 4th, 1987

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State of Montana  
Equity Holdings  
1/21/87

Security Description:	Total Shares Held	Share Price	Approximate Market Value	Assumed Broker Fees
.P.C. International	26,000	86.13	2,239,250.00	5,200.00
epsico	90,000	31.00	2,790,000.00	18,000.00
JR Nabisco	25,000	58.00	1,450,000.00	5,000.00
bbott	100,000	52.00	5,200,000.00	20,000.00
merican Home Products	28,000	83.50	2,338,000.00	5,600.00
ristol Myers	24,000	92.38	2,217,000.00	4,800.00
li Lilly	30,000	81.25	2,437,500.00	6,000.00
ohnson & Johnson	22,000	73.50	1,617,000.00	4,400.00
erck	25,000	133.63	3,340,625.00	5,000.00
mith Kline-Beckman	15,000	101.38	1,520,625.00	3,000.00
pjohn	30,000	107.00	3,210,000.00	6,000.00
irestone	30,000	29.13	873,750.00	6,000.00
NISYS	25,000	95.88	2,396,875.00	5,000.00
M Corp	12,000	129.38	1,552,500.00	2,400.00
ICR Corp	55,000	56.75	3,121,250.00	11,000.00
erox	20,000	67.00	1,340,000.00	4,000.00
ombustion Engineering	40,000	34.13	1,365,000.00	8,000.00
ir Products & Chemicals	33,600	39.88	1,339,800.00	6,720.00
ow	28,000	68.88	1,928,500.00	5,600.00
ionsanto	32,000	85.13	2,724,000.00	6,400.00
ewmont Mining	10,000	66.00	660,000.00	2,000.00
JSX Corp	40,999	24.00	983,976.00	8,199.80
err McGee	35,000	31.13	1,089,375.00	7,000.00
obil Corp	84,000	43.25	3,633,000.00	16,800.00
ccidental Petroleum	24,892	31.13	774,763.50	4,978.40
Chevron	59,000	50.50	2,979,500.00	11,800.00
Texaco	35,000	38.25	1,338,750.00	7,000.00
Dresser Ind.	30,000	23.88	716,250.00	6,000.00
Manufacturers Hanover	24,000	47.13	1,131,000.00	4,800.00
Wells Fargo	60,000	53.00	3,180,000.00	12,000.00
<b>Total Equity Holdings</b>	<b>1,093,491</b>		<b>61,488,289.50</b>	<b>218,698.20</b>

SB 244

## SOUTH AFRICA

January 12th, 1987

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State of Montana  
Fixed Income Holdings  
12/31/86

Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fees
AMAX Inc.	2,000,000.00	14.250	285,000.00	5,000.00
American Hospital Supply	500,000.00	7.875	39,375.00	1,250.00
Armco Steel	500,000.00	9.200	46,000.00	1,250.00
Armco Steel	250,000.00	8.500	21,250.00	625.00
Borden	600,000.00	9.375	56,250.00	1,500.00
Carnation	413,000.00	4.500	18,585.00	1,032.50
Carnation	235,000.00	5.000	11,750.00	587.50
Chevron	2,750,000.00	8.750	240,625.00	6,875.00
Chevron USA Inc. Calif.	50,000.00	6.625	3,312.50	125.00
Cities Service	775,000.00	6.625	51,343.75	1,937.50
Cities Service	4,800,000.00	13.875	666,000.00	12,000.00
Diamond Shamrock	100,000.00	7.700	7,700.00	250.00
Diamond Shamrock	1,600,000.00	8.500	136,000.00	4,000.00
Dow Chemical	100,000.00	8.875	8,875.00	250.00
Dow Chemical	350,000.00	7.400	25,900.00	875.00
Dow Chemical	7,500,000.00	11.250	843,750.00	18,750.00
Dresser Industries	2,000,000.00	11.750	235,000.00	5,000.00
Engelhard Corp.	12,850,000.00	11.750	1,509,875.00	32,125.00
Firestone	350,000.00	7.300	25,550.00	875.00
FMC Corp.	650,000.00	9.500	61,750.00	1,625.00
Hooker Chemical	768,000.00	10.500	80,640.00	1,920.00
Inco Ltd.	3,000,000.00	12.375	371,250.00	7,500.00
Indersoll Rand	1,000,000.00	8.050	80,500.00	2,500.00
Indersoll Rand	2,000,000.00	12.875	257,500.00	5,000.00
Kerr McGee Corp.	4,400,000.00	8.500	374,000.00	11,000.00
Kerr McGee Corp.	2,000,000.00	7.000	140,000.00	5,000.00
Marathon Oil	3,250,000.00	8.500	276,250.00	8,125.00
3M Corp.	500,000.00	8.850	44,250.00	1,250.00
Mobil Corp.	3,815,000.00	8.500	324,275.00	9,537.50
Mobil Corp.	10,500,000.00	13.765	1,445,325.00	26,250.00
Monsanto	1,000,000.00	8.750	87,500.00	2,500.00
Motorola	7,800,000.00	8.000	624,000.00	19,500.00
Navistar International	100,000.00	6.250	6,250.00	250.00
Navistar International	500,000.00	9.000	45,000.00	1,250.00
Owens Illinois	800,000.00	7.625	61,000.00	2,000.00
Owens Illinois	5,400,000.00	9.350	504,900.00	13,500.00
Owens Illinois	410,000.00	5.000	20,500.00	1,025.00
Packaging Corp. of America 1	105,000.00	4.375	4,593.75	262.50
Pfizer Inc.	1,000,000.00	8.500	85,000.00	2,500.00
R.J. Reynolds	1,500,000.00	13.350	200,250.00	3,750.00
St. Regis Paper	5,000,000.00	10.625	531,250.00	12,500.00
Standard Oil of Calif.	819,000.00	7.500	61,425.00	2,047.50

