

HOUSE BILL NO. 130

INTRODUCED BY WISEMAN  
BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE HOUSE

JANUARY 9, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
JANUARY 20, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 21, 1993	PRINTING REPORT.
JANUARY 22, 1993	SECOND READING, DO PASS.
JANUARY 23, 1993	ENGROSSING REPORT.
JANUARY 25, 1993	THIRD READING, PASSED. AYES, 96; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 8, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 9, 1993	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 130  
2 INTRODUCED BY William Miller  
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INVESTMENT  
6 PROVISIONS THAT RELATE TO THE BOARD OF INVESTMENTS;  
7 PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS  
8 17-6-201 AND 17-7-502, MCA; AND REPEALING SECTION 17-6-310,  
9 MCA."  
10

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

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

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

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

25 (b) diversify the holdings of each fund within the

1 unified investment program to minimize the risk of loss and  
2 to maximize the rate of return, unless, under the  
3 circumstances, it is clearly prudent not to do so; and

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

7 (2) (a) Retirement funds may be invested in common  
8 stocks of any corporation provided that no an investment may  
9 not be made at any time which that would cause the book  
10 value of such the investments in any retirement fund to  
11 exceed 50% of the book value of such the fund or would cause  
12 the stock of one corporation to exceed 2% of the book value  
13 of such the retirement fund.

14 (b) Other public funds may not be invested in private  
15 corporate capital stock. "Private corporate capital stock"  
16 means only the common stock of a corporation.

17 (3) (a) ~~Nothing-contained-in-this~~ This section prevents  
18 does not prevent the investment in any business activity in  
19 Montana, including activities that continue existing jobs or  
20 create new jobs in Montana.

21 (b) The board is urged under the prudent expert  
22 principle to invest up to 3% of retirement funds in venture  
23 capital companies. Whenever possible, preference should be  
24 given to investments in those venture capital companies  
25 which that demonstrate an interest in making investments in

1 Montana.

2 (c) In discharging its duties, the board shall consider  
3 the preservation of purchasing power of capital during  
4 periods of high monetary inflation.

5 (d) The board may not make a direct loan to an  
6 individual borrower. The purchase of a loan or a portion of  
7 a loan originated by a financial institution is not  
8 considered a direct loan.

9 (4) The board has the sole authority to invest state  
10 funds. ~~No other~~ Another agency may not invest ~~such~~ state  
11 funds, unless otherwise provided by law. The board shall  
12 direct the investment of state funds in accordance with the  
13 laws and constitution of this state. The board has the power  
14 to veto any investments made under its general supervision.

15 (5) The board shall:

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

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

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

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

22 (e) keep an account of the total of each investment  
23 fund and of all the investments belonging to ~~such~~ the fund  
24 and a record of the participation of each treasury fund  
25 account ~~therein~~ in the investment fund.

1 (6) The board may:

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

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

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

12 (d) expend funds needed to cover costs of necessary  
13 repairs to property owned by the board as an investment. The  
14 expenditures may be made directly by the board and are  
15 statutorily appropriated, as provided in 17-7-502. Repairs  
16 that cost in excess of \$2,500 must be bid, and the bid must  
17 be awarded in compliance with existing state law and  
18 regulations. Emergency repairs may be made by the board  
19 without bid if approved by the state architect.

20 (7) The cost of administering and accounting for each  
21 investment fund ~~shall~~ must be deducted from the income  
22 ~~therefrom~~ from the fund.

23 (8) (a) The director of the department of  
24 administration annually may prepare a statewide cost  
25 allocation plan to distribute program costs incurred by

1 state agencies that are funded through the general fund to  
 2 the programs served by the agencies. Except as provided in  
 3 subsection (8)(b), the cost to an agency of providing  
 4 services to a program funded through an account in the state  
 5 special revenue fund, as defined in 17-2-102, must be  
 6 deducted by the board from the account's investment earnings  
 7 according to the statewide cost allocation plan. Amounts  
 8 deducted by the board must be credited to the general fund.

9 (b) No A deduction for program costs, as provided in  
 10 subsection (8)(a), may not be made if an account's cash on  
 11 hand is pooled for investment in the treasury cash account  
 12 defined in 17-6-202."

13 **Section 2.** Section 17-7-502, MCA, is amended to read:

14 **"17-7-502. Statutory appropriations -- definition --**  
 15 **requisites for validity.** (1) A statutory appropriation is an  
 16 appropriation made by permanent law that authorizes spending  
 17 by a state agency without the need for a biennial  
 18 legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be  
 20 effective, a statutory appropriation must comply with both  
 21 of the following provisions:

22 (a) The law containing the statutory authority must be  
 23 listed in subsection (3).

24 (b) The law or portion of the law making a statutory  
 25 appropriation must specifically state that a statutory

1 appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing  
 3 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 4 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 5 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;  
 6 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
 7 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-201;  
 8 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702;  
 9 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;  
 10 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101;  
 11 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503;  
 12 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
 13 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204;  
 14 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150;  
 15 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507;  
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19 (4) There is a statutory appropriation to pay the  
 20 principal, interest, premiums, and costs of issuing, paying,  
 21 and securing all bonds, notes, or other obligations, as due,  
 22 that have been authorized and issued pursuant to the laws of  
 23 Montana. Agencies that have entered into agreements  
 24 authorized by the laws of Montana to pay the state  
 25 treasurer, for deposit in accordance with 17-2-101 through

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1 17-2-107, as determined by the state treasurer, an amount  
2 sufficient to pay the principal and interest as due on the  
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5 567, L. 1991, the inclusion of 19-6-709 terminates upon  
6 death of last recipient eligible for supplemental benefit;  
7 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
8 22-3-811 terminates June 30, 1993.)"

