



-- REVISED --

Item: City of Great Falls Investment Policy **and Procedures**
From: Fiscal Services Department
Initiated By: City of Great Falls Investment Committee
Presented By: Melissa Kinzler, Fiscal Services Director
Action Requested: Approve the City of Great Falls Investment Policy **and Procedures**

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/deny) the City of Great Falls Investment Policy **and Procedures**.”

2. Mayor calls for a second, discussion, public comment, and calls the vote.

Staff Recommendation: Staff recommends the City Commission approve the City of Great Falls Investment Policy **and Procedures**.

Background:

The City of Great Falls Investment Committee comprised of the Fiscal Services Director, the Deputy City Manager, the Fiscal Admin Assist/Budget Tech and the Staff Accountant, has updated the City's Investment Policy to reflect current Government Finance Officers Association (GFOA) current Recommended Practices.

The Investment Policy was first created and presented to the City Commission on December 20, 1994. A revised and updated policy was presented to the City Commission on June 18, 2002. For the first time per GFOA recommendation, the Investment Policy and Procedures have been separated into two separate documents, the Investment Policy and the Investment Procedures. The Investment Policy defines the guidelines within which funds are to be managed and formalizes the framework for the City's investment activities that must be exercised to ensure effective and prudent fiscal and investment management of the City's funds. The Investment Procedures were developed and consists of guidelines of how to implement the Investment Policy. Any future changes to the Investment Policy and Investment Procedures will be approved and adopted by the City Commission.

Attachments/Exhibits:

1. City of Great Falls Investment Policy
2. City of Great Falls Investment Procedures
3. City of Great Falls Investment Policy approved June 18, 2002



Investment Policy

City of Great Falls, Montana

1) **Introduction**

The intent of the Investment Policy of the City of Great Falls, Montana (the City) is to define the guidelines within which funds are to be managed. The policy formalizes the framework for the City's investment activities that must be exercised to ensure effective and prudent fiscal and investment management of the City's funds. The guidelines are intended to be broad enough to allow the investment committee to function properly within the guidelines of responsibility and authority, yet specific enough to adequately safeguard the City's funds. This policy is intended to be used in conjunction with the City of Great Falls Investment Procedures.

The Investment Policy and Procedures will be approved and adopted by the City of Great Falls Commission. Any changes to the Investment Policy and Procedures also will be approved and adopted by the Great Falls City Commission.

2) **Governing Authority**

The City's investment program shall be operated in conformance with federal, state, and other legal requirements, including MCA Title 7, Chapter 6, Part 2 and OCCOGF 2.16.045.

3) **Scope**

- a) This policy applies to activities of the City with regard to investing the financial assets of all funds. In addition, funds held by trustees or fiscal agents are excluded from these rules; however, all funds are subject to regulations established by the State of Montana. The covered funds, or any new funds created by the City, unless specifically exempted by statute, the investment committee, and this policy, are defined in the City's Comprehensive Annual Financial Report.
- b) Investments of employees' vested retirement funds are not controlled by the City and therefore are not covered under this policy.

4) **Pooling of Funds**

- a) Except for cash in specified restricted and special revenue funds, the City will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

- b) Pooling cash assets eliminates the need to maintain uninvested contingency cash for each fund. Instead, cash flow needs can be anticipated for the City as a whole. The fluctuations in cash needs for the individual funds tend to "net out" when combined needs are considered. The total uninvested cash balance for contingencies can be greatly reduced.

5) **General Objectives**

The primary objectives, in priority order, of investment activities shall be safety, liquidity, and yield:

- a) **Safety** - Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.
 - i) **Credit Risk** - The City will minimize credit risk, which is the risk of loss due to the failure of the security issuer or backer, by:
 - (1) Limiting investments to the safest types of securities as described in MCA 7-6-202.
 - (2) Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business.
 - (3) Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer will be minimized.
 - ii) **Interest Rate Risk**
The City will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- b) **Liquidity** - The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
- c) **Yield** - The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
 - i) A security with declining credit may be sold early to minimize loss of principal.
 - ii) Liquidity needs of the portfolio require that the security be sold.

6) **Standards of Care**

a) **Delegation of Authority and Responsibilities**

i) **City Commission**

The city commission will retain ultimate fiduciary responsibility for the portfolios. The city commission will designate investment officers and review the investment policy and procedures making any changes necessary by adoption. The city commission and city manager will receive monthly reports on the portfolio.

ii) **Investment Officers**

Authority to manage the investment program is granted to the Fiscal Services Director hereinafter referred to as investment officer as designated by OCCOGF 2.16.045 City Ordinance 2825.

Responsibility for the operation of the investment program is given to the Investment Committee who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Officers will prepare monthly investment reports and other special reports as may be deemed necessary.

All participants in the investment process shall seek to act responsibly as custodians of the public trust. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and supporting procedures.

iii) **Investment Committee**

The management of the investment portfolio and investment policy shall be the responsibility of the City's Investment Committee. Specifics for the Investment Committee shall be documented in the Investment Procedures manual.

iv) **Investment Adviser**

The City may engage the services of one or more external investment managers to assist in the management of the City's investment portfolio in a manner consistent with the City's objectives. Such external managers may be granted discretion to purchase and sell investment securities in accordance with this investment policy. Such managers must be registered under the Investment Advisers Act of 1940.

b) **Prudence** - The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

i) The "prudent person" standard states that, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation,

but for investment, considering the probable safety of their capital as well as the probable income to be derived."

- c) **Ethics and Conflicts of Interest** - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

7) Authorized Financial Institutions, Depositories, and Broker/Dealers

- a) The City will pre-qualify the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business. Specifics for pre-qualification shall be documented in the Investment Procedures manual.
- b) **Competitive Transactions**
 - i) The investment officer shall obtain competitive bid information on all purchases of investment instruments purchased on the secondary market. A competitive bid can be executed through a bidding process involving at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform.
 - ii) If the City is offered a security for which there is no readily available competitive offering on the same specific issue, then the Investment Officer shall document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no complete offerings will be required as all dealers in the selling group offer those securities as the same original issue price.
 - iii) If the City hires an investment adviser to provide investment management services, the adviser must provide documentation of competitive pricing execution on each transaction. The investment adviser will retain documentation and provide upon request.

8) Authorized Investments and Interest Bearing Deposits

- a) It is the policy of the City of Great Falls to limit investments to those authorized by MCA Title 7 Chapter 6 Part 2. Typical types of securities include (as limited by MCA Title 7 Chapter 6 Part 2):
 - i) United States government treasury bills, notes, and bonds 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;
 - ii) Obligations of the following agencies of the United States:
 - (1) federal home loan bank
 - (2) federal national mortgage association

- (3) federal home mortgage corporation
- (4) federal farm credit bank
- iii) Time deposits with a bank, savings and loan association, or credit union.
- iv) Repurchase agreements
- v) State of Montana investment pool
- vi) Interest bearing accounts.
- b) Collateralization - The City of Great Falls restricts acceptable collateral for deposits and repurchase agreements further than the statutory restrictions. All deposits over FDIC or FSLIC insured amount are required to be secured with collateral having a market value of at least 100% of the deposit balance (which is further than discussed in MCA 7-6-205 - 208). Specifics for collateralization shall be documented in the Investment Procedures manual.
 - i) Collateral for time deposits must be:
 - (1) U.S. Treasury bills, Bonds, Notes or Certificates of Indebtedness backed by the pledged full faith and credit of the U.S. Government or
 - (2) Obligations of agencies or instrumentalities of the U.S. Government such as the Federal Home Loan Banks, the Federal Land Banks, the Federal Intermediate Credit Banks or the Banks of Cooperatives.

9) Investment Parameters

a) Diversification

It is the policy of the City to diversify its investment portfolios. To eliminate risk of loss resulting from the over-concentrations of assets in a specific maturity, issuer, or class of securities, assets in all City of Great Falls funds shall be diversified by maturity, issuer, and class of security. Diversification strategies shall be determined and revised periodically by the investment committee/investment officer for all funds.

Diversification Constraints on Total Holdings

Issuer category	Minimum %	Maximum %
Master, savings, and ICS accounts	20% combined	100%
State STIP's		100%
Money Market/Repurchase Agreements		100%
Treasury Notes and Bills	0%	80%
Direct Obligations	0%	80%
Obligations of agencies of the U.S.	0%	30%

- b) Mitigating market risk in the portfolio - Market risk is the risk that the portfolio value will fluctuate due to changes in the general level of interest rates. The City recognizes that, over time, longer-term/core portfolios have the potential to achieve higher returns. On the other hand, longer-term portfolios have higher volatility of return. The City shall mitigate market risk by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow

purposes. The City, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- i) **Maximum Maturities** - To the extent possible, the City of Great Falls shall attempt to match its investments with anticipated cash flow requirements. The City will not directly invest in securities maturing more than five (5) years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of funds.
- ii) **Buy & Hold Philosophy** - Consistent with our General Standards Ranking - Safety and Liquidity above yield, to the extent possible, the City shall attempt to keep all investments to maturity.
- c) **Centralized Banking** - An accounting system involves keeping accurate, internal records for all funds and accounts. Banking capabilities, such as deposit clearing, warrant/check processing, temporary deposit imbalances, and investment capacity, can best be handled through centralized banking in a minimum of bank accounts. Accordingly, uninvested cash balances should be maintained in the fewest depository accounts possible.

10) Performance Standards/Evaluation

- a) The investment portfolio will be managed in accordance with the parameters specified within this policy. A series of appropriate benchmarks shall be established against which portfolio performance shall be compared on a regular basis.
- b) **Marking to Market** - The market value of the portfolio shall be calculated at least quarterly and a statement of the market value of the portfolio shall be issued at least annually. This will ensure that review of the investment portfolio, in terms of value and price volatility, has been performed.

11) Safekeeping and Custody

- a) **Delivery vs. Payment** - All trades of marketable securities will be executed by delivery vs. payment (DVP) basis to ensure that securities are deposited in an eligible financial institution prior to the release of funds.
- b) **Third-Party Safekeeping** - Securities will be held by a third party custodian as evidenced by safekeeping receipts in the City's name.
- c) **Internal Controls** - The Fiscal Services Director is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City of Great Falls are protected from loss, theft or misuse. Specifics for the internal controls shall be documented in the Investment Procedures.

12) Interest Revenue, Interest Receivable, and Mark to Market Distribution

- a) Interest revenue shall be distributed to funds participating in the pooled cash on a monthly basis. Funds with a negative cash balance will borrow the cash from other funds to cover the negative cash balance. These funds will pay the other funds interest at the

current Montana Board of Investments STIP Program interest rate. The different interest rates will be charged because those are the rates the City would have to pay to borrow the cash to cover the negative balances.

- b) Interest receivable shall be distributed to funds participating in the pooled cash on a yearly basis. Funds with a negative cash balance will not receive any interest receivable but will be charged interest. The cash balances used will be point in time and not an average.
- c) A mark to market adjustment shall be distributed to funds participating in the pooled cash on a yearly basis. The cash balances used will be point in time and not an average.

13) Reporting

An investment report shall be prepared at least quarterly, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner which will allow the City to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report will be provided to the City Manager, Fiscal Services Director, Investment Committee, and City Commission.

14) Policy Considerations

- a) Exemption - Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity, or liquidation, such monies shall be reinvested only as provided in this policy.
- b) Amendments - This policy shall be reviewed on an annual basis. Any changes must be approved by the Great Falls City Commission and any other appropriate authority, as well as the individual(s) charged with maintaining internal controls.



Investment Procedures

City of Great Falls, Montana

1) **Introduction**

The intent of the Investment Procedures of the City of Great Falls, Montana (the City) is to define the procedures within which funds are to be managed. In methods, the procedures formalize the day to day framework for the City's investment activities that must be exercised to ensure effective and prudent fiscal and investment management of the City's funds. These procedures are intended to be used in conjunction with the City of Great Falls Investment Policy.

The Investment Policy and Procedures will be approved and adopted by the City of Great Falls Commission. Any changes to the Investment Policy and Procedures also will be approved and adopted by the City of Great Falls Commission.

2) **City of Great Falls Investment Committee**

The City's Investment Committee shall consist of the Fiscal Services Director, Deputy City Manager, the Fiscal Services Admin Assist/Budget Tech and a Staff Accountant.

3) **Pooling of Funds**

- a) The funds not included in pooled cash are:
 - i) Federal Block Grant
 - ii) Home Grant
 - iii) Port Authority
 - iv) Court Agency
 - v) Flex 1 Plans
 - vi) Reserve cash for debt services

4) **Authorized Financial Institutions, Depositories, and Broker/Dealers**

- a) A list will be maintained of financial institutions authorized to provide investment services. In addition, a list will be maintained of approved security broker/dealers selected by conducting a process of due diligence. These may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule).
 - i) The investment committee shall determine which financial institutions are authorized to provide investment services to the City. Institutions eligible to transact investment business with the City include:
 - (1) Primary government dealers as designated by the Federal Reserve bank

- (2) Nationally or state-chartered banks
 - (3) The Federal Reserve Bank
 - (4) Direct issuers of securities eligible for purchase
 - ii) Selection of financial institutions and broker/dealers authorized to engage in transactions with the City shall be at the sole discretion of the Investment Committee.
 - iii) All financial institutions and broker/dealers who desire to become qualified for investment transactions must supply the following as appropriate:
 - (1) Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines
 - (2) Proof of FINRA certification
 - (3) Proof of state registration
 - (4) Completed broker/dealer questionnaire
 - (5) Certification of having read and understood and agreeing to comply with the City of Great Falls' Investment Policy.
 - (6) Have FDIC or FSLIC or evidence of comparable adequate insurance coverage
 - iv) All financial institutions who desire to become depositories must supply the following (as appropriate):
 - (1) Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines
 - (2) Proof of state registration
 - (3) Evidence of adequate insurance coverage
 - v) A periodic review of the financial condition and registration of all qualified financial institutions and broker/dealers will be conducted by the Investment Committee.
- b) Broker/Dealer
- A Broker/Dealer Questionnaire will be sent to all prospective broker/dealers wishing to do business with the City. These questionnaires will then be reviewed by the Investment Committee for approval. If approved, the broker/dealer will be placed on the approved list of broker/dealers for the City. No broker/dealer will be considered before filling out this questionnaire.
- i) Information expected from questionnaire:
 - 1. Firm Name
 - 2. Regional Address
 - 3. Headquarters Address
 - 4. Telephone Numbers
 - 5. Contact personnel - all personnel who will be trading with or quoting securities to the City.
 - 6. References - contact information of at least four comparable clients with whom any of the contact personnel has an established relationship. Include length of relationship.
 - 7. Authorization for contact personnel to be account representative(s) for the City.