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Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fees
Standard Oil of Ohio	500,000.00	8.375	41,875.00	1,250.00
Ohio BP Trans Alaska Pipe.	1,832,000.00	9.750	178,620.00	4,580.00
Ohio Pipeline	2,500,000.00	8.750	218,750.00	6,250.00
Superior Oil	200,000.00	9.625	19,250.00	500.00
Exaco Inc.	1,271,000.00	4.500	57,195.00	3,177.50
Gas Oil & Gas	2 4,000,000.00	11.500	460,000.00	10,000.00
Union Carbide	3,000,000.00	8.500	255,000.00	7,500.00
Union Carbide	2,000,000.00	9.350	187,000.00	5,000.00
Prox Corp.	140,000.00	5.875	8,225.00	350.00
<b>Total Industrial Holdings</b>	<b>109,483,000.00</b>		<b>11,345,465.00</b>	<b>273,707.50</b>
<b>Relative Total</b>	<b>109,483,000.00</b>		<b>11,345,465.00</b>	<b>273,707.50</b>

Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fees
Bankers' Trust New York	1,500,000.00	8.625	129,375.00	3,750.00
Chemical of New York	2,000,000.00	8.250	165,000.00	5,000.00
Chemcorp	7,225,000.00	8.450	610,512.50	18,062.50
Chemcorp	1,600,000.00	8.125	130,000.00	4,000.00
Chemcorp	2,750,000.00	8.750	240,625.00	6,875.00
Chicker National Bank	5,700,000.00	8.600	490,200.00	14,250.00
First Interstate	8,500,000.00	12.250	1,041,250.00	21,250.00
First Interstate	5,369,000.00	13.500	724,815.00	13,422.50
First Farago Bank	500,000.00	8.600	43,000.00	1,250.00
<b>Total Banking Companies</b>	<b>35,144,000.00</b>		<b>3,574,777.50</b>	<b>87,860.00</b>
<b>Relative Total</b>	<b>144,627,000.00</b>		<b>14,920,242.50</b>	<b>361,567.50</b>

Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fees
American Express Credit	5,800,000.00	11.250	652,500.00	14,500.00
AT Financial Corp.	150,000.00	4.625	6,937.50	375.00
AT Financial Corp.	2,000,000.00	14.700	294,000.00	5,000.00
Chrysler Financial Corp.	100,000.00	7.700	7,700.00	250.00
Clark Equipment Credit	300,000.00	7.850	23,550.00	750.00



Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fee
Navistar International	700,000.00	8.625	60,375.00	1,750.00
Navistar International	1,540,000.00	7.500	115,500.00	3,850.00
Total Captive Financial	10,590,000.00		1,160,562.50	26,475.00
Cumulative Total	155,217,000.00		16,080,805.00	388,042.50

Security Description:	Total Par Amount	Coupon	Annual Income	Assumed Broker Fee
Unisys Corp. Cv. Sub. Debs.3	2,000,000.00	7.250	145,000.00	5,000.00
Total Convertible Bonds	2,000,000.00		145,000.00	5,000.00
Cumulative Total	157,217,000.00		16,225,805.00	393,042.50

## Footnotes:

- 1 Subsidiary of Tenneco Corp.
- 2 Subsidiary of USX Corp.
- 3 Was Burroughs Corp.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB244, as introduced.  
REVISED FISCAL NOTE

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting investment of state public funds in a firm that is doing business in the Republic of South Africa; providing a schedule for divestiture of current investment in such firms.


ASSUMPTIONS:

1. An updated list of companies doing business in South Africa was provided to the Board of Investments on February 11, 1987. This updated list was used in preparing this revised fiscal note.
2. The market value of common stock affected by this legislation is \$51.1 million as of January 30, 1987.
3. The market value of bonds affected by this legislation is 99.8 million.
4. The transaction cost, including commission and market impact will be 1.4% of market value of the common stock and bonds affected by this legislation. (1.4% is from the Semi-Annual Report to the New Jersey Legislature by the Division of Investments of the State of New Jersey. New Jersey is currently in the process of divestiture.)
5. The state will replace the impacted stock and bonds with investments of equal value.
6. Additional research may be required due to divestiture of investments, no cost estimate is made for the research required.
7. The average turnover of common stock is 8.5% and of bonds is 18.3%.

FISCAL IMPACT:

	<u>FY88</u>	<u>FY89</u>	<u>FY90</u>
<u>Revenue from investments:</u> (Transaction cost impact)			
Assumption #4	(\$704,200)	(\$704,200)	(\$704,200)
Less average turnover	<u>\$105,499</u>	<u>\$105,499</u>	<u>\$105,499</u>
TOTAL	\$598,701	\$598,701	\$598,701

Assumption #4 is the basis used for determining the fiscal impact of divestiture for the state for this fiscal note. There is a variance of opinion on how to measure the fiscal impact of divestiture. They can result in showing no significant impact to a substantial impact.

 DATE 2/14/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

DATE 2/19/87  
 WILLIAM P. YELLOWTAIL, JR. PRIMARY SPONSOR

Fiscal Note for SB244, as introduced.  
 REVISED FISCAL NOTE SB244  
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