

1 SENATE BILL NO. 263

2 INTRODUCED BY D. BROWN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HOW PUBLIC EMPLOYEE RETIREMENT FUNDS MAY
5 BE INVESTED; AMENDING SECTION 17-6-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

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9 **Section 1.** Section 17-6-201, MCA, is amended to read:10 **"17-6-201. Unified investment program -- general provisions.** (1) The unified investment program
11 directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be
12 administered by the board of investments in accordance with the prudent expert principle, which requires an
13 investment manager to:14 (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then
15 prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters
16 exercises in the conduct of an enterprise of a like character with like aims;17 (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss
18 and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and19 (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified
20 investment program.21 (2) (a) Retirement funds may be invested in common stocks of any corporation. However, retirement
22 funds that are invested in stocks must be invested in passively managed index funds.23 (b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital
24 stock" means only the common stock of a corporation.25 (3) (a) This section does not prevent investment in any business activity in Montana, including activities
26 that continue existing jobs or create new jobs in Montana.27 (b) ~~The board is urged under the prudent expert principle to invest up to 3% of retirement funds in~~
28 ~~venture capital companies. Whenever possible, preference should be given to investments in those venture~~
29 ~~capital companies that demonstrate an interest in making investments in Montana.~~

30 (c) In discharging its duties, the board shall consider the preservation of purchasing power of capital

1 during periods of high monetary inflation.

2 ~~(d)~~(c) The board may not make a direct loan to an individual borrower. The purchase of a loan or a
3 portion of a loan originated by a financial institution is not considered a direct loan.

4 ~~(e)~~(d) This section does not prevent investment in home loan mortgages under the provisions of the
5 Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

6 (4) The board has the primary authority to invest state funds. Another agency may not invest state funds
7 unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the
8 laws and constitution of this state. The board has the power to veto investments made under its general
9 supervision.

10 (5) The board shall:

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

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

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

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

16 (e) keep an account of the total of each investment fund and of all the investments belonging to the fund
17 and a record of the participation of each treasury fund account in each investment fund.

18 (6) The board may:

19 (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the
20 transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a
21 qualified appraiser.

22 (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and
23 17-6-105;

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

26 (7) The cost of administering and accounting for each investment fund must be deducted from the
27 income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of
28 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay
29 the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108."

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