8. Immediate supervisor of the account representative(s).
 9. Firm is a member of FINRA.
 10. Which regulatory agency that firm is examined by and/or subject to its rules and regulations.
 11. Whether licensed in the State of Montana.
 12. Type of instruments that firm both buy and sell as active market.
 13. Whether firm specializes in any of the instruments.
 14. Firm's total dollar volume in U.S. Government and agency securities trading in the last year.
 15. Is firm a primary dealer as recognized by the Federal Reserve Bank.
 16. Is firm a non-primary dealer qualified under U.S. Securities and Exchange Commission Rule 15c3-1 and the Uniform New Capital Rule.
 17. How many and what percentage of firm wide U.S. Government and agency securities transactions failed in the last month and last year.
 18. Firm's most recent audited financial statement. If representing a parent corporation or a subsidiary of another corporation, furnish audited financials of corporate parent as well as of subsidiary.
 19. Any outstanding litigation which would materially affect financial stability.
 20. Any pending litigation with public-sector clients, or any within the last five years.
 21. Any regulatory, state, or federal agency investigation for alleged improper, fraudulent, disreputable, or unfair activities related to the sale of government securities or money market instruments.
 22. Any fixed income research and economic commentary services.
 23. Precautions taken to protect the interests of the public when dealing with a local public entity.
 24. Reports, transaction confirmations, and paper trail the City will receive.
 25. Portfolio information preferred from clients.
 26. A complete schedule of fees and charges for various transactions.
- ii) The criteria will be as follows:
- (1) The number of broker/dealers on the approved list will be determined by the City's Investment Committee. The limit shall be determined by the number of broker/dealers that staff can efficiently work with for investment purposes. In the event an Investment Advisor Agreement is in effect, the broker/dealer approved list will be limited to three.
 - (2) Qualification
 - (a) The acceptance of responses to questionnaire by the City's Investment Committee.
 - (b) From those accepted, preference shall be given as follows:
 - (i) 1st - Local
 - (ii) 2nd - State

(iii)3rd - Regional

(iv)4th - National

c) Authorized Investment Advisors.

i) Investment Advisors who desire to manage the City's portfolio for the government operating and capital funds (non-pension funds) must supply the following as appropriate:

(1) An understanding of the City's overall investment program and the investment objectives and constraints unique to the City.

(2) Experience, resources, and qualifications of the firm and individuals assigned to this account.

(3) Firm must be registered in the State of Montana.

(4) Experience of the firm in managing state/local government operating funds. In evaluating the firm's experience, past performance data will be evaluated in the context of portfolio objectives and constraints, as well as risks.

(5) Recommended approach to management of the City's portfolio.

(6) Additional investment or financial services offered or available through affiliation.

(7) Fees, relative to services.

(8) At a minimum, an annual review of the financial condition and registration of the qualified investment advisor will be conducted by the Investment Committee.

ii) Request for Proposals (RFP) for Investment Advisory Firms. An RFP will be sent to all prospective investment advisory firms wishing to do business with the City. These RFP's will then be reviewed by the Investment Committee for approval. If approved, the investment advisory firm will be required to sign an Investment Advisory Agreement.

5) Authorized Investments and Interest Bearing Deposits

a) It is the policy of the City of Great Falls to limit investments to those authorized by MCA Title 7 Chapter 6 Part 2.

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

c) Time deposits - repurchase agreement.

i) City funds not necessary for immediate use may be placed in time or savings deposits with a bank, savings and loan association, or credit union in Montana or placed in repurchase agreements as authorized by MCA Title 7 Chapter 6 Part 2.

ii) The City may solicit bids for time or savings deposits from a bank, savings and loan association, or credit union in Montana. The City may deposit funds in the institutions

- unless a local financial institution agrees to pay the same rate of interest bid by a financial institution not located in the city. The City may solicit bids by notice sent by mail to the investment institutions that have requested that their names be listed for bid notice with Fiscal Services.
- iii) City funds not necessary for immediate use may be invested in accordance with the following conditions:
 - (1) the money is initially invested through a federally insured financial institution in Montana selected by the City;
 - (2) the selected in-state financial institution arranges for the deposit of the funds in an account of the city in one or more federally insured financial institutions, regardless of location;
 - (3) the full amount of principal and accrued interest on each deposit is covered by federal deposit insurance; and
 - (4) the selected in-state financial institution acts as the custodian for the city with respect to the deposit issued for its account.
 - d) Repurchase agreements - bidding
 - i) After qualifying as provided in the Authorized Financial Institutions, Depositories, and Broker/Dealers section, a financial institution may contract with the City to establish one or more repurchase agreements, including daily repurchase agreements.
 - ii) A repurchase agreement is a contract that specifies the minimum and maximum of funds that the City will invest under the contract in securities that the financial institution will sell to the City and that the financial institution will repurchase on mutually agreeable terms.
 - iii) A repurchase agreement is not a demand account.
 - iv) The City may maintain in the same financial institution contracting for the repurchase agreement a demand account into which each business day shall be deposited a sum equal to the day's disbursements, and that deposit will be the proceeds of the redemption by the financial institution of securities previously purchased by the City under the provisions of the repurchase agreement, so that the balance of the demand account at the close of each day's business will be zero.
 - v) The City shall call for bids as provided by statute to contract for a repurchase agreement from all financial institutions chartered to do business in the state of Montana which are authorized to accept demand deposits and to buy and sell securities. The call for bids shall specify the minimum acceptable rate of interest, effective date of the repurchase agreement and the period of duration and range of funds to be invested.
 - e) Interest bearing accounts
 - i) The City will deposit public funds only in solvent banks, building and loan associations, savings and loan associations, or credit unions, subject to national supervision or state examination.

- ii) The City may deposit public funds not necessary for immediate use by the City in a savings or time deposit with any bank, building and loan association, savings and loan association or credit union authorized as above.
- iii) The City shall take from the bank, building and loan association, savings and loan association, or credit union security that the City may prescribe, approve, and consider fully sufficient and necessary to ensure the safety and prompt payment of all deposits, together with the interest on any time or savings deposits.
- iv) All deposits must be subject to withdrawal by the City in amounts that may be necessary from time to time. A deposit of funds may not be made or permitted to remain in any bank, building and loan association, savings and loan association, or credit union until the security for the deposit has been first approved by the City and delivered to the City.
- v) The bank account for the Community Development funds must be interest bearing.
- f) Collateralization
 - i) The City criteria for deposit collateral is to only permit collateral with a readily verifiable market value and established marketability.
 - ii) Collateral deposit conditions
 - (1) Collateral deposits shall be accompanied by an assignment thereof to the City. The assignment shall require the depository to pay on demand, free of exchange or any other charges, except for early withdrawal penalties on time deposits, all moneys deposited therein and shall pay the interest thereon when due at the agreed rate; and that, in case of any depository default, the City Controller may sell the collateral to realize the full amount due to the City.
 - (2) A depository may withdraw excess collateral or substitute collateral on receipt by the City of written notice from the depository.
 - iii) Interest on collateral shall be paid to the depository so long as it is not in default.
 - iv) All collateral shall be deposited with the City Controller or placed in safekeeping for the City in a financial institution approved by the City Controller. The collateral shall not be redeposited in the depository furnishing it.

6) Investment Parameters

- a) Diversification
 - i) The investments shall be diversified by:
 - (1) Limiting investments to avoid over-concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities), and
 - (2) Investing in securities with varying maturities.
 - (3) Continuously investing a portion of the portfolio in readily available funds such as local government investment pools, money market funds or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

- (4) Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer or investment type may be exceeded at a point in time subsequent to the purchase of a particular issuer or investment type. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.
- b) **Maximum Maturities**
The City will directly invest in securities with the majority of investments being three years or less.
- c) **Bond Reserve Required Funds**
Bond reserve required funds will be invested in State of Montana STIP's to ensure compliance with SEC rules and regulations.
- d) All purchases, maturities, and calls will be documented on the attached City of Great Falls, Montana Investment Trade Form and initialed by the Fiscal Services Director.

7) Performance Standards/Evaluation

- a) **Benchmarks**
 - i) The benchmark to be used for the interest rates for investments in categories 1, 2, 3 and 4 above will be the S&P rated local government investment pool index 30 day yield.
 - ii) The benchmark to be used for the interest rates for investments in categories 5 and 6 above will be the two year treasury note interest rate.
 - iii) The benchmarks may be found in Government Finance Officers' Association Treasury Management Newsletter received monthly by email.
- b) **Mark to market**
 - i) The market value of all securities in the portfolio will be determined on a monthly basis.
 - ii) These values will be disclosed to the City Manager, Fiscal Services Director, Investment Committee, and City Commission in a written report.

8) Safekeeping and Custody

- a) **Safekeeping** - By using a third-party safekeeping agreement, the City will arrange for a firm other than the party that sold the investment to provide for the transfer and safekeeping of the securities. To accomplish this, the City will:
 - i) Have safekeeping/custodial agreements reviewed by the City's legal counsel prior to execution.
 - ii) Evidence the safekeeping or custodial relationship with a signed, written security agreement that is reviewed by counsel and establishes the firm as the City's agent.
 - iii) Execute all investment transactions on a delivery-versus-payment basis.

- iv) Designate the Master demand deposit account as the clearing account in conjunction with the safekeeping or custodial account.
- v) Require that the independent third-party safekeeping agent or custodian mark the portfolio to market at least monthly.
- vi) Require reports and monthly statements to be received directly by the City from the agent.
- vii) Have electronic access to the safekeeping or custody account for monitoring and reporting purposes, if possible and cost effective.
- viii) Require safekeeping or custodial agents to be insured for error and omissions.
- b) Internal Controls - The internal control structure shall be designed to prevent the loss of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the City.

9) Interest Revenue, Interest Receivable, Mark to Market Distributions Accounting

- a) Interest revenue from securities, investments, savings accounts and bank accounts will be distributed to funds participating in the pooled cash monthly.
 - i) The distribution will be based proportionately on the fund's average cash balance based on the cash balance of the last day of one month to the next month, (for example the average of the two cash balances of December 31 and January 31).
 - ii) The following funds interest will be distributed to the General Fund:
 - (1) Housing Authority (2989)
 - (2) Payroll (7910)
 - iii) All street lighting district funds (8402 - 8450) and the city lighting construction fund (4501) interest will be distributed to the street lighting district master fund (8401).
 - iv) If a fund has a negative average cash balance, the fund will be considered to have borrowed the cash from other funds. The borrowing fund will pay the other funds interest at a rate equal to the Montana Board of Investments STIP interest rate.
 - v) Interest from the Community Development bank account will be credited to the Federal Block Grant fund.
 - vi) Interest from the State of Montana STIP's will be distributed proportionately to the bond reserve accounts. The bond reserve accounts will receive no other interest.
- b) Interest receivable will be distributed annually at the end of the fiscal year.
 - i) The amount of the interest receivable will be the amount of interest accrued on the investment from the purchase date or the last date of interest received, whichever is latest to June 30.
 - ii) The following funds interest receivable will be distributed to the General Fund:
 - (1) Housing Authority (2989)
 - (2) Payroll (7910)

- iii) All street lighting district funds (8402 - 8450) and the city lighting construction fund (4501) interest receivable will be distributed to the street lighting district master fund (8401).
- iv) If a fund has a negative cash balance, no interest receivable will be distributed to that fund.
- v) If a fund has interest receivable balance from previous fiscal year's but a negative cash balance in the current fiscal year, the interest receivable balance will be distributed to the other funds to make that fund's interest receivable zero for the current fiscal year.
- vi) The amount to be distributed will be the difference from the previous fiscal year's balance and the new balance.
- vii) The distribution will be based on the cash balances of the participating funds at the time of the distribution.
- viii) There will be no interest receivable from the savings accounts and bank accounts. Therefore, funds or accounts that receive interest only from these sources will have no interest receivable.
- ix) Only accounts with a balance over \$500,000 will receive interest receivable.
- c) Mark to market adjustment will be distributed annually.
 - i) The amount of the market adjustment will be the amount of difference between the market value and the purchase price of the investment. Savings accounts, bank accounts, and the State of Montana STIP's account have a market value equal to their book value since those accounts are liquid.
 - ii) The following funds market adjustment will be distributed to the General Fund:
 - (1) Housing Authority (2989)
 - (2) Payroll (7910)
 - (3) All Upper Lower River Road funds (7375 - 7390)
 - iii) All street lighting district funds (8402 - 8450) and the city lighting construction fund (4501) market adjustment will be distributed to the street lighting district master fund (8401).
 - iv) If a fund has a negative cash balance, no market adjustment will be distributed to that fund.
 - v) If a fund has market adjustment balance from previous fiscal year's but a negative cash balance in the current fiscal year, the market adjustment balance will be distributed to the other funds to make that fund's market adjustment zero for the current fiscal year.
 - vi) The amount to be distributed will be the amount of difference between the previous fiscal year's and the new balance.
 - vii) The distribution will be based on the cash balances of the participating funds at the time of the distribution.

- viii) There will be no market adjustment from the savings accounts, bank accounts, and State of Montana STIP's account. Therefore, funds or accounts that receive interest only from these sources will have no market adjustment.
- ix) Only accounts with a balance over \$500,000 will have a mark to market adjustment.

10) Reporting

- a) An investment report shall be prepared monthly, including a management summary that provides an analysis of the status of the current investment portfolio and transactions. The report will be provided to the City Manager, Fiscal Services Director, Investment Committee, and City Commission. The report will include the following:
 - i) Listing of individual securities held at the end of the reporting period, by maturity date, showing cost and market value of each security, type of investment, issuer and interest rate.
 - ii) Realized and unrealized gains or losses resulting from appreciation or depreciation by listing the cost and market value of securities.
 - iii) Average weighted yield to maturity of portfolio on investments as compared to applicable benchmarks.
 - iv) Percentage of the total portfolio which each type of investment represents.

11) Procedure Considerations

- a) Exemption - Any investment currently held that does not meet the guidelines of these procedures shall be exempted from the requirements of these procedures. At maturity, or liquidation, such monies shall be reinvested only as provided in this procedures.
- b) Amendments - These procedures shall be reviewed on an annual basis. Any changes must be approved by the City of Great Falls Investment Committee and any other appropriate authority, as well as the individual(s) charged with maintaining internal controls.

**CITY OF GREAT FALLS,
MONTANA**

**INVESTMENT POLICY
OBJECTIVES & GUIDELINES**



May 24, 2002

**CITY OF GREAT FALLS
INVESTMENT POLICY
OBJECTIVES & GUIDELINES**

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CITY OF GREAT FALLS INVESTMENT POLICY

I. Scope

This policy applies to the investment of City controlled funds. Investments of employees' investment retirement funds are not controlled by the City and therefore are not covered under this policy.

- 1. Pooling of Funds** Except for cash in certain restricted and special funds, the City of Great Falls will consolidate cash balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

Pooling cash assets eliminates the need to maintain uninvested contingency cash for each fund. Instead, cash flow needs can be anticipated for the City as a whole. The fluctuations in cash needs for the individual funds tend to "net out" when combined needs are considered. The total uninvested cash balance for contingencies can be greatly reduced.

