

House BILL NO. 197

INTRODUCED BY

*Conrad Johnson* *Wm Ryan Hoyer*  
*Bartlett Harding*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF INVESTMENT OF PUBLIC MONEY ALLOWED BY LOCAL GOVERNING BODIES; SUBJECTING SCHOOL DISTRICT TRUSTEES TO SIMILAR LIMITATIONS; AMENDING SECTIONS 7-6-202, 7-6-206, AND 20-9-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION."

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

Section 1. Section 7-6-202, MCA, is amended to read:

"7-6-202. Investment of public money in direct obligations of the United States. (1) A local governing body may invest public money not necessary for immediate use by the county, city, or town in:

(a) ~~direct obligations of the United States government~~ treasury bills, notes, and bonds;

(b) United States treasury receipts in a form evidencing the holder's ownership of future interest and principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the federal reserve bank of New York; or

~~(b)(c) securities issued by obligations of the following agencies of the United States; subject to the limitations in subsection (2):~~

~~(i) federal home loan bank;~~

~~(ii) federal national mortgage association;~~

~~(iii) federal home mortgage corporation; and~~

~~(iv) federal farm credit bank.~~

~~(c) securities guaranteed by the United States or by an agency of the United States but not issued by agencies of the United States; or~~

~~(d) mutual funds that invest only in:~~

~~(i) government obligations;~~

~~(ii) securities issued by agencies of the United States; or~~

~~(iii) securities guaranteed by the United States or by an agency of the United States but not issued~~

1 ~~by agencies of the United States.~~

2 ~~(2) The local governing body may invest in these obligations either directly or in the form of~~  
 3 ~~securities of or other interests in an open end or closed end management type investment company or~~  
 4 ~~investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64),~~  
 5 ~~as amended, if:~~

6 ~~(a) the portfolio of the investment company or investment trust is limited to United States~~  
 7 ~~government obligations and repurchase agreements fully collateralized by United States government~~  
 8 ~~obligations; and~~

9 ~~(b) the investment company or investment trust takes delivery of the collateral for any repurchase~~  
 10 ~~agreement, either directly or through an authorized custodian.~~

11 (2) An investment in an agency of the United States is authorized under this section if the  
 12 investment is a general obligation of the agency and has a fixed or zero-coupon rate and does not have  
 13 prepayments that are based on underlying assets or collateral, including but not limited to residential or  
 14 commercial mortgages, farm loans, multifamily housing loans, or student loans.

15 (3) The local governing body may invest in a United States government security money market fund  
 16 if:

17 (a) the fund is sold and managed by a management-type investment company or investment trust  
 18 registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be  
 19 amended;

20 (b) the fund consists only of eligible securities as described in this section;

21 (c) the use of repurchase agreements is limited to agreements that are fully collateralized by the  
 22 United States obligations and the investment company or investment trust takes delivery of the collateral  
 23 for any repurchase agreement, either directly or through an authorized custodian;

24 (d) the fund is listed in a national financial publication under the category of "money market mutual  
 25 funds", showing the fund's average maturity, yield, and asset size; and

26 (e) the fund's average maturity does not exceed 397 days."

27

28 **Section 2.** Section 7-6-206, MCA, is amended to read:

29 **"7-6-206. Time deposits -- repurchase agreement.** (1) Public money not necessary for immediate  
 30 use by a county, city, or town that is not invested in ~~direct obligations of the United States government~~

1 ~~or in mutual funds~~ as authorized in 7-6-202 may be placed in time or savings deposits with a bank, savings  
2 and loan association, or credit union in the state or placed in repurchase agreements as authorized in  
3 7-6-213. Money placed in repurchase agreements is subject to subsection (2).