9 NEW SECTION. **Section 3. Repealer.** Section 17-6-310,  
10 MCA, is repealed.

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## HOUSE BILL NO. 130

INTRODUCED BY WISEMAN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INVESTMENT PROVISIONS THAT RELATE TO THE BOARD OF INVESTMENTS; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-6-201 AND 17-7-502, MCA; AND REPEALING SECTION 17-6-310, MCA."

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

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

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall must be administered by the board of investments in accordance with the prudent expert principle, which requires any investment manager to:

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

(b) diversify the holdings of each fund within the

unified investment program to minimize the risk of loss and to maximize the rate of return, unless, under the circumstances, it is clearly prudent not to do so; and

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

(2) (a) Retirement funds may be invested in common stocks of any corporation provided that no an investment may not be made at any time which that would cause the book value of such the investments in any retirement fund to exceed 50% of the book value of such the fund or would cause the stock of one corporation to exceed 2% of the book value of such the retirement fund.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) Nothing-contained-in-this This section prevents does not prevent the investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies which that demonstrate an interest in making investments in

1 Montana.

2 (c) In discharging its duties, the board shall consider  
3 the preservation of purchasing power of capital during  
4 periods of high monetary inflation.

5 (d) The board may not make a direct loan to an  
6 individual borrower. The purchase of a loan or a portion of  
7 a loan originated by a financial institution is not  
8 considered a direct loan.

9 (4) The board has the sole authority to invest state  
10 funds. No other Another agency may not invest such state  
11 funds, unless otherwise provided by law. The board shall  
12 direct the investment of state funds in accordance with the  
13 laws and constitution of this state. The board has the power  
14 to veto any investments made under its general supervision.

15 (5) The board shall:

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

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

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

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

22 (e) keep an account of the total of each investment  
23 fund and of all the investments belonging to such the fund  
24 and a record of the participation of each treasury fund  
25 account therein in the investment fund.

1 (6) The board may:

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

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

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

12 (d) expend funds needed to cover costs of necessary  
13 repairs to property owned by the board as an investment. The  
14 expenditures may be made directly by the board and are  
15 statutorily appropriated, as provided in 17-7-502. Repairs  
16 that cost in excess of \$2,500 must be bid, and the bid must  
17 be awarded in compliance with existing state law and  
18 regulations. Emergency repairs may be made by the board  
19 without bid if approved by the state architect.

20 (7) The cost of administering and accounting for each  
21 investment fund shall must be deducted from the income  
22 therefrom from the fund.

23 (8) (a) The director of the department of  
24 administration annually may prepare a statewide cost  
25 allocation plan to distribute program costs incurred by

1 state agencies that are funded through the general fund to  
 2 the programs served by the agencies. Except as provided in  
 3 subsection (8)(b), the cost to an agency of providing  
 4 services to a program funded through an account in the state  
 5 special revenue fund, as defined in 17-2-102, must be  
 6 deducted by the board from the account's investment earnings  
 7 according to the statewide cost allocation plan. Amounts  
 8 deducted by the board must be credited to the general fund.

9 (b) No A deduction for program costs, as provided in  
 10 subsection (8)(a), may not be made if an account's cash on  
 11 hand is pooled for investment in the treasury cash account  
 12 defined in 17-6-202."

13 **Section 2.** Section 17-7-502, MCA, is amended to read:

14 "17-7-502. Statutory appropriations -- definition --  
 15 requisites for validity. (1) A statutory appropriation is an  
 16 appropriation made by permanent law that authorizes spending  
 17 by a state agency without the need for a biennial  
 18 legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be  
 20 effective, a statutory appropriation must comply with both  
 21 of the following provisions:

22 (a) The law containing the statutory authority must be  
 23 listed in subsection (3).

24 (b) The law or portion of the law making a statutory  
 25 appropriation must specifically state that a statutory

1 appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing  
 3 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 4 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 5 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;  
 6 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
 7 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-201;  
 8 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702;  
 9 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;  
 10 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101;  
 11 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503;  
 12 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
 13 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204;  
 14 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150;  
 15 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507;  
 16 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103;  
 17 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301;  
 18 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

19 (4) There is a statutory appropriation to pay the  
 20 principal, interest, premiums, and costs of issuing, paying,  
 21 and securing all bonds, notes, or other obligations, as due,  
 22 that have been authorized and issued pursuant to the laws of  
 23 Montana. Agencies that have entered into agreements  
 24 authorized by the laws of Montana to pay the state  
 25 treasurer, for deposit in accordance with 17-2-101 through



1 17-2-107, as determined by the state treasurer, an amount  
2 sufficient to pay the principal and interest as due on the  
3 bonds or notes have statutory appropriation authority for  
4 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
5 567, L. 1991, the inclusion of 19-6-709 terminates upon  
6 death of last recipient eligible for supplemental benefit;  
7 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
8 22-3-811 terminates June 30, 1993.)"

9 NEW SECTION. **Section 3. Repealer.** Section 17-6-310,  
10 MCA, is repealed.

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