II. General Objectives

The primary objectives, in priority order, of investment activities shall be safety, liquidity, and yield:

- 1. Safety** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.
 - a. Credit Risk** The City of Great Falls will minimize credit risk, the risk of loss due to the failure of the security issuer or backer, by:
 - Limiting investments to the safest types of securities as further described in Section V, Part 2.
 - Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City of Great Falls will do business.
 - Diversifying the investment portfolio so that potential losses on individual securities will be minimized.
 - b. Interest Rate Risk** The City of Great Falls will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:
 - Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
 - Investing operating funds primarily in shorter-term securities or similar investment pools.

2. **Liquidity** The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity). A portion of the portfolio also may be placed in local government investment pools which offer same-day liquidity for short-term funds.
3. **Yield** The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
 - A security with declining credit may be sold early to minimize loss of principal.
 - Liquidity needs of the portfolio require that the security be sold.
 - Termination of Broker/Dealer Agreement.

III. Standards of Care

1. **Prudence** The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

2. **Ethics and Conflicts of Interest** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

3. **Delegation of Authority** Authority to manage the investment program is granted to the Director of Fiscal Services and derives from the City Ordinance 2825 and the City Charter. Responsibility for the operation of the investment program is hereby delegated to the Investment Committee, who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Fiscal Services Director. The Fiscal Services Director shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.
4. **City of Great Falls Investment Committee** The management of the investment portfolio and investment policy shall be the responsibility of the City of Great Falls Investment Committee consisting of the Fiscal Services Director, Accounting Supervisor, Operations Supervisor, Risk Management Specialist and the Administrative Assistant for Fiscal Services.

IV. Safekeeping and Custody

1. **Authorized Financial Dealers and Institutions** A list will be maintained of financial institutions authorized to provide investment services. In addition, a list also will be maintained of approved security broker/dealers selected by creditworthiness (e.g., a minimum capital requirement of \$20,000,000 and at least five years of operation). These may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule).

All financial institutions and broker/dealers who desire to become qualified for investment transactions must supply the following as appropriate:

- Audited financial statements
- Have FDIC or FSLIC
- Proof of National Association of Securities Dealers (NASD) certification
- Proof of state registration
- Completed broker/dealer questionnaire
- Certification of having read and understood and agreeing to comply with the City of Great Falls' Investment Policy

An annual review of the financial condition and registration of qualified financial institutions and broker/dealers will be conducted by the Investment Committee.

2. **Broker/Dealer Questionnaires** A Broker/Dealer Questionnaire will be sent to all prospective broker/dealers wishing to do business with the City of Great Falls. These questionnaires will then be reviewed by the Investment Committee for approval. If approved, the broker/dealer will be placed on the approved list of broker/dealers for the City of Great Falls. No broker/dealer will be considered before filing out this

questionnaire.

The criteria will be as follows:

1. The number of broker/dealers on the approved list be determined by the City of Great Falls Investment Committee. The limit shall be determined by the number of broker/dealers that staff can efficiently work with for investment purposes.
2. Qualification
 - a. The acceptance of responses to questionnaire by the City of Great Falls Investment Committee.
 - b. From those accepted, preference shall be given as follows:

1st	-	Local
2nd	-	State
3rd	-	Regional
4th	-	National

3. **Internal Controls** The Fiscal Services Director is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City of Great Falls are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Fiscal Services Director shall establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- Control of collusion
- Separation of transaction authority from accounting and recordkeeping
- Custodial safekeeping
- Avoidance of physical delivery securities
- Clear delegation of authority to subordinate staff members
- Written confirmation of transactions for investments and wire transfers
- Development of a wire transfer agreement with the lead bank and third-party custodian

4. **Delivery vs. Payment** All trades where applicable will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

5. Collateral Required The City of Great Falls restricts acceptable collateral for deposits further than the statutory restrictions. (REF: 7-6-205 thru 208 MCA). City criteria for deposit collateral is to only permit collateral with a readily verifiable market value and established marketability. A summary of the major points or additional City requirements is as follows:

1. INSURED BALANCE

Collateral is not required on the first \$100,000 deposited which is insured by the FDIC or FSLIC.

2. PERCENTAGE OF BALANCE COLLATERALIZED

All deposits over \$100,000 are required to be secured with collateral having a market value of at least 105% of the deposit balance regardless that statute requires 50% of such deposits if the institution in which the deposit is made has a net worth to total assets ratio of 6% or more; or 100% if the institution in which the deposit is made has a net worth to total assets ratio of less than 6% (REF: 7-6-207, MCA). The security shall consist of those enumerated in statute or cashier's checks issued to the depository institution by any federal reserve bank (REF: 17-6-103, MCA).

3. ELIGIBLE COLLATERAL FOR TIME DEPOSITS

Collateral for time deposits must be:

- a. U.S. Treasury bills, Bonds, Notes or Certificates of Indebtedness backed by the pledged full faith and credit of the U.S. Government; or
- b. Obligations of agencies or instrumentalities of the U.S. Government such as the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Land Banks, the Federal Intermediate Credit Banks or the Banks of Cooperatives. (REF: 17-6-103, MCA)

4. COLLATERAL DEPOSIT CONDITIONS

- a. Collateral deposits shall be accompanied by an assignment thereof to the City. The assignment shall require the depository to pay on demand, free of exchange or any other charges, except for early withdrawal penalties on time deposits, all moneys deposited therein and shall pay the interest thereon when due at the agreed rate; and that, in case of any depository default, the City Controller may sell the collateral to realize the full amount due to the City.
- b. A depository may withdraw excess collateral or substitute collateral on receipt by the City of written notice from the depository. (REF: 7-6-208 & 17-6-102, MCA)
- c. Interest on collateral shall be paid to the depository so long as it is not in default.
- d. All collateral shall be deposited with the City Controller or placed in safekeeping for the City in a financial institution approved by the City Controller. The collateral shall not be redeposited in the depository furnishing it.

V. Authorized Investments and Interest Bearing Deposits

It is the policy of the City of Great Falls to limit investments to those authorized currently under Montana Code. The following portion of the policy shall be updated in accordance with code changes. Currently the Montana Code authorizes:

1. MONTANA STATUTORY AUTHORITY

Montana Code (MCA) 17-6-103 states:

The following kinds of securities may be pledged or guarantees may be issued to secure deposits of public funds.

MCA 17-6-103 outlines the permissible investments for public funds including:

1. Direct obligations of the United States;
2. Securities as to which the payment of principal and interest is guaranteed by the United States;
3. Securities issued or fully guaranteed by the following agencies of the United States or their successors, whether or not guaranteed by the United States:
 - a. commodity credit corporation;
 - b. federal intermediate credit banks;
 - c. federal land bank;
 - d. bank for cooperatives;
 - e. federal home loan banks, including a letter of credit from a federal home loan bank;
 - f. federal national mortgage association;
 - g. government national mortgage association;
 - h. small business administration;
 - i. federal housing administration; and
 - j. federal home loan mortgage corporation;
4. securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:
 - (a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and
 - (b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;
5. general obligation bonds of the state or of any county, city, school district, or other political subdivision of the state;
6. revenue bonds of any county, city, or other political subdivision of the state, when backed by the full faith and credit of the subdivision or when the revenue pledged to the payment of the bonds is derived from a water or sewer system and the issuer has covenanted to establish and maintain rates and charges for the system in an amount

sufficient to produce revenue equal to at least 125% of the average annual principal and interest due on all bonds payable from the revenue during the outstanding term of the bonds;

7. interest-bearing warrants of the state or of any county, city, school district, or other political subdivision of the state issued in evidence of claims in an amount that, with all other claims on the same fund, does not exceed the amount validly appropriated in the current budget for expenditure from the fund in the year in which they are issued;
8. obligations of housing authorities of the state secured by a pledge of annual contributions or by a loan agreement made by the United States or any agency of the United States providing for contributions or a loan sufficient with other funds pledged to pay the principal of and interest on the obligations when due. The bonds and other obligations made eligible for investment in 7-15-4505 and 32-1-424(1)(a) may be used as security for all deposits of public funds or obligations for which depository bonds or any kind of bonds or other securities are required or may by law be deposited as security.
9. general obligation bonds of other states and of municipalities, counties, and school districts of other states;
10. undertaking or guarantees issued by a surety company authorized to do business in the state;
11. first mortgages and trust indentures on real property. The depository shall, on a quarterly basis, certify to the state treasurer that sufficient first mortgages and trust indentures on real property are available and segregated to secure deposits of public funds. The board of investments shall determine the amount of security required.
12. bonds issued pursuant to Title 7, chapter 12, parts 21, 41, and 42;
13. bonds issued pursuant to Title 90, chapter 6, part 1;
14. revenue bonds issued by any unit of the university system of the State of Montana; and
15. advance refunded bonds secured by direct obligations of the United States treasury held in irrevocable escrow.

2. CITY AUTHORIZATIONS (instruments & deposits)

The City authorizes the use of the following, as approved by the State, for investments:

1. Federal Securities;
2. Federal Agency Securities;
3. Federal Instrumentality Securities;
4. Federally Registered Investment Companies;
5. Repo's related to items 1-4.
6. State of Montana General Obligation Securities;

7. Time (certificates of) deposit; and
8. Interest bearing deposits.

VI. Investment Parameters

1. Diversification The investments shall be diversified by:

- Limiting investments to avoid over-concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities), and
- Investing in securities with varying maturities.
- The City of Great Falls has five major categories of investments:
 1. Investment and Master Accounts – being the most liquid
 2. State STIPS's
 3. Treasury Notes and Bills
 4. Direct Obligations
 5. Agencies (FHLB, FNMA, FHLMC)

The City of Great Falls' portfolio will be split as follows:

- 20% minimum (approximately \$5 – 10 million) in categories 1 & 2
- Balance in categories 1,2,3, & 4
- 20% maximum in category 5

2. Maximum Maturities To the extent possible, the City of Great Falls shall attempt to match its investments with anticipated cash flow requirements. The City of Great Falls will not directly invest in securities maturing more than three (3) years from the date of purchase.

Reserve funds and other funds with longer-term investment horizons may be invested in securities up to five (5) years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of funds.

3. Centralized Banking An accounting system involves keeping accurate, internal, records for all funds and accounts. Banking capabilities, such as deposit clearing, warrant/check processing, temporary deposit imbalances, and investment capacity, can best be handled through centralized banking in a minimum of bank accounts. Accordingly, uninvested cash balances should be maintained in the fewest depository accounts possible.

4. Economic Development Linked Deposits The City of Great Falls actively promotes local economic development through various programs, activities and facilities. Accordingly, where a DIRECT link can be established between City deposits and an increase in a local financial institution's commitment to Great Falls' economic growth, such Economic Development Linked Deposits are authorized exceptions to the requirement for competitive bidding of investments. Upon the recommendation

of the City Manager, the Fiscal Services Director may make Economic Development Linked Deposits consistent with safety and liquidity priorities at a reasonably diminished investment yield. Such deposits are rewards for local financial institution commitment, but shall not secure or collateralize private-sector capital investment.

- 5. Competition** The Fiscal Services Director may competitively bid all investments. Such competition shall involve obtaining quotes from at least three separate financial vendors. Financial vendors shall be authorized financial dealers and institutions approved as noted in Section IV, Parts 1 & 2.

The investment procedures will be tailored as required to address the various types of instruments, but shall generally be as follows:

1. The City shall call, fax or e-mail at least three financial vendors from its approved list of vendors who deal in the instrument requested.
The financial vendors will be provided:
 - a. Total amount to be invested;
 - b. Date, time and form for submission of bids;
 - c. Data and time scheduled for cash transfer on investment;
 - d. Instrument(s) eligible for the investment, and
 - e. Deposit period/maturity date (if applicable).
2. The City shall award the investment to the highest bidder after consideration for transaction costs (staff time, wiring fees, service charges, liquidity, yield and diversification factors in finalizing its investment decision. The total amount invested may be subdivided into increments of no less than \$100,000 each by the City unless a financial vendor or instrument type specifies other subdivision conditions.
3. In case of a tie:
 - a. The order of preference shall be matured investment holder, in-town vendor and in-state vendor, in that order.
 - b. When two or more vendors within the same preference category tie, the City shall award the investment by coin toss or lottery.

VII. Reporting

1. **Methods** An investment report shall be prepared at least quarterly, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner which will allow the City of Great Falls to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report should be provided to the Fiscal Services Director, the legislative body, and pool participants. The report will include the following:
 - Listing of individual securities held at the end of the reporting period.
 - Realized and unrealized gains or losses resulting from appreciation or depreciation by listing the cost and market value of securities over one-year

duration that are not intended to be held until maturity (in accordance with Governmental Accounting Standards Board (GASB) requirements).

- Average weighted yield to maturity of portfolio on investments as compared to applicable benchmarks.
 - Listing of investments by maturity date.
 - Percentage of the total portfolio which each type of investment represents.
2. **Performance Standards** The investment portfolio will be managed in accordance with the parameters specified within this policy. A series of appropriate benchmarks shall be established against which portfolio performance shall be compared on a regular basis.
 3. **Marking to Market** The market value of the portfolio shall be calculated at least quarterly and a statement of the market value of the portfolio shall be issued at least quarterly

VIII. Policy Considerations

1. **Exemption** Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity, or liquidation, such monies shall be reinvested only as provided in this policy.
2. **Amendments** This policy shall be reviewed on an annual basis. Any changes must be approved by the Investment Committee and any other appropriate authority, as well as the individual(s) charged with maintaining internal controls.

IX. List of Attachments

The following documents, as applicable, are attached to this policy:

- Listing of authorized personnel,
- Relevant investment statutes and ordinances,
- Listing of authorized broker/dealers and financial institutions,

APPENDIX I: GLOSSARY OF CASH MANAGEMENT TERMS

Accrued Interest – The accumulated interest due on a bond as of the last interest payment made by the issuer.

Agency – A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of federal agency is the Government National Mortgage Association (GNMA). An example of a FSA is the Federal National Mortgage Association (FNMA).

Amortization – The systematic reduction of the amount owed on a debt issue through periodic payments of principal.

Average Life – The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

Basis Point – A unit of measurement used in the valuation of fixed-income securities equal to 1/100 of 1 percent of yield, e.g., “1/4” of 1 percent is equal to 25 basis points.

Bid – The indicated price at which a buyer is willing to purchase a security or commodity.

Book Value – The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.

Callable Bond – A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Call Price – The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

Call Risk – The risk to a bondholder that a bond may be redeemed prior to maturity.

Cash Sale/Purchase – A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.

Collateralization – Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

Commercial Paper – An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.

Convexity – A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Coupon Rate – The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the “interest rate”.