4 (2) The local governing body may solicit bids for time or savings deposits from a bank, savings and  
5 loan association, or credit union in the state. The local governing body may deposit public money in the  
6 institutions unless a local financial institution agrees to pay the same rate of interest bid by a financial  
7 institution not located in the county, city, or town. The governing body may solicit bids by notice sent by  
8 mail to the investment institutions ~~who~~ that have requested that their names be listed for bid notice with  
9 the department of administration."

10

11 **Section 3.** Section 20-9-213, MCA, is amended to read:

12 **"20-9-213. Duties of trustees.** The trustees of each district have the sole power and authority to  
13 transact all fiscal business and execute all contracts in the name of the district. A person other than the  
14 trustees acting as a governing board may not expend money of the district. In conducting the fiscal  
15 business of the district, the trustees shall:

16 (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school  
17 money for each fund maintained by the district in accordance with generally accepted accounting principles  
18 and the rules prescribed by the superintendent of public instruction. The record of the accounting must  
19 be open to public inspection at any meeting of the trustees.

20 (2) authorize all expenditures of district money and cause warrants to be issued for the payment  
21 of lawful obligations;

22 (3) issue warrants on any budgeted fund in anticipation of budgeted revenue, except that the  
23 expenditures may not exceed the amount budgeted for the fund;

24 (4) invest any money of the district, whenever in the judgment of the trustees the investment  
25 would be advantageous to the district, by directing the county treasurer to invest any money of the district  
26 in ~~direct~~ obligations of the United States government or its agencies, as authorized in 7-6-202; in savings  
27 or time deposits in a state or national bank, building or loan association, savings and loan association, or  
28 credit union insured by the FDIC or NCUA located in the state; or in a repurchase agreement, as authorized  
29 in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which  
30 the money was withdrawn, except that interest earned on account of the investment of money realized

1 from the sale of bonds must be credited to the debt service fund or the building fund, at the discretion of  
2 the board of trustees. The placement of the investment by the county treasurer is not subject to ratable  
3 distribution laws and must be done in accordance with the directive from the board of trustees. A district  
4 may invest money under the state unified investment program established in Title 17, chapter 6.

5 (5) cause the district to record each transaction in the appropriate account before the accounts are  
6 closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money  
7 and property for which the district is accountable;

8 (6) report annually to the county superintendent, not later than August 15, the financial activities  
9 of each fund maintained by the district during the last completed school fiscal year, on the forms prescribed  
10 and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts  
11 must be submitted not later than September 1 to the county superintendent of each county in which part  
12 of the joint district is situated.

13 (7) whenever requested, report any other fiscal activities to the county superintendent,  
14 superintendent of public instruction, or board of public education;

15 (8) cause the accounting records of the district to be audited as required by 2-7-503; and

16 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the  
17 district."  
18

19 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that  
20 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
21 act].  
22

23 NEW SECTION. **Section 5. Applicability.** This act does not apply to and does not require the sale  
24 of securities that were legal investments before [the effective date of this act]. Upon the liquidation of an  
25 investment authorized prior to [the effective date of this act], the proceeds must be invested pursuant to  
26 [this act].  
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28 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.  
29

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2 INTRODUCED BY EWER, R. JOHNSON, RYAN, HARPER, BARTLETT, HARDING, GAGE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF INVESTMENT OF PUBLIC MONEY  
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18 certificate or book-entry form with the federal reserve bank of New York; or19 ~~(b)(c) securities issued by obligations of the following agencies of the United States;~~ subject to  
20 the limitations in subsection (2):21 (i) federal home loan bank;22 (ii) federal national mortgage association;23 (iii) federal home mortgage corporation; and24 (iv) federal farm credit bank.25 ~~(e) securities guaranteed by the United States or by an agency of the United States but not issued~~  
26 ~~by agencies of the United States; or~~27 ~~(d) mutual funds that invest only in:~~28 ~~(i) government obligations;~~29 ~~(ii) securities issued by agencies of the United States; or~~30 ~~(iii) securities guaranteed by the United States or by an agency of the United States but not issued~~