Credit Quality – The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer’s ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.

Credit Risk – The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

Current Yield (Current Return) – A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.

Delivery Versus Payment (DVP) – A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or his/her custodian.

Derivative Security – Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

Discount – The amount by which the par value of a security exceeds the price paid for the security.

Diversification – A process of investing assets among a range of security types by sector, maturity and quality rating.

Duration – A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

Fair Value – the amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

Federal Funds (Fed Funds) – Funds placed in Federal Reserve Banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.

Federal Funds Rate – Interest rate charged by one institution lending federal funds to the other.

Government Securities – An obligation of the U.S. Government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See “Treasury Bills, Notes, and Bonds.”

Interest Rate – See “Coupon Rate.”

Interest Rate Risk – The risk associated with declines or rises in interest rates which cause an investment in a fixed-income security to increase or decrease in value.

Internal Controls – An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

1. **Control of collusion** – Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. **Separation of transaction authority from accounting and record keeping** – By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
3. **Custodial safekeeping** – Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. **Avoidance of physical delivery securities** – Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. **Clear delegation of authority to subordinate staff members** – Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. **Written confirmation of transactions for investments and wire transfers** – Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communication may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. **Development of a wire transfer agreement with the lead bank and third-party custodian** – The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

Inverted Yield Curve – A chart formation that illustrates long-term securities having lower yields than short-term securities. This configuration usually occurs during periods of high inflation coupled with low levels of confidence in the economy and a restrictive monetary policy.

Investment Company Act of 1940 – Federal legislation which sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

Investment Policy – A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities.

Investment-grade Obligations – An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rates BBB or higher by a rating agency.

Liquidity – An asset that can be converted easily and quickly into cash.

Local Government Investment Pool (LGIP) – An investment by local governments in which their money is pooled as a method for managing local funds.

Mark-to-market – The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Risk – The risk that the value of a security will rise or decline as a result of changes in market conditions.

• **Market Value** – Current market price of a security.

• **Maturity** – The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See “Weighted Average Maturity”.

• **Money Market Mutual Fund** – Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers’ acceptances, repos and federal funds).

Mutual Fund – An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940 and must abide by the following Securities and Exchange Commission (SEC) disclosure guidelines:

1. Report standardized performance calculations.
2. Disseminate timely and accurate information regarding the fund’s holdings, performance, management and general investment policy.
3. Have the fund’s investment policies and activities supervised by a board of trustees, which are independent of the adviser, administrator or other vendor of the fund.
4. Maintain the daily liquidity of the fund’s shares.
5. Value their portfolios on a daily basis.
6. Have all individuals who sell SEC-registered products licensed with a self-regulating organization (SRO) such as the National Association of Securities Dealers (NASD).
7. Have an investment policy governed by a prospectus which is updated and filed by the SEC annually.

Mutual Fund Statistical Services – Companies that track and rate mutual funds, e.g., IBC/Donoghue, Lipper Analytical Services, and Morningstar.

National Association of Securities Dealers (NASD) – A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

Net Asset Value – The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. (See below.) $[(\text{Total assets}) - (\text{Liabilities})] / (\text{Number of shares outstanding})$

No Load Fund – A mutual fund which does not levy a sales charge on the purchase of its shares.

Nominal Yield – The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the "coupon," "coupon rate," or "interest rate."

Offer – An indicated price at which market participants are willing to sell a security or commodity. Also referred to as the "Ask price."

Par – Face Value or principal value of a bond, typically \$1,000 per bond.

Positive Yield Curve – A chart formation that illustrates short-term securities having lower yields than long-term securities.

Premium – the amount by which the price paid for a security exceeds the security's par value.

Prime Rate – A preferred interest rate charged by commercial banks to their most creditworthy customers. Many interest rates are keyed to this rate.

Principal – The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

Prospectus – A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC. This can include information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements.

Prudent Person Rule – An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

Regular Way Delivery – Securities settlement that calls for delivery and payment on the third business day following the trade date (T+3); payment on a T+1 basis is currently under consideration. Mutual funds are settled on a same day basis; government securities are settled on the next business day.

Reinvestment Risk – The risk that a fixed-income investor will be unable to reinvest income proceeds from a security holding at the same rate of return currently generated by that holding.

Repurchase Agreement (repo or RP) – An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

Reverse Repurchase Agreement (Reverse Repo) – An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

Rule 2a-7 of the Investment Company Act – Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).

Safekeeping – Holding of assets (e.g., securities) by a financial institution.

Serial Bond – A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

Sinking Fund – Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

Swap – Trading one asset for another.

Term Bond – Bonds comprising a large part or all of a particular issue which come due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

Total Return – The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. $(\text{Price Appreciation}) + (\text{Dividends paid}) + (\text{Capital Gains}) = \text{Total Return}$.

Treasury Bills – Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Notes – Intermediate U.S. government debt securities with maturities of one to 10 years and issued in denominations ranging from \$1,000 to \$1 million or more.

Uniform Net Capital Rule – SEC Rule 15C3-1 outlining capital requirements for broker/dealers.

Volatility – A degree of fluctuation in the price and valuation of securities.

“Volatility Risk” Rating – A rating system to clearly indicate the level of volatility and other non-credit risks associated with securities and certain bond funds. The ratings for bond funds range from those that have extremely low sensitivity to changing market conditions and offer the greatest stability of the returns (“aaa” by S&P; “V-1” by Fitch) to those that are highly sensitive with currently identifiable market volatility risk (“ccc-” by S&P, “V-10” by Fitch).

Weighted Average Maturity (WAM) – The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds 397 days.

When Issued (WI) – A conditional transaction in which an authorized new security has not been issued. All “when issued” transactions are settled when the actual security is issued.

Yield – The current rate of return on an investment security generally expressed as a percentage of the security’s current price.

Yield-to-call (YTC) – The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date. ***Yield Curve*** – A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

Yield-to-maturity – The rate of return yielded by a debt security held to maturity when both interest payments and the investor’s potential capital gain or loss are included in the calculation of return.

Zero-Coupon Securities – Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.

APPENDIX II: GFOA RECOMMENDED PRACTICES AND POLICY STATEMENTS RELATED TO CASH MANAGEMENT

GFOA's Standing Committee on Cash Management has developed recommended practices and policy statements pertaining to the prudent investment of public funds. State and local governments should carefully consider the factors outlined in the GFOA recommended practices and policy statements when making investment decisions and entering into investment transactions. (A complete set of recommended practices and policy statements can be obtained from GFOA's Chicago office by calling 312/977-9700 or by logging onto their website at www.gfoa.org).

Applicable portions of the following recommended practices and policy statements are incorporated into this investment policy:

- Collateralization of Public Deposits (1984, 1987 and 1993)
- Diversification of Investments in a Portfolio (1997)
- Governmental Relationships with Securities Dealers (1986 and 1988)
- Market Risk (Volatility) Ratings (1995)
- Mark-to-Market Practices for State and Local Government Investment Portfolios and Investment Pools (1995)
- Master Trust and Custodial Bank Security Lending Programs (1995)
- Maturities of Investments in a Portfolio (1997)
- Repurchase Agreements, Reverse Repurchase Agreements, Leveraging, and Prudent Investment Practices for Cash Management (1986 and 1995)
- Selection of Investment Advisors (1992)
- State and Local Laws Concerning Investment Practices (1997)
- Use and Application of Voluntary Agreements and Guidelines and Support for Written Investment Policies for State and Local Governments (1995)
- Use of Derivatives by State and Local Governments (1994)
- Use of Various Type of Mutual Funds by Public Cash Managers (1987)

APPENDIX III

MONTANA CODE ANNOTATED

Title 7, Chapter 6, Part 2 Deposit and Investment of Public Money

7-6-201. Deposit of public funds in financial institutions. (1) Except as provided in 7-6-202, 7-6-206, or 7-6-2701, it shall be the duty of all county and city treasurers and town clerks to deposit all public money in their possession and under their control in any solvent banks, building and loan associations, savings and loan associations, or credit unions located in the county, city, or town of which such treasurer is an officer, subject to national supervision or state examination as the local governing body may designate, and no other.

(2) Said local governing body is hereby authorized to deposit such public money not necessary for immediate use by such county, city, or town in a savings or time deposit with any bank, building and loan association, savings and loan association, or credit union authorized above or in a repurchase agreement as authorized in 7-6-213.

(3) The treasurer or town clerk shall take from such bank, building and loan association, savings and loan association, or credit union such security as the local governing body may prescribe, approve, and deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits, together with the interest on any time or savings deposits.

(4) All such deposits shall be subject to withdrawal by the treasurer or town clerk in such amounts as may be necessary from time to time. No deposit of funds shall be made or permitted to remain in any bank, building and loan association, savings and loan association, or credit union until the security for such deposits shall have been first approved by the local governing body and delivered to the treasurer or town clerk.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); amd. Sec. 2, Ch. 329, L. 1981; amd. Sec. 1, Ch. 421, L. 1985; amd. Sec. 1, Ch. 90, L. 1989.

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

(a) United States government treasury bills, notes, and bonds 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;

(b) United States treasury receipts in a form evidencing the holder's ownership of future interest or 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

(c) 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.

(2) An investment in an agency of the United States is authorized under this section if the investment is a general obligation of the agency and has a fixed or zero-coupon rate and does not have prepayments that are

based on underlying assets or collateral, including but not limited to residential or commercial mortgages, farm loans, multifamily housing loans, or student loans.

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

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

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

(c) the use of repurchase agreements is limited to agreements that are fully collateralized by the eligible securities, as described in this section, and the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;

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

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

(4) Except as provided in subsection (5), an investment authorized in this part may not have a maturity date exceeding 5 years, except when the investment is used in an escrow account to refund an outstanding bond issue in advance.

(5) An investment of the assets of a local government group self-insurance program established pursuant to 2-9-211 or 39-71-2103 in an investment authorized in this part may not have a maturity date exceeding 10 years, and the average maturity of all those authorized investments of a local government group self-insurance program may not exceed 6 years.

(6) 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.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); amd. Sec. 1, Ch. 620, L. 1985; amd. Sec. 1, Ch. 201, L. 1989; amd. Sec. 1, Ch. 271, L. 1993; amd. Sec. 1, Ch. 406, L. 1995; amd. Sec. 1, Ch. 131, L. 1997.

7-6-203. Interest rates on deposits of public money. (1) The bank, building and loan association, savings and loan association, or credit union in which the money is deposited shall pay on the money no less than the rate of interest as is paid on money from private sources on the same terms.

(2) Refusal of any bank, building and loan association, savings and loan association, or credit union to pay said interest rate shall constitute a waiver of that institution's right to participate in the deposit of public funds as set forth in this part.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); amd. Sec. 2, Ch. 421, L. 1985.

7-6-204. Crediting of interest. (1) Unless otherwise provided by law or by the terms of a gift, grant, or donation, interest paid and collected on deposits or investments must be credited to the general fund of the county, city, or town to whose credit the funds are deposited.

(2) Interest paid and collected on the deposits or investments of the funds of a volunteer fire district or department organized in an unincorporated area under Title 7, chapter 33, part 21 or 23, must be credited to the account of that fire district or department.

(3) Interest paid and collected on the deposits or investments of the county road fund or county bridge fund may be credited to the county road fund or county bridge fund.

History: (1)En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); (2)En. Sec. 1, Ch. 486, L. 1979; amd. Sec. 28, Ch. 575, L. 1981; amd. Sec. 1, Ch. 130, L. 1993; amd. Sec. 44, Ch. 278, L. 2001.

7-6-205. Demand deposits. Demand deposits may be placed only in banks.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(4)(a); amd. Sec. 1, Ch. 229, L. 1997.

7-6-206. Time deposits – repurchase agreement. (1) Public money not necessary for immediate use by a county, city, or town that is not invested as authorized in 7-6-202 may be placed in time or savings deposits with a bank, savings and loan association, or credit union in the state or placed in repurchase agreements as authorized in 7-6-213. Money placed in repurchase agreements is subject to subsection (2).

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

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(4)(b), (4)(c); amd. Sec. 8, Ch. 634, L. 1979; amd. Sec. 3, Ch. 329, L. 1981; amd. Sec. 3, Ch. 421, L. 1985; amd. Sec. 2, Ch. 90, L. 1989; amd. Sec. 2, Ch. 271, L. 1993; amd. Sec. 2, Ch. 406, L. 1995.

7-6-207. Deposit security. (1) The local governing body may require security only for that portion of the deposits which is not guaranteed or insured according to law and, as to such unguaranteed or uninsured portion, to the extent of:

(a) 50% of such deposits if the institution in which the deposit is made has a net worth to total assets ratio of 6% or more; or

(b) 100% if the institution in which the deposit is made has a net worth to total assets ratio of less than 6%. The security shall consist of those enumerated in 17-6-103 or cashier's checks issued to the depository institution by any federal reserve bank.

(2) When negotiable securities are furnished, such securities may be placed in trust. The trustee's receipt may be accepted in lieu of the actual securities when such receipt is in favor of the treasurer or town clerk and his successors. All warrants or other negotiable securities must be properly assigned or endorsed in blank. It is the duty of the appropriate governing body, upon the acceptance and approval of any of the above-mentioned bonds or securities, to make a complete minute entry of the acceptance and approval upon the record of their proceedings, and the bonds and securities shall be reapproved at least quarter-annually thereafter.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(2), (3); amd. Sec. 1, Ch. 158, L. 1979; amd. Sec. 2, Ch. 252, L. 1979; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 217, L. 1983; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 2, Ch. 620, L. 1985.

7-6-208. Substitution of deposit security. (1) Any bank, building and loan association, savings and loan association, or credit union pledging securities as provided in 7-6-207, at any time it deems advisable or desirable, may substitute like securities for all or any part of the securities pledged. The collateral so substituted shall be approved by the governing body of the county, city, or town at its next official meeting.

(2) Such securities so substituted shall at the time of substitution be at least equal in principal amount to the securities for which substitution is made. In the event that the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward a receipt by registered or certified mail to the county, city, or town and to the depository bank, building and loan association, savings and loan association, or credit union. The receipt shall specifically describe and identify both the securities so substituted and those released and returned to the depository bank, building and loan association, savings and loan association, or credit union.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(7); amd. Sec. 4, Ch. 421, L. 1985.

7-6-209. Repealed. Sec. 2, Ch. 217, L. 1983.

History: En. Sec. 1, Ch. 44, L. 1931; re-en. Sec. 4767.3, R.C.M. 1935; amd. Sec. 70, Ch. 348, L. 1974; amd. Sec. 29, Ch. 213, L. 1975; R.C.M. 1947, 16-2621; amd. Sec. 7, Ch. 274, L. 1981.

7-6-210. Repealed. Sec. 13, Ch. 179, L. 1995.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304, L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 287, L. 1983.

7-6-211. Report by financial institution. Any bank, building and loan association, savings and loan association, or credit union receiving such deposits shall, through its president and cashier or secretary, make a statement of account quarter-annually, under oath, showing:

- (1) all such money that has been deposited with such bank, building and loan association, savings and loan association, or credit union during the quarter;
- (2) the amount of daily balance in dollars;
- (3) the amount of interest credited or paid therefor by such bank, building and loan association, savings and loan association, or credit union; and
- (4) that neither such bank, building and loan association, savings and loan association, or credit union nor any officer thereof nor any person for it has paid or given any consideration or emolument whatsoever to the treasurer or town clerk or to any other person, other than the interest provided for herein, for or on account of the making of such deposits with any such bank, building and loan association, savings and loan association, or credit union.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304; L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part); amd. Sec. 5, Ch. 421, L. 1985.

7-6-212. Limitation on liability of treasurer or town clerk. Where money shall have been deposited in accordance with the provisions of this part, the treasurer or town clerk shall not be liable for loss on account of any such deposit that may occur through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud, or dishonorable conduct.

History: En. Sec. 4367, Pol. C. 1895; amd. Sec. 1, Ch. 5, L. 1903; amd. Sec. 3003, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1913; re-en. Sec. 4767, R.C.M. 1921; Cal. Pol. C. Sec. 4161; amd. Sec. 1, Ch. 89, L. 1923; amd. Sec. 1, Ch. 137, L. 1925; amd. Sec. 1, Ch. 134, L. 1927; amd. Sec. 1, Ch. 49, L. 1929; amd. Sec. 1, Ch. 23, Ex. L. 1933; re-en. Sec. 4767, R.C.M. 1935; amd. Sec. 1, Ch. 50, L. 1957; amd. Sec. 1, Ch. 66, L. 1961; amd. Sec. 1, Ch. 40, L. 1963; amd. Sec. 1, Ch. 32, L. 1965; amd. Sec. 1, Ch. 258, L. 1969; amd. Sec. 1, Ch. 499, L. 1973; amd. Sec. 1, Ch. 43, L. 1974; amd. Sec. 106, Ch. 348, L. 1974; amd. Sec. 1, Ch. 160, L. 1975; amd. Sec. 28, Ch. 213, L. 1975; amd. Sec. 2, Ch. 304; L. 1975; amd. Sec. 1, Ch. 539, L. 1975; R.C.M. 1947, 16-2618(part).

7-6-213. Repurchase agreements -- bidding. (1) After qualifying as provided in subsection (5), a financial institution may contract with a local governing body to establish one or more repurchase agreements, including daily repurchase agreements.

(2) A repurchase agreement is a contract that specifies the minimum and maximum of public money that the local governing body will invest under the contract in securities that the financial institution will sell to the local governing body and that the financial institution will repurchase on mutually agreeable terms.

(3) A repurchase agreement is not a demand account.

(4) The local governing body may maintain in the same financial institution contracting for the repurchase agreement a demand account into which each business day shall be deposited a sum equal to the day's disbursements, and that deposit will be the proceeds of the redemption by the financial institution of securities previously purchased by the local governing body under the provisions of the repurchase agreement, so that the balance of the demand account at the close of each day's business will be zero.

(5) The local governing body shall call for bids as provided in 7-6-206 to contract for a repurchase agreement from all financial institutions chartered to do business in the state of Montana which are authorized to accept demand deposits and to buy and sell securities. The call for bids shall specify the minimum acceptable rate of interest, effective date of the repurchase agreement and the period of duration and range of funds to be invested.

History: En. Sec. 1, Ch. 329, L. 1981; amd. Sec. 3, Ch. 620, L. 1985.

APPENDIX IV

MONTANA CODE ANNOTATED

Title 17, Chapter 6, Parts 1, 2 & 3 Deposits and Investments

17-6-101. Deposit of funds in hands of state treasurer. (1) Under the direction of the board of investments, the state treasurer shall deposit public money in the treasurer's possession and under the treasurer's control in solvent banks, building and loan associations, savings and loan associations, and credit unions located in the state, except as otherwise provided by law, subject to national supervision or state examination.

(2) If needed financial services are not available through solvent banks, building and loan associations, savings and loan associations, and credit unions located in the state, the state treasurer may deposit public money in out-of-state financial institutions subject to national supervision.

(3) The state treasurer shall deposit funds in banks, building and loan associations, savings and loan associations, and credit unions in amounts that may be designated by the board of investments and shall withdraw deposits when instructed to by the board of investments.

(4) When money has been deposited under the board of investments and in accordance with the law, the state treasurer is not liable for loss on account of any deposit occurring from any cause other than the treasurer's own neglect or fraud.

(5) The state treasurer shall withdraw all deposits or any part of the deposits from time to time to pay and discharge the legal obligations of the state presented to the treasurer in accordance with the law.

(6) The state treasurer may contract with a financial institution to provide general depository banking services. The cost of contracting for banking services is statutorily appropriated, as provided in 17-7-502, from the general fund.

History: En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; R.C.M. 1947, 79-301(part); amd. Sec. 10, Ch. 421, L. 1985; amd. Sec. 2, Ch. 107, L. 1993; amd. Sec. 1, Ch. 131, L. 1993.

17-6-102. Insurance on deposits. (1) Deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration may not be made unless the bank, building and loan association, savings and loan association, or credit union first delivers to the state treasurer or deposits in trust with some solvent bank, as security therefor, bonds or other obligations of the kinds listed in 17-6-103, having a market value equal to at least 50% of the amount of the deposits in excess of the amount insured. The board of investments may require security of a greater value. When negotiable securities are placed in trust, the trustee's receipt may be accepted instead of the actual securities if the receipt is in favor of the state treasurer, successors in office, and the state of Montana and the form of receipt and the trustee have been approved by the board of investments.

(2) Any bank, building and loan association, savings and loan association, or credit union pledging securities as provided in this section may at any time substitute securities for any part of the securities pledged. The substituted collateral must conform to 17-6-103 and have a market value at least sufficient for compliance with subsection (1). If the substituted securities are held in trust, the trustee shall, on the same day the substitution is made, forward by registered or certified mail to the state treasurer and to the depository financial institution a receipt specifically describing and identifying both the securities substituted and those released and returned to the depository financial institution.

History: En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; R.C.M. 1947, 79-301(2), (4); amd. Sec. 2, Ch. 158, L. 1979; amd. Sec. 11, Ch. 421, L. 1985; amd. Sec. 29, Ch. 10, L. 1993.

17-6-103. Security for deposits of public funds. The following kinds of securities may be pledged or guarantees may be issued to secure deposits of public funds:

- (1) direct obligations of the United States;
- (2) securities as to which the payment of principal and interest is guaranteed by the United States;
- (3) securities issued or fully guaranteed by the following agencies of the United States or their successors, whether or not guaranteed by the United States:
 - (a) commodity credit corporation;
 - (b) federal intermediate credit banks;
 - (c) federal land bank;
 - (d) bank for cooperatives;
 - (e) federal home loan banks, including a letter of credit from a federal home loan bank;
 - (f) federal national mortgage association;
 - (g) government national mortgage association;
 - (h) small business administration;
 - (i) federal housing administration; and
 - (j) federal home loan mortgage corporation;
- (4) securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:
 - (a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and
 - (b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;
- (5) general obligation bonds of the state or of any county, city, school district, or other political subdivision of the state;
- (6) revenue bonds of any county, city, or other political subdivision of the state, when backed by the full faith and credit of the subdivision or when the revenue pledged to the payment of the bonds is derived from a water or sewer system and the issuer has covenanted to establish and maintain rates and charges for the system in an amount sufficient to produce revenue equal to at least 125% of the average annual principal and interest due on all bonds payable from the revenue during the outstanding term of the bonds;
- (7) interest-bearing warrants of the state or of any county, city, school district, or other political subdivision of the state issued in evidence of claims in an amount that, with all other claims on the same fund, does not exceed the amount validly appropriated in the current budget for expenditure from the fund in the year in which they are issued;
- (8) obligations of housing authorities of the state secured by a pledge of annual contributions or by a loan agreement made by the United States or any agency of the United States providing for contributions or a loan sufficient with other funds pledged to pay the principal of and interest on the obligations when due. The bonds and other obligations made eligible for investment in 7-15-4505 and 32-1-424(1)(a) may be used as security for all deposits of public funds or obligations for which depository bonds or any kind of bonds or other securities are required or may by law be deposited as security.
- (9) general obligation bonds of other states and of municipalities, counties, and school districts of other states;
- (10) undertaking or guarantees issued by a surety company authorized to do business in the state;
- (11) first mortgages and trust indentures on real property. The depository shall, on a quarterly basis, certify to the state treasurer that sufficient first mortgages and trust indentures on real property are available and segregated to secure deposits of public funds. The board of investments shall determine the amount of security required.

- (12) bonds issued pursuant to Title 7, chapter 12, parts 21, 41, and 42;
- (13) bonds issued pursuant to Title 90, chapter 6, part 1;
- (14) revenue bonds issued by any unit of the university system of the state of Montana; and
- (15) advance refunded bonds secured by direct obligations of the United States treasury held in irrevocable escrow.

History: Ap. p. Sec. 4, Ch. 298, L. 1973; amd. Sec. 2, Ch. 160, L. 1975; amd. Sec. 1, Ch. 92, L. 1977; Sec. 79-307, R.C.M. 1947; Ap. p. Sec. 2, Ch. 5, Ex. L. 1933; amd. Sec. 2, Ch. 37, L. 1935; re-en. Sec. 5309.36, R.C.M. 1935; amd. Sec. 109, Ch. 431, L. 1975; Sec. 35-145, R.C.M. 1947; R.C.M. 1947, 35-145, 79-307; amd. Sec. 3, Ch. 158, L. 1979; amd. Sec. 1, Ch. 185, L. 1979; amd. Sec. 1, Ch. 437, L. 1979; amd. Sec. 5, Ch. 540, L. 1979; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 1, Ch. 62, L. 1985; amd. Sec. 4, Ch. 57, L. 1987; amd. Sec. 56, Ch. 370, L. 1987; amd. Sec. 1, Ch. 137, L. 1989; amd. Sec. 2, Ch. 201, L. 1989; amd. Sec. 10, Ch. 179, L. 1995; amd. Sec. 96, Ch. 42, L. 1997; amd. Sec. 1, Ch. 158, L. 1999.

17-6-104. Interest on deposits -- conformity with federal law. (1) The board of investments may require the payment of quarterly annual interest on daily balances of collected funds at a rate to be agreed upon between the depository banks, building and loan associations, savings and loan associations, credit unions, and the board of investments. The rate must be fixed semiannually during the months of July and January of each year.

(2) The interest requirements on deposits of public funds made under the laws of the state of Montana or otherwise by county or city treasurers or town clerks may not at any time be in violation of any act of the congress of the United States or of any rule or regulation of the federal reserve system, federal home loan bank system, or the federal deposit insurance corporation, national credit union administration, or any other fiscal agency of the United States of which the banks, building and loan associations, savings and loan associations, or credit unions of this state may be members or debtors.

History: (1)En. Sec. 183, Rev. C. 1907; en. Sec. 1, Ch. 129, L. 1909; re-en. Sec. 182, R.C.M. 1921; amd. Sec. 1, Ch. 85, L. 1923; amd. Sec. 1, Ch. 80, L. 1929; amd. Sec. 1, Ch. 62, L. 1935; re-en. Sec. 182, R.C.M. 1935; amd. Sec. 1, Ch. 35, L. 1963; amd. Sec. 1, Ch. 259, L. 1969; amd. Sec. 1, Ch. 298, L. 1973; amd. Sec. 1, Ch. 14, L. 1974; Sec. 79-301, R.C.M. 1947; (2)En. Sec. 1, Ch. 104, L. 1937; amd. Sec. 2, Ch. 14, L. 1974; Sec. 79-302, R.C.M. 1947; R.C.M. 1947, 79-301(part), 79-302; amd. Sec. 6, Ch. 540, L. 1979; amd. Sec. 12, Ch. 421, L. 1985; amd. Sec. 30, Ch. 10, L. 1993.

17-6-105. State treasurer as treasurer of state agencies -- deposits of money. (1) The state treasurer is designated the treasurer of every state agency and institution.

(2) All state agencies and institutions shall deposit all money, credits, evidences of indebtedness, and securities either:

(a) in banks, building and loan associations, savings and loan associations, or credit unions located in the city or town in which the agencies and institutions are situated, if there is a qualified bank, building and loan association, savings and loan association, or credit union in the city or town as designated by the state treasurer with the approval of the board of investments; or

(b) with the state treasurer.

(3) Each bank, building and loan association, savings and loan association, or credit union shall pledge securities sufficient to cover 50% of the deposits at all times.

(4) The deposits must be made in the name of the state treasurer, must be subject to withdrawal at his option, and must draw interest as other state money, in accordance with the provisions of this part.

(5) Nothing in this chapter shall impair or otherwise affect any covenant entered into pursuant to law by any agency or institution respecting the segregation, deposit, and investment of any revenues or funds pledged for the payment and security of bonds or other obligations authorized to be issued by the agency, and all the funds must be deposited and invested in accordance with the covenants notwithstanding any provision of this chapter.

(6) Except as otherwise provided by law, all money, credits, evidences of indebtedness, and securities received by a state agency or institution must be deposited either with the state treasurer or in a depository approved by the state treasurer each day when the accumulated amount of coin and currency requiring deposit exceeds \$100 or total collections exceed \$500. All money, credits, evidences of indebtedness, and securities collected must be deposited at least weekly.

(7) Notwithstanding any other provision of state law, when it is determined to be in the best financial interest of the state, the department may require any money received or collected by any agency of the state to be immediately deposited to the credit of the state treasurer.

History: (1) thru (6)En. Sec. 1, Ch. 112, L. 1921; re-en. Sec. 192, R.C.M. 1921; amd. Sec. 1, Ch. 157, L. 1931; re-en. Sec. 192, R.C.M. 1935; amd. Sec. 9, Ch. 147, L. 1963; amd. Sec. 2, Ch. 298, L. 1973; amd. Sec. 3, Ch. 14, L. 1974; amd. Sec. 4, Ch. 286, L. 1977; Sec. 79-306, R.C.M. 1947; (7)En. Sec. 6, Ch. 194, L. 1951; amd. Sec. 9, Ch. 158, L. 1959; amd. Sec. 18, Ch. 249, L. 1967; amd. Sec. 4, Ch. 268, L. 1971, amd. Sec. 50, Ch. 326, L. 1974; Sec. 82-110, R.C.M. 1947; R.C.M. 1947, 79-306, 82-110(5); amd. Sec. 4, Ch. 158, L. 1979; amd. Sec. 13, Ch. 421, L. 1985; amd. Sec. 1, Ch. 339, L. 1991.