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2 ~~(2) The local governing body may invest in these obligations either directly or in the form of~~  
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 5 ~~as amended, if:~~

6 ~~(a) the portfolio of the investment company or investment trust is limited to United States~~  
 7 ~~government obligations and repurchase agreements fully collateralized by United States government~~  
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9 ~~(b) the investment company or investment trust takes delivery of the collateral for any repurchase~~  
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17 (a) the fund is sold and managed by a management-type investment company or investment trust  
 18 registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be  
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20 (b) the fund consists only of eligible securities as described in this section;

21 (c) the use of repurchase agreements is limited to agreements that are fully collateralized by the  
 22 United States obligations and the investment company or investment trust takes delivery of the collateral  
 23 for any repurchase agreement, either directly or through an authorized custodian;

24 (d) the fund is listed in a national financial publication under the category of "money market mutual  
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26 (e) the fund's average maturity does not exceed 397 days.

27 (4) ANY INVESTMENT OF A RESERVE FUND MAY NOT EXCEED 5 YEARS, EXCEPT WHEN  
 28 REFUNDING AN OUTSTANDING BOND ISSUE."

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 30 **Section 2.** Section 7-6-206, MCA, is amended to read:

1           **"7-6-206. Time deposits -- repurchase agreement.** (1) Public money not necessary for immediate  
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5 7-6-213. Money placed in repurchase agreements is subject to subsection (2).

6           (2) The local governing body may solicit bids for time or savings deposits from a bank, savings and  
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11 the department of administration. "

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13           **Section 3.** Section 20-9-213, MCA, is amended to read:

14           **"20-9-213. Duties of trustees.** The trustees of each district have the sole power and authority to  
15 transact all fiscal business and execute all contracts in the name of the district. A person other than the  
16 trustees acting as a governing board may not expend money of the district. In conducting the fiscal  
17 business of the district, the trustees shall:

18           (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school  
19 money for each fund maintained by the district in accordance with generally accepted accounting principles  
20 and the rules prescribed by the superintendent of public instruction. The record of the accounting must  
21 be open to public inspection at any meeting of the trustees.

22           (2) authorize all expenditures of district money and cause warrants to be issued for the payment  
23 of lawful obligations;

24           (3) issue warrants on any budgeted fund in anticipation of budgeted revenue, except that the  
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1 in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which  
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6 may invest money under the state unified investment program established in Title 17, chapter 6.

7 (5) cause the district to record each transaction in the appropriate account before the accounts are  
8 closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money  
9 and property for which the district is accountable;

10 (6) report annually to the county superintendent, not later than August 15, the financial activities  
11 of each fund maintained by the district during the last completed school fiscal year, on the forms prescribed  
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18 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the  
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21 **NEW SECTION. Section 4. Saving clause.** [This act] does not affect rights and duties that  
22 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
23 act].

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25 **NEW SECTION. Section 5. Applicability.** This act does not apply to and does not require the sale  
26 of securities that were legal investments before [the effective date of this act]. Upon the liquidation of an  
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27 (4) ANY INVESTMENT OF A RESERVE FUND MAY NOT EXCEED 5 YEARS, EXCEPT WHEN  
 28 REFUNDING AN OUTSTANDING BOND ISSUE. AN INVESTMENT AUTHORIZED IN THIS PART MAY NOT  
 29 HAVE A MATURITY DATE EXCEEDING 5 YEARS, EXCEPT WHEN THE INVESTMENT IS USED IN AN  
 30 ESCROW ACCOUNT TO REFUND AN OUTSTANDING BOND ISSUE IN ADVANCE."

1           **Section 2.** Section 7-6-206, MCA, is amended to read:

2           **"7-6-206. Time deposits -- repurchase agreement.** (1) Public money not necessary for immediate  
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19 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the  
20 district."

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1 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

2 -END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 197 (third reading copy -- blue), respectfully report that HB 197 be amended as follows and as so amended be concurred in.