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

- (a) discharge 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 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.
- (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) This section does not prevent 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 that demonstrate an interest in making investments in Montana.
- (c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.
- (d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.
- (4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto investments made under its general supervision.
- (5) The board shall:
- (a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;
 - (b) determine the amount of surplus treasury cash to be invested;
 - (c) determine the type of investment to be made;
 - (d) prepare the claim to pay for the investment; and
 - (e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.
- (6) The board may:
- (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a qualified appraiser.
 - (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;
 - (c) direct the sale of securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.
- (7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund. *(Effective January 1, 2003, on occurrence of contingency)*

- 17-6-201. (Effective January 1, 2003, on occurrence of contingency) . Unified investment program – general provisions.** (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires an investment manager to:
- (a) discharge 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 the duties solely in the interest of and for the benefit of the funds forming the unified investment program.
- (2) Retirement funds may be invested in common stocks of any corporation.
- (3) (a) This section does not prevent 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 that demonstrate an interest in making investments in Montana.
- (c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.
- (d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.
- (4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto investments made under its general supervision.
- (5) The board shall:
- (a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;
 - (b) determine the amount of surplus treasury cash to be invested;
 - (c) determine the type of investment to be made;
 - (d) prepare the claim to pay for the investment; and
 - (e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.
- (6) The board may:
- (a) execute deeds of conveyance transferring real property obtained through investments. Prior to the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a qualified appraiser.
 - (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;
 - (c) direct the sale of securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.
- (7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund.

History: (1), (2), (5) thru (7)En. Sec. 5, Ch. 298, L. 1973; amd. Sec. 1, Ch. 203, L. 1977; Sec. 79-308, R.C.M. 1947; (3), (4)En. 82A-204 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 90, Ch. 326, L. 1974; Sec. 82A-204, R.C.M. 1947; R.C.M. 1947, 79-308, 82A-204(4); amd. Sec. 1, Ch. 395, L. 1981; amd. Sec. 11, Ch. 281, L. 1983; amd. Sec. 19, Ch. 677, L. 1983; amd. Sec. 2, Ch. 183, L. 1985; amd. Sec. 3, Ch. 418, L. 1985; amd. Sec. 1, Ch. 158, L. 1987; amd. Sec. 1, Ch. 335, L. 1987; amd. Sec. 12, Ch. 581, L. 1987; amd. Sec. 1, Ch. 291, L. 1991; amd. Sec. 1, Ch. 46, L. 1993; amd. Sec. 1, Ch. 331, L. 1993; amd. Sec. 2, Ch. 37, Sp. L. November 1993; amd. Sec. 32, Ch. 18, L. 1995; amd. Sec. 1, Ch. 32, L. 1997; amd. Sec. 25, Ch. 422, L. 1997; amd. Sec. 12, Ch. 532, L. 1997; amd. Sec. 3, Ch. 549, L. 1997; amd. Sec. 2, Ch. 330, L. 1999; amd. Sec. 3, Ch. 471, L. 1999; amd. Sec. 5, Ch. 418, L. 2001.

17-6-202. Investment funds – general provisions. (1) For each treasury fund account into which state funds are segregated by the department of administration pursuant to 17-2-106, individual transactions and totals of all investments shall be separately recorded to the extent directed by the department.

(2) However, the securities purchased and cash on hand for all treasury fund accounts not otherwise specifically designated by law or by the provisions of a gift, donation, grant, legacy, bequest, or devise from which the fund account originates to be invested shall be pooled in an account to be designated "treasury cash account" and placed in one of the investment funds designated in 17-6-203. The share of the income for this account shall be credited to the general fund.

(3) If, within the list in 17-6-203 of separate investment funds, more than one investment fund is included which may be held jointly with others under the same separate listing, all investments purchased for that separate investment fund shall be held jointly for all the accounts participating therein, which shall share all capital gains and losses and income pro rata.

History: En. Sec. 6, Ch. 298, L. 1973; amd. Sec. 7, Ch. 540, L. 1977; R.C.M. 1947, 79-309(part).

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

(1) the permanent funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in Article X, sections 2 and 10, of the Montana constitution. The principal and any part of the principal of each fund constituting the Montana permanent fund type are subject to deposit at any time when due under the statutory provisions applicable to the fund 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 maintained by the state, including:

- (a) the highway patrol officers' retirement system described in Title 19, chapter 6;
- (b) the public employees' retirement system described in Title 19, chapter 3;
- (c) the game wardens' and peace officers' retirement system described in Title 19, chapter 8;
- (d) the teachers' retirement system described in Title 19, chapter 20; and
- (e) the workers' compensation 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) the fish and wildlife mitigation trust fund established by 87-1-611;

(5) 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 to be observed by the state of Montana. If a 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 gifts, donations, grants, legacies, bequests, devises, or contributions.

(6) a fund consisting of coal severance taxes allocated to the coal severance tax trust fund under Article IX, section 5, of the Montana constitution. The principal of the coal severance tax trust fund is permanent. If the legislature appropriates any part of the principal of the coal severance tax trust fund by a vote of three-fourths of the members of each house, the appropriation or investment may create a gain or loss in the principal.

(7) a Montana tobacco settlement trust fund established in accordance with Article XII, section 4, of the Montana constitution and Title 17, chapter 6, part 6; and

(8) additional investment funds that are expressly required by law or that the board of investments determines are necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source.

History: Ap. p. Sec. 6, Ch. 298, L. 1973; amd. Sec. 7, Ch. 540, L. 1977; Sec. 79-309, R.C.M. 1947; Ap. p. Sec. 12, Ch. 70, L. 1929; re-en. Sec. 5668.30, R.C.M. 1935; amd. Sec. 21, Ch. 147, L. 1963; amd. Sec. 37, Ch. 100, L. 1973; Sec. 79-1212, R.C.M. 1947; R.C.M. 1947, 79-309(part), 79-1212; amd. Sec. 12, Ch. 281, L. 1983; amd. Sec. 4, Ch. 418, L. 1985; amd. Sec. 6, Ch. 445, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 12, Ch. 223, L. 1997; amd. Sec. 9, Ch. 34, L. 2001; amd. Sec. 4, Ch. 467, L. 2001.

17-6-204. Investment of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision having funds which are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit such funds to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

(2) A separate account, designated by name and number for each such participant in the fund, shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report shall be furnished to each participant having a beneficial interest in the pooled investment fund, showing the changes in investments made during the preceding month. Details of any investment transaction shall be furnished to any participant upon request.

(3) The principal and accrued income, and any part thereof, of each and every account maintained for a participant in the pooled investment fund shall be subject to payment at any time from the fund upon request. Accumulated income shall be remitted to each participant at least annually.

(4) No order or warrant shall be issued upon any account for a larger amount than the principal and accrued income of the account to which it applies, and if any such order or warrant is issued, the participant receiving it shall reimburse the excess amount to the fund from any funds not otherwise appropriated, and the state treasurer shall be liable under his official bond for any amount not so reimbursed.

History: En. Sec. 8, Ch. 298, L. 1973; R.C.M. 1947, 79-311.

17-6-205 through 17-6-206 reserved.

17-6-207. Investment of state cabin site sales. The board of investments may purchase from approved lenders contracts for deed or mortgages for cabin sites on state trust land for the trust and legacy fund.

History: En. Sec. 2, Ch. 488, L. 1991

17-6-208 through 17-6-210 reserved.

17-6-212. State purchase of general fund warrants. (1) The state reserves a preference right, prior to the right of any person, company, or corporation, to purchase state general fund warrants issued with funds under the control of the board of investments and subject to investment.

(2) When the board of investments has under its control any funds subject to investment that in its judgment it would be advantageous to invest in state general fund warrants and there are not sufficient funds in the state general fund to pay warrants issued against the fund at the time that they are issued and presented for payment, it shall authorize and direct the state treasurer to purchase state general fund warrants, designating the fund or funds to be invested and fixing the amount or amounts to be invested. State general fund warrants registered by the state treasurer pursuant to 17-8-304(1) and purchased by the board of investments must bear interest at a rate determined by the board. When determining the interest rate, the board shall consider:

(a) the duration of the investment by estimating the time at which the warrants will be redeemed pursuant to 17-8-304(1); and

(b) the interest rate of the investments liquidated to provide the funds to purchase the warrants.

(3) The state treasurer shall attach to or stamp, write, or print upon each general fund warrant issued after the receipt of notice, until warrants totaling the amounts designated have been issued, a notice that the state will exercise its preference right to purchase the warrant.

(4) The state treasurer shall, when the marked warrant is presented, pay it out of the proper fund as designated by the board, and the warrant purchased must be registered as other state warrants and must bear interest as provided by law.

(5) When the designated amounts have been invested, the department shall notify the board of investments, which shall issue orders for warrants to be issued in favor of the treasurer.

History: En. Sec. 89, Ch. 147, L. 1909; re-en. Sec. 1912, R.C.M. 1921; amd. Sec. 1, Ch. 15, L. 1927; re-en. Sec. 1912, R.C.M. 1935; amd. Sec. 33, Ch. 326, L. 1974; R.C.M. 1947, 79-1101; amd. Sec. 1, Ch. 40, L. 1995; amd. Sec. 19, Ch. 325, L. 1995; amd. Sec. 97, Ch. 42, L. 1997; amd. Sec. 8, Ch. 48, L. 1997.

17-6-213. Redemption of bonds before maturity. (1) The board of investments shall permit any school district, town, city, or county to pay and redeem one or more of its bonds held by the state for the credit of any fund under the investment administration of the board of investments at any time before maturity.

(2) In calculating the unpaid interest accrued on any bond or bonds at the time of payment and redemption, interest for a fractional month shall be calculated and collected for a full month.

(3) Payment and redemption of bonds shall be made at the office of the state treasurer unless the bonds by their own terms and provisions are made payable at some other place and payment at his office would be disadvantageous to the redemptioner. When bonds have been so paid and redeemed, the state treasurer shall effectually cancel the bonds and the attached coupons by perforation or otherwise and mail to the proper treasurer together with his receipt.

(4) This section does not authorize or permit any school district, town, city, or county to issue refunding bonds for the purpose of paying and redeeming any bond or bonds held by the state before the optional or redeemable date therein stated or to grant the right to pay any bond or bonds held by the state before the optional or redeemable date from the proceeds of refunding bonds.

History: En. Sec. 2, Ch. 33, L. 1907; re-en. Sec. 2202, Rev. C. 1907; amd. Sec. 91, Ch. 147, L. 1909; re-en. Sec. 1916, R.C.M. 1921; amd. Sec. 1, Ch. 70, L. 1925; amd. Sec. 1, Ch. 3, L. 1929; re-en. Sec. 1916, R.C.M. 1935; amd. Sec. 36, Ch. 326, L. 1974; R.C.M. 1947, 79-1105.

17-6-214 through 17-6-220 reserved.

17-6-221. Handling securities -- custody of mortgages and repurchase agreements. (1) Securities may be placed in safekeeping with banks subject to national supervision or Montana state examination, and a safekeeping receipt may be accepted in lieu of the actual securities.

(2) Custody and control of repurchase agreements and mortgages shall be accomplished by the receipt of a confirmation of purchase.

History: En. Sec. 440, Pol. C. 1895; re-en. Sec. 179, Rev. C. 1907; re-en. Sec. 174, R.C.M. 1921; Cal. Pol. C. Sec. 452; re-en. Sec. 174, R.C.M. 1935; amd. Sec. 8, Ch. 147, L. 1963; amd. Sec. 1, Ch. 152, L. 1971; amd. Sec. 1, Ch. 269, L. 1973; R.C.M. 1947, 79-201(8)

17-6-222. Repealed. Sec. 1, Ch. 304, L. 1979.

History: En. Sec. 15, Ch. 70, L. 1929; re-en. Sec. 5668.33, R.C.M. 1935; amd. Sec. 38, Ch. 100, L. 1973; amd. Sec. 10, Ch. 298, L. 1973; R.C.M. 1947, 79-1215.

17-6-223 through 17-6-224 reserved.

17-6-225. Loans to petroleum tank release compensation board. (1) The board of investments may loan funds to the petroleum tank release compensation board to cover temporary cash shortfalls. The total of all loans may not exceed the greater of \$15 million or 80% of the fees that the office of budget and program planning projects will be collected under 75-11-314 during the next 3 fiscal years. A loan must be amortized, based on projected fee revenue, over a period of not more than 10 years.

(2) The board shall establish the interest rate on the loan, considering the security and the term of the loan.

History: En. Sec. 1, Ch. 115, L. 1997.

17-6-301. Short title. This part may be cited as the "Montana In-State Investment Act of 1983".

History: En. Sec. 1, Ch. 677, L. 1983.

17-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Board" means the board of investments created in 2-15-1808.
- (2) "Capital company" means a Montana capital company created pursuant to Title 90, chapter 8.
- (3) "Clean and healthful environment" means an environment that is relatively free from pollution that threatens human health, including as a minimum, compliance with federal and state environmental and health standards.
- (4) "Department" means the department of commerce provided for in 2-15-1801.
- (5) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal occupation is as an employee, officer, or partner of the enterprise.
- (6) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.
- (7) "Loan participation" means loans or portions of loans bought from a financial institution and does not include the purchase of debentures issued by a capital company.
- (8) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana.
- (9) "Long-term benefit to the Montana economy" means an activity that strengthens the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenue in the future to the people of Montana, either directly or indirectly.
- (10) "Montana economy" means any business activity in the state of Montana, including those that continue existing jobs or create new jobs in Montana.
- (11) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

History: En. Sec. 2, Ch. 677, L. 1983; amd. Sec. 1, Ch. 408, L. 1985; amd. Sec. 1, Ch. 124, L. 1987; amd. Sec. 57, Ch. 370, L. 1987; amd. Sec. 13, Ch. 581, L. 1987; amd. Sec. 5, Ch. 589, L. 1991; amd. Sec. 4, Ch. 549, L. 1997.

17-6-303. Purpose of the coal tax trust fund. The people of Montana establish that the intent of the permanent coal tax trust fund, as created by Article IX, section 5, of the Montana constitution, is:

- (1) to compensate future generations for the loss of a valuable and depletable resource and to meet any economic, social, and environmental impacts caused by coal development not otherwise provided for by other coal tax sources; and
- (2) to develop a stable, strong, and diversified economy which meets the needs of Montana residents both now and in the future while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

History: En. Sec. 1, I.M. No. 95, approved Nov. 2, 1982.

17-6-304. Use of the coal tax trust fund for economic development. Objectives for investment of the permanent coal tax trust fund are to diversify, strengthen, and stabilize the Montana economy and to increase Montana employment and business opportunities while maintaining and improving a clean and healthful environment.

History: En. Sec. 2, I.M. No. 95, approved Nov. 2, 1982.