Signed:   
Senator Tom Beck, Chair

That such amendments read:

1. Page 1, line 13.

Following: "in"

Insert: "the following eligible securities"

2. Page 1, line 14.

Following: "bonds"

Insert: "and in United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations"

3. Page 1, line 16.

Strike: "and"

Insert: "or"

4. Page 2, line 22.

Strike: "United States obligations"

Insert: "eligible securities, as described in this section,"

5. Page 2.

Following: line 30

Insert: "(5) This section may not be construed to prevent the investment of public funds under the state unified investment program established in Title 17, chapter 6, part 2."

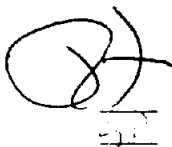
6. Page 3, line 29.

Following: "~~direct~~"

Strike: "obligations" through "agencies"

Insert: "eligible securities"

-END-



Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

HB 197

SENATE

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- (iii) federal home mortgage corporation; and
- (iv) federal farm credit bank.

~~(c) securities guaranteed by the United States or by an agency of the United States but not issued by agencies of the United States; or~~

1 ~~(d) mutual funds that invest only in:~~

2 ~~(i) government obligations;~~

3 ~~(ii) securities issued by agencies of the United States; or~~

4 ~~(iii) securities guaranteed by the United States or by an agency of the United States but not issued~~  
5 ~~by agencies of the United States.~~

6 ~~(2) The local governing body may invest in these obligations either directly or in the form of~~  
7 ~~securities of or other interests in an open end or closed end management type investment company or~~  
8 ~~investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64),~~  
9 ~~as amended, if:~~

10 ~~(a) the portfolio of the investment company or investment trust is limited to United States~~  
11 ~~government obligations and repurchase agreements fully collateralized by United States government~~  
12 ~~obligations; and~~

13 ~~(b) the investment company or investment trust takes delivery of the collateral for any repurchase~~  
14 ~~agreement, either directly or through an authorized custodian.~~

15 (2) An investment in an agency of the United States is authorized under this section if the  
16 investment is a general obligation of the agency and has a fixed or zero-coupon rate and does not have  
17 prepayments that are based on underlying assets or collateral, including but not limited to residential or  
18 commercial mortgages, farm loans, multifamily housing loans, or student loans.

19 (3) The local governing body may invest in a United States government security money market fund  
20 if:

21 (a) the fund is sold and managed by a management-type investment company or investment trust  
22 registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be  
23 amended;

24 (b) the fund consists only of eligible securities as described in this section;

25 (c) the use of repurchase agreements is limited to agreements that are fully collateralized by the  
26 United States obligations ELIGIBLE SECURITIES, AS DESCRIBED IN THIS SECTION, and the investment  
27 company or investment trust takes delivery of the collateral for any repurchase agreement, either directly  
28 or through an authorized custodian;

29 (d) the fund is listed in a national financial publication under the category of "money market mutual  
30 funds", showing the fund's average maturity, yield, and asset size; and



1 (e) the fund's average maturity does not exceed 397 days.

2 ~~(4) ANY INVESTMENT OF A RESERVE FUND MAY NOT EXCEED 5 YEARS, EXCEPT WHEN~~  
 3 ~~REFUNDING AN OUTSTANDING BOND ISSUE. AN INVESTMENT AUTHORIZED IN THIS PART MAY NOT~~  
 4 ~~HAVE A MATURITY DATE EXCEEDING 5 YEARS, EXCEPT WHEN THE INVESTMENT IS USED IN AN~~  
 5 ~~ESCROW ACCOUNT TO REFUND AN OUTSTANDING BOND ISSUE IN ADVANCE.~~

6 (5) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE INVESTMENT OF PUBLIC FUNDS  
 7 UNDER THE STATE UNIFIED INVESTMENT PROGRAM ESTABLISHED IN TITLE 17, CHAPTER 6, PART 2."