17-6-305. Investment of up to twenty-five percent of coal tax trust fund in Montana economy -- report by board. (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest up to 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to this section do not include investments made pursuant to 17-6-309(2). For purposes of calculating the 25% of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1). The portion of the permanent coal tax trust fund contained in portfolios formerly administered by the Montana board of science and technology development is included in the 25% of the trust fund allocated to the board for in-state investment under this section.

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy must be considered.

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

(4) The board shall include a report on the investments made under this section as a part of the information required by 17-7-111.

History: En. Sec. 3, I.M. No. 95, approved Nov. 2, 1982; amd. Sec. 1, Ch. 338, L. 1985; amd. Sec. 6, Ch. 418, L. 1985; amd. Sec. 14, Ch. 16, L. 1991; amd. Sec. 6, Ch. 589, L. 1991; amd. Sec. 16, Ch. 787, L. 1991; amd. Sec. 21, Ch. 349, L. 1993; amd. Sec. 1, Ch. 34, L. 1995; amd. Sec. 1, Ch. 477, L. 1995; amd. Sec. 5, Ch. 549, L. 1997; amd. Sec. 8, Ch. 307, L. 2001.

17-6-306. Repealed. Sec. 19, Ch. 589, L. 1991.

History: En. Sec. 3, Ch. 677, L. 1983; amd. Sec. 2, Ch. 338, L. 1985; amd. Sec. 7, Ch. 445, L. 1987; amd. Sec. 17, Ch. 787, L. 1991.

17-6-307. Repealed. Sec. 18, Ch. 581, L. 1987.

History: En. Sec. 4, Ch. 677, L. 1983.

17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(6) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund.

History: En. Sec. 5, Ch. 677, L. 1983; amd. Sec. 7, Ch. 418, L. 1985; amd. Sec. 3, Ch. 640, L. 1985; amd. Sec. 22, Ch. 316, L. 1989; amd. Sec. 1, Ch. 251, L. 1991; amd. Sec. 7, Ch. 589, L. 1991; amd. Secs. 2, 12, Ch. 594, L. 1991; amd. Sec. 2, Ch. 331, L. 1993; amd. Sec. 10, Ch. 559, L. 1995; amd. Secs. 6, 7, Ch. 549, L. 1997; amd. Sec. 1, Ch. 66, L. 1999; amd. Sec. 1, Ch. 160, L. 1999; amd. Sec. 4, Ch. 137, L. 2001; amd. Sec. 9, Ch. 307, L. 2001.

17-6-309. Investment preferences. (1) Subject to the provisions of subsection (2), in deciding which of several investments of equal or comparable security and return are to be made when sufficient funds are not available to fund all possible investments, the board shall give preference to the business investments that:

- (a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for Montana residents or in otherwise contributing to the long-term benefit of the Montana economy, including raising the per capita income of Montana jobholders;
- (b) are for locally owned enterprises that are either expanding or establishing new operations;
- (c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;
- (d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;
- (e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products; or
- (f) benefit small- and medium-sized businesses as defined in rules adopted by the board.

(2) The board may make a loan to enhance economic development and create jobs in the basic sector of the economy, as defined by the board by rule, if the loan will result in the creation of a business estimated to employ at least 15 people in Montana on a permanent, full-time basis or result in the expansion of a business estimated to employ at least an additional 15 people in Montana on a permanent, full-time basis or raise salaries, wages, and business incomes of existing employees and employers.

History: En. Sec. 6, Ch. 677, L. 1983; amd. Sec. 2, Ch. 408, L. 1985; amd. Sec. 2, Ch. 477, L. 1995; amd. Sec. 1, Ch. 64, L. 1999.

17-6-310. Repealed. Sec. 3, Ch. 46, L. 1993.

History: (1)En. Sec. 3(3), I.M. No. 95, approved Nov. 2, 1982; (2)En. Sec. 7, Ch. 677, L. 1983; amd. Sec. 2, Ch. 124, L. 1987; amd. Sec. 8, Ch. 589, L. 1991; amd. Secs. 4, 12, Ch. 594, L. 1991; amd. Sec. 5, Ch. 12, Sp. L. January 1992; amd. Sec. 4, Ch. 354, L. 1993.

17-6-311. Limitation on size of investments. (1) Except as provided in subsection (2) and this subsection, an investment may not be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business enterprise or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the debt incurred for the project or enterprise for the coal tax investment that was made to the business enterprise or person must be held by a commercial lender. This subsection does not:

- (a) apply to a loan made pursuant to 17-6-317;
- (b) limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2);
- (c) apply to the purchase of debentures issued by a capital company. However, the total amount of debentures purchased by the board may not exceed 1% of the Montana permanent coal tax trust fund at the time of purchase.

(2) The total amount of loans made pursuant to 17-6-309(2) or 17-6-317 may not exceed \$50 million, and a single loan may not be less than \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

- (a) the estimated number of jobs to be created by the project within a 4-year period from the time that the loan is made and the impact of the jobs on the state and the community where the project will be located;
- (b) the long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees;
- (c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes;
- (d) the amount of increased salaries, wages, and business incomes of existing jobholders and businesses; and
- (e) other matters that the board considers necessary.

History: En. Sec. 8, Ch. 677, L. 1983; amd. Sec. 4, Ch. 640, L. 1985; amd. Sec. 3, Ch. 124, L. 1987; amd. Sec. 9, Ch. 589, L. 1991; amd. Sec. 3, Ch. 2, L. 1995; amd. Sec. 3, Ch. 477, L. 1995; amd. Sec. 1, Ch. 98, L. 1997; amd. Sec. 2, Ch. 64, L. 1999; amd. Sec. 2, Ch. 4, Sp. L. May 2000; amd. Sec. 2, Ch. 487, L. 2001.

17-6-312. State participation in loans. (1) Subject to 17-6-311, state participation in any loan to a business enterprise, except for a loan made pursuant to 17-6-317 or guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

(2) The purchase of debentures issued by a capital company is not a loan participation and is not subject to subsection (1).

(3) State participation in loans to nonprofit corporations may qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to a for-profit business creating the jobs.

History: En. Sec. 9, Ch. 677, L. 1983; amd. Sec. 4, Ch. 124, L. 1987; amd. Sec. 4, Ch. 2, L. 1995; amd. Sec. 4, Ch. 477, L. 1995; amd. Sec. 3, Ch. 4, Sp. L. May 2000; amd. Sec. 3, Ch. 487, L. 2001.

17-6-313. Prior commitment of funds. The board may authorize the commitment of funds to financial institutions and capital companies pursuant to rules adopted by the board, but the determination as to credit with respect to individual investments must be made by the financial institution and the board or the capital company and the board.

History: En. Sec. 10, Ch. 677, L. 1983; amd. Sec. 5, Ch. 124, L. 1987.

17-6-314. Rate of return. Except as provided in 17-6-317, in calculating the rate of return for any Montana investment to be made from the permanent coal tax trust fund, the board shall consider the long-term benefit to the Montana economy and the additional service fee discount provided for in 17-6-319.

History: En. Sec. 11, Ch. 677, L. 1983; amd. Sec. 10, Ch. 589, L. 1991; amd. Sec. 4, Ch. 4, Sp. L. May 2000.

17-6-315. Repealed. Sec. 19, Ch. 589, L. 1991.

History: En. Sec. 12, Ch. 677, L. 1983; amd. Sec. 5, Ch. 640, L. 1985; amd. Sec. 1, Ch. 102, L. 1987.

17-6-316. Economic development loan -- infrastructure tax credit. (1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a business in Montana. The loan must be made to a local government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years.

History: En. Sec. 5, Ch. 2, L. 1995; En. Sec. 5, Ch. 477, L. 1995; amd. Sec. 7, Ch. 477, L. 1995.

17-6-317. Participation by private financial institutions -- rulemaking. (1) (a) The board may jointly participate with private financial institutions in making loans to a business enterprise if the loan will:

(i) result in the creation of a business estimated to employ at least 10 people in Montana on a permanent, full-time basis;

- (ii) result in the expansion of a business estimated to employ at least an additional 10 people in Montana on a permanent, full-time basis; or
- (iii) prevent the elimination of the jobs of at least 10 Montana residents who are permanent, full-time employees of the business.
- (b) Loans under this section may be made only to business enterprises that are producing or will produce value-added products or commodities.
- (c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under 17-6-318.
- (2) A loan made pursuant to this section may not exceed 1% of the coal severance tax permanent fund and must comply with each of the following requirements:
 - (a) (i) The business enterprise seeking a loan must have a cash equity position equal to at least 25% of the total loan amount.
 - (ii) A participating private financial institution may not require the business to have an equity position greater than 50% of the total loan amount.
 - (iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a participating private financial institution, then the additional security or guarantees must be proportional to the amount loaned by all participants, including the board of investments.
 - (b) The board shall provide 75% of the total loan amount.
 - (c) The term of the loan may not exceed 15 years.
 - (d) The board shall charge interest at the following annual rate:
 - (i) 2% for the first 5 years if 15 or more jobs are created or retained;
 - (ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;
 - (iii) 6% for the second 5 years; and
 - (iv) the board's posted interest rate for the third 5 years, but not to exceed 10% a year.
 - (e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the board receives certification that the required number of jobs has been created or as provided in subsection (2)(e)(ii). If the board disburses loan proceeds prior to creation of the required jobs, the loan must bear interest at the board's posted rate.
 - (ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination of jobs, the board shall require the submission of financial data that allows the board to determine if the loan and interest rate will in fact prevent the elimination of jobs.
 - (f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of required jobs, the board may apply a graduated scale to increase the interest rate, not to exceed the board's posted rate.
 - (g) For purposes of calculating job creation or retention requirements, the board shall use the average weekly salary, as defined in 39-71-116, multiplied by the number of jobs required. This calculated number is the minimum aggregate salary threshold that is required to be eligible for a reduced interest rate. If individual jobs created pay less than the average weekly salary, the borrower shall create more jobs to meet the minimum aggregate salary threshold. If fewer jobs are created or retained than required in subsection (2)(d)(i) or (2)(d)(ii) but aggregate salaries meet the minimum aggregate salary threshold, the borrower is eligible for the reduced interest rate. A job paying less than the minimum wage, provided for in 39-3-409, may not be included in the required number of jobs.
 - (h) (i) A participating private financial institution may charge interest in an amount equal to the national prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6% or greater than 12%.
 - (ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to an adjustable or fixed rate on terms acceptable to the borrower and lender.
 - (iii) A participating private financial institution, or lead private financial institution if more than one is participating, may charge a 0.5% annual service fee.
 - (i) The business enterprise may not be charged a loan prepayment penalty.
 - (j) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation provisions based upon the loan percentage of the board and each participating private lender.

(3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion of the loan must be made based upon the percentage of completion to ensure that the construction portion of the loan is advanced prior to completion of the project.

(4) A private financial institution shall participate in a loan made pursuant to this section to the extent of 85% of its lending limit or 25% of the loan, whichever is less. However, the board's participation in the loan must be 75% of the loan amount.

(5) A business enterprise receiving a loan under the provisions of this section may not pay bonuses or dividends to investors until the loan has been paid off, except that incentives may be paid to employees for achieving performance standards or goals.

(6) The board may adopt rules that it considers necessary to implement this section.

History: En. Sec. 1, Ch. 4, Sp. L. May 2000; amd. Sec. 1, Ch. 289, L. 2001.

17-6-318. Job credit interest rate reduction for business loan participation. (1) A borrower who uses the proceeds of a business loan participation funded under the provisions of this part to create jobs employing Montana residents is entitled to a job credit interest rate reduction for each job created to employ a Montana resident. A borrower who uses the proceeds of a loan made pursuant to 17-6-309(2) to create jobs is entitled to a job credit interest rate reduction for each job created. The job credit interest rate reduction is equal to 0.05% for each job created to employ a Montana resident, up to a maximum interest rate reduction of 2.5%.

(2) If the salary or wage of the job created:

(a) exceeds the average weekly wage, as defined in 39-71-116, the amount of the job credit interest rate reduction may be increased proportionately for each increment of 25% above the average weekly wage to a maximum of two times the average weekly wage; or

(b) is less than the average weekly wage, as defined in 39-71-116, the job credit interest rate reduction is reduced proportionately for each 25% increment below the average wage.

(3) A job credit interest rate reduction may not be allowed for a job created by the borrower using the proceeds of the loan for which the salary or wage is less than the minimum wage provided for in 39-3-409.

(4) A job credit may not be given unless one whole job is created.

(5) To qualify for the job credit interest rate reduction, the borrower shall provide satisfactory evidence of the creation of jobs and shall make a written application to the board through its financial institution or, in the case of a loan made pursuant to 17-6-309(2), shall make a written application directly to the board.

History: En. Sec. 17, Ch. 589, L. 1991; amd. Sec. 2, Ch. 98, L. 1997; amd. Sec. 3, Ch. 64, L. 1999; amd. Sec. 4, Ch. 487, L. 2001.

17-6-319. Incentive to financial institution for small business loan participation. A financial institution that originates a small business loan no larger than 0.05% of the balance of the Montana permanent coal tax trust fund at the end of the last completed fiscal year is entitled to an additional service fee in the form of a discount equal to 0.5% of the board's participation in the loan. The board shall consider the additional service fee discount to the financial institution as part of the rate of return provided in 17-6-314.

History: En. Sec. 18, Ch. 589, L. 1991.

17-6-320 reserved.

17-6-321. Audits. The board's books and records related to in-state investments must be audited once each fiscal year by or at the direction of the legislative auditor. The actual cost of this audit must be paid from the board's funds.

History: En. Sec. 13, Ch. 677, L. 1983; amd. Sec. 3, Ch. 308, L. 1985; amd. Sec. 45, Ch. 483, L. 2001; amd. Sec. 5, Ch. 487, L. 2001.

17-6-322. Report. The board shall include in its annual report a section on the results of the previous year's operations of the investment in the Montana economy from the permanent coal tax trust fund, as required in 17-6-305, including:

- (1) financial statements audited by independent auditors;
- (2) a summary report of loan activity; and
- (3) a comparison of the performance of the investments in the Montana economy in relation to the purposes contained in 17-6-303.

History: En. Sec. 14, Ch. 677, L. 1983; amd. Sec. 1, Ch. 264, L. 1987; amd. Sec. 1, Ch. 94, L. 1989; amd. Sec. 11, Ch. 589, L. 1991.

17-6-323. Repealed. Sec. 3, Ch. 94, L. 1989.

History: En. Sec. 15, Ch. 677, L. 1983.

17-6-324. Rulemaking authority. (1) The board may adopt rules to implement the provisions of this part and 17-6-211(2). Rules adopted by the board may include:

- (a) definitions of small- and medium-sized businesses;
 - (b) a method of committing funds to financial institutions, including guidelines for lead private financial institutions if a consortium of private financial institutions is participating in a loan made pursuant to 17-6-317;
 - (c) guidelines for graduation clauses for refinancing and early payment of loans made pursuant to 17-6-317;
 - (d) types of service fees; and
 - (e) types of investments to be made.
- (2) The board may also adopt procedural rules to govern its proceedings.