8  
 9 **Section 2.** Section 7-6-206, MCA, is amended to read:

10 **"7-6-206. Time deposits -- repurchase agreement.** (1) Public money not necessary for immediate  
 11 use by a county, city, or town that is not invested in ~~direct obligations of the United States government~~  
 12 ~~or in mutual funds~~ as authorized in 7-6-202 may be placed in time or savings deposits with a bank, savings  
 13 and loan association, or credit union in the state or placed in repurchase agreements as authorized in  
 14 7-6-213. Money placed in repurchase agreements is subject to subsection (2).

15 (2) The local governing body may solicit bids for time or savings deposits from a bank, savings and  
 16 loan association, or credit union in the state. The local governing body may deposit public money in the  
 17 institutions unless a local financial institution agrees to pay the same rate of interest bid by a financial  
 18 institution not located in the county, city, or town. The governing body may solicit bids by notice sent by  
 19 mail to the investment institutions ~~who~~ that have requested that their names be listed for bid notice with  
 20 the department of administration."

21  
 22 **Section 3.** Section 20-9-213, MCA, is amended to read:

23 **"20-9-213. Duties of trustees.** The trustees of each district have the sole power and authority to  
 24 transact all fiscal business and execute all contracts in the name of the district. A person other than the  
 25 trustees acting as a governing board may not expend money of the district. In conducting the fiscal  
 26 business of the district, the trustees shall:

27 (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school  
 28 money for each fund maintained by the district in accordance with generally accepted accounting principles  
 29 and the rules prescribed by the superintendent of public instruction. The record of the accounting must  
 30 be open to public inspection at any meeting of the trustees.

1 (2) authorize all expenditures of district money and cause warrants to be issued for the payment  
2 of lawful obligations;

3 (3) issue warrants on any budgeted fund in anticipation of budgeted revenue, except that the  
4 expenditures may not exceed the amount budgeted for the fund;

5 (4) invest any money of the district, whenever in the judgment of the trustees the investment  
6 would be advantageous to the district, by directing the county treasurer to invest any money of the district  
7 ~~in direct obligations of the United States government or its agencies~~ ELIGIBLE SECURITIES, as authorized  
8 in 7-6-202; in savings or time deposits in a state or national bank, building or loan association, savings and  
9 loan association, or credit union insured by the FDIC or NCUA located in the state; or in a repurchase  
10 agreement, as authorized in 7-6-213. All interest collected on the deposits or investments must be credited  
11 to the fund from which the money was withdrawn, except that interest earned on account of the  
12 investment of money realized from the sale of bonds must be credited to the debt service fund or the  
13 building fund, at the discretion of the board of trustees. The placement of the investment by the county  
14 treasurer is not subject to ratable distribution laws and must be done in accordance with the directive from  
15 the board of trustees. A district may invest money under the state unified investment program established  
16 in Title 17, chapter 6.

17 (5) cause the district to record each transaction in the appropriate account before the accounts are  
18 closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money  
19 and property for which the district is accountable;

20 (6) report annually to the county superintendent, not later than August 15, the financial activities  
21 of each fund maintained by the district during the last completed school fiscal year, on the forms prescribed  
22 and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts  
23 must be submitted not later than September 1 to the county superintendent of each county in which part  
24 of the joint district is situated.

25 (7) whenever requested, report any other fiscal activities to the county superintendent,  
26 superintendent of public instruction, or board of public education;

27 (8) cause the accounting records of the district to be audited as required by 2-7-503; and

28 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the  
29 district."  
30

1            NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that  
2 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
3 act].  
4

5            NEW SECTION. **Section 5. Applicability.** This act does not apply to and does not require the sale  
6 of securities that were legal investments before [the effective date of this act]. Upon the liquidation of an  
7 investment authorized prior to [the effective date of this act], the proceeds must be invested pursuant to  
8 [this act].  
9

10           NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.  
11

-END-