History: En. Sec. 16, Ch. 677, L. 1983; amd. Sec. 8, Ch. 418, L. 1985; amd. Sec. 5, Ch. 4, Sp. L. May 2000.

17-6-325. Preference of Montana labor. Any contract to construct a project financed pursuant to this part must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. "Substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

History: En. Sec. 3, Ch. 653, L. 1985; amd. Sec. 7, Ch. 561, L. 1987.

17-6-326 through 17-6-330 reserved.

17-6-331. Establishment of a Montana economic development fund. A Montana economic development fund is created. A portion of the interest income from the permanent coal tax trust fund created in 17-6-203(6) shall be deposited in the fund as determined by the legislature. Monies, if any, appropriated by the legislature from the economic development fund shall be used only for programs consistent with the objectives in 17-6-304.

History: En. Sec. 4, I.M. No. 95, approved Nov. 2, 1982; amd. Sec. 8, Ch. 445, L. 1987.

17-6-332 through 17-6-339 reserved.

17-6-340. Purchase of permanent fund mineral estate. The department of natural resources and conservation may purchase the mineral production rights held by the public school fund established in Article X, section 2, of the Montana constitution for fair market value. If the department of natural resources and conservation purchases mineral production rights, any royalty payments received by the board that are not used to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must be deposited in the guarantee account provided for in 20-9-622.

History: En. Sec. 4, Ch. 418, L. 2001.

CHARTER OF THE CITY OF GREAT FALLS

Preamble

We, the people of Great Falls, Montana, grateful for our past, confident of our future, and having considered the form of government which will best serve our needs, do adopt this charter to establish our self-determination as a city.

Article I - General Provisions of Charter Government

Section 1 - Charter Government

The City of Great Falls, Montana, establishes this charter form of government in accordance with Article XI, Section 5, of the Constitution of Montana.

Section 2 - Powers of City Government

- (a) The City of Great Falls shall have all the powers of a self-governing charter city not prohibited by the Montana Constitution, this charter, or specific provisions of Montana law.
- (b) The powers of the City of Great Falls shall be liberally construed. Every reasonable doubt as to the existence of a power or authority of the City of Great Falls shall be resolved in favor of the existence of that power or authority.

Section 3 - Mill Levy Limit

The total mill levy shall not exceed that allowed to general powers cities of the first class by Montana law, except that the City Commission may levy not more than two (2) additional mills for the purpose of providing additional funds for the operation, maintenance and capital needs of the Great Falls Public Library.

Section 4 - Exercise of Powers

All powers of the City of Great Falls are vested in and derived from the people of Great Falls. These powers shall be exercised by the City Commission unless otherwise

provided for by this charter or by Montana law. Enumeration of powers, rights, or duties in this charter shall not be considered exclusive or restrictive.

Article II - City Commission

Section 1 - Composition

The City Commission shall be composed of five voting members: four City Commissioners and the Mayor. The City Commission shall be the legislative and policy-making body of the City of Great Falls.

Section 2 - Duties and Responsibilities

The City Commission shall:

- a) Adopt policies and procedures and enact ordinances and resolutions as necessary for the proper execution of governmental functions and responsibilities.
- b) Appoint and supervise, and may remove, the City Manager.
- c) Adopt an annual budget, levy taxes and special assessments, and may borrow money and issue bonds subject to Montana law. Appropriations, exclusive of bond and loan indebtedness, shall not exceed anticipated revenue.
- d) Adopt as necessary an administrative and personnel code and/or policies.
- e) Adopt procedures for contracting with private and public agencies.
- f) Appoint citizens to boards, councils, committees or any other body or group pursuant to law.
- g) Set the salary of the City Commissioners and the Mayor by ordinance.

Section 3 - Administrative Review

On a majority vote of the whole number of the City Commission, the City Commission may review, inquire, and investigate any operation, management decision, administrative function or other affairs of the City. The City Commission may compel the attendance and testimony of witnesses and the production of books and records by issuance of a subpoena.

Except for the purpose of inquiry, or investigation, the City Commission shall be

involved with administrative and management operations solely through the City Manager.

Article III - The Office of the Mayor

Section 1 - Election of the Mayor

- a) The City of Great Falls shall have a Mayor.
- b) The Mayor shall be elected for a term of two years.
- c) The Mayor shall meet all requirements and qualifications for election to the office of City Commissioner.

Section 2 - Powers and Duties of the Mayor

- a) The Mayor shall be recognized as the official head and representative of the City of Great Falls for the purpose of presiding at City Commission meetings and the performance of ceremonial functions. These functions of the Mayor shall not be construed as conferring upon the mayor executive, personnel, or administrative powers or functions.
- b) The Mayor shall serve as a member of the Commission with all the rights and privileges of City Commissioners. The Mayor shall possess no veto over actions taken by the City Commission.

Section 3 - Office of the Mayor Pro Tempore

The mayor pro tempore shall serve in the absence of the elected mayor. The City Commissioner shall elect from among themselves a Mayor Pro-Tempore no later than one month after taking office. The Mayor Pro-Tempore shall serve a term of two years, or until the City Commission has held an election. Any vacancy in this office shall be filled by a special election among the remaining City Commissioners. Any person elected to fill such a vacancy shall serve the remaining portion of the term in which the vacancy occurred.

Article IV - Elections and Vacancies

Section 1 - Election of City Commissioners and the Mayor

- a) City Commissioners and the Mayor shall be residents and qualified electors of the

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City of Great Falls.

- b) Elections for City Commissioners and for the Mayor shall be non-partisan.
- c) City Commissioners shall be elected for a term of four years and the Mayor shall be elected for a term of two years. Except in the case of a previous vacancy, two City Commissioners and the Mayor shall be elected every two years. City Commissioners and the Mayor shall take office the first Tuesday after January 1st in the year following the election.
- d) City Commissioners and the Mayor shall be nominated and elected at large.

Section 2 - Vacancy in the Office of City Commission or Mayor

- a) The office of City Commissioner or Mayor shall become vacant upon death, resignation, recall or forfeiture of office. Grounds for forfeiture of office shall be:
 - (1) Loss of eligibility for election.
 - (2) Violation of any express provision of this charter.
 - (3) Conviction of a felony.
- b) A majority of the City Commission shall be the judge of the election and qualifications of its members and the grounds for forfeiture of their office. A City Commissioner or Mayor charged with conduct constituting grounds for forfeiture of office shall be entitled to notice in writing of such charges and a public hearing on demand before a majority of the City Commission.
- c) When a vacancy occurs, the City Commission, may, by majority vote of its remaining members, appoint a person, eligible to hold such office, to fill the vacancy of City Commissioner or Mayor until the next regular City election. The person elected at the next regular City election shall serve the unexpired term of the office in which the vacancy occurred.

Article V - City Court

There shall be a city court and an elected city judge as provided by Montana law.

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Article VI - City Government Administration

Section 1 - Position of the City Manager

The City Commission shall employ a City Manager on the basis of merit.

Section 2 - Appointment and Removal of the City Manager

The City Commission shall appoint or remove the City Manager by majority vote of the whole number of the Commission.

Section 3 - Salary of the City Manager

The salary of the City Manager shall be set by the City Commission.

Section 4 - Duties of the City Manager

The City Manager shall be the chief administrative and executive officer of the City and shall be responsible to the City Commission for the administration of all City affairs required by this charter, law, ordinance or resolution. The City Manager shall:

- a) Carry out policies established by the City Commission.
- b) Perform the duties required by this charter, law, ordinance, or resolution.
- c) Enforce laws, ordinances and resolutions.
- d) Administer the affairs of the City .
- e) Direct, organize, supervise, and administer all departments, divisions, agencies, bureaus, and the offices of the City .
- f) Make recommendations to the City Commission.
- g) Report to the City Commission on the fiscal affairs and the financial condition of the City .
- h) Prepare and present the budget to the City Commission.
- i) Execute bonds, notes, contracts, and written obligations of the City Commission and the City of Great Falls subject to the approval of the City Commission.
- j) Report to the City Commission on the affairs of the City as the City Commission may require.
- k) Attend City Commission meetings with the right to take part in the discussion but not to vote.
- l) Appoint and be administratively responsible for all City employees, including

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their suspension or removal.

- m) Appoint with the approval of the City Commission a qualified acting City Manager to exercise the powers and perform the duties of the City Manager during temporary absences.
- n) Be responsible for the administration of an employee grievance appeals procedure as adopted by the City Commission.
- o) May, without notice, cause the affairs of any department, division, office, agency or other City administrative unit or employee to be examined.

Section 5 - Administrative Departments

Administrative departments, divisions, bureaus, agencies, offices, and other administrative entities shall be subject to the control and supervision of the City Manager and shall be established by ordinance.

Article VII - Citizen Involvement in Government

Section 1 - Initiative, Referendum, and Recall

The qualified electors of the City of Great Falls may exercise the powers of Initiative, Referendum, and Recall as provided by Montana law.

Section 2 - Open Government

All records of the City of Great Falls, including the City Commission and all boards, councils, committees, shall be open to the public as provided by Montana law. All meetings of such bodies shall be publicly announced in advance and shall be open to the public as provided by Montana law.

Section 3 - Citizen Involvement

The City Commission may establish and appoint persons to boards, councils, committees, commissions, and other bodies of an advisory or substantive nature to assist the commission in the exercise of its duties. The City of Great Falls encourages citizens to participate in these bodies by serving as members, attending meetings, and other similar methods.

Section 4 - Neighborhood Councils

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- a) Purpose: There shall be neighborhood councils. The councils shall act in an advisory capacity to the City Commission, the City Manager and to other City advisory bodies, and may contribute information, opinions, advice, suggestions and recommendations to the City Commission, City Manager and other City advisory bodies on all governmental affairs and services having an effect on the area the neighborhood council represents, including, but not limited to, public finance, public works, public safety, planning and zoning, and public health and sanitation.
- b) Provision of Neighborhood Districts; Composition of Councils; Election: The City Commission shall, by ordinance, divide the City of Great Falls into no less than nine (9) and no more than thirteen (13) neighborhood council districts. The residents of a district shall comprise the electorate for that district. Each district shall have a council comprised of five (5) members; elected to a two (2) year term at the election held in conjunction with the City general election. Nominees for election to a neighborhood council must be residents of their designated neighborhood district.
- c) Organization: Each council shall organize with a chairman, secretary, and an official delegate to attend City Commission meetings. The chairman must be one of the five elected council members. In the event of a vacancy on the council, the remaining members shall appoint a person eligible to hold the position to fill the vacancy until the next general election. Within thirty (30) days after each election, each neighborhood council shall meet to organize as provided in the section. Each council shall adopt by-laws prescribing additional duties of the council, meeting criteria and times, and such other provisions as the council may deem appropriate and which are not inconsistent with the provisions of this charter and the laws of Montana. The City Commission may provide model by-laws for use by the councils in drafting their own by-laws.
- d) Open Meetings and Right to Know: All meetings of the neighborhood councils shall be open to the public. All records maintained by the council shall be available for public inspection.
- e) Organization of a Great Falls Citizen's Council: A majority of the neighborhood councils may provide for the creation of a Great Falls citizen's Council, consisting of one

(1) member from each of the participating neighborhood councils. The Citizen's Council may determine its rules of organization and operation, except that no rules adopted shall be inconsistent with the provisions of this Charter or the laws of Montana. The City Commission may provide model by-laws for use by the Council in draft in its own by-laws. The purposes of the Citizen's Councils shall be set forth in paragraph (a) of this section.

f) **Obligations of the City Commission; City of Great Falls:** Nothing in this section shall obligate the City Commission to appropriate funds to any council for its operation, or to the Great Falls Citizen's Council authorized in paragraph (e). The City of Great Falls shall not be liable for any obligations incurred by the councils or the Citizen's Council during their existence except as provided for by the City Commission.

g) **Sunset Provision and City Liability:** At the general election currently set for November 2001, or in the event state election laws are changed than no later than the general election set for November 2002, the City electorate shall vote on the question whether to retain this section. The ballot presented by voters shall be in the following form:

FOR retaining neighborhood councils and the Citizen's Council as provided by Article VII, Section 4, of the Charter.

AGAINST retaining neighborhood councils and the Citizen's Council as provided in Article VII, Section 4 of the Charter.

In the event the majority of the City electorate voting in the general election vote against retention of the neighborhood councils, then the councils shall terminate on January 1st of the year immediately following the election. The councils shall be responsible for completing any unfinished business before that date.

Article VIII - Amendment, Effective Date, and Severability

Section 1 - Amendment

This charter may be amended only as provided by Montana law. A majority of the

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qualified electors of the City of Great Falls voting on the question shall be required for passage of a charter amendment.

Section 2 - Effective Date

This charter shall become effective on July 1, 1986.

Section 3 - Severability

If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter, or any part of its provision, to any person or circumstances, is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Article IX - Transitional Provisions

Section 1 - General Transition

Transition to this charter form of government shall be as prescribed by Montana law. The City Commission shall provide for such transition by ordinance, rule or resolution not inconsistent with Montana law. This transition article shall not be published as a regular part of this charter after the provisions have been implemented.

Section 2 - Compliance of Ordinances

The City Commission shall review and where necessary revise or repeal all City ordinances to provide for their compliance and consistency with this charter by no later than June 30, 1987.

Section 3 - Election Transition

- a) The five members of the City Commission elected under the previous form of government, including the Mayor and Mayor-elect elected under the previous form of government shall serve as City Commissioners in the charter form of government until the expiration of the term of office to which they were elected in the previous form of government.
- b) In the primary and general elections to be held in September and November of 1987, the two City Commission seats that were up for election in 1983 shall be up for election.

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- c) In the primary and general elections to be held in September and November of 1989, there shall be two City Commissioner seats up for election. These shall be those last elected in 1985. The City Commission seat held by the Mayor selected under the previous form of government shall cease to exist on the first Tuesday after January 1, 1990, and shall not be up for election.
- d) From the effective date of the charter until the first Tuesday after January 1, 1988, the Mayor selected under the previous form of government shall serve as Mayor of the charter government with all the powers and responsibilities accorded to the mayor in the Charter. On the first Tuesday after January 1, 1988, the Mayor-elect selected under the previous form of government shall become Mayor of the charter government for a term of two years.
- e) In the primary and general elections to be held in September and November of 1989, there shall be elected a Mayor, on a non-partisan City wide basis. The Mayor-elect shall take office on the first Tuesday after January 1, 1990, and serve a term of two years, consistent with provisions contained in this charter.
- f) This transitional article becomes effective on July 1, 1986, and expires as soon as the directly-elected Mayor takes office.

Broker/Dealer Request for Information

Section I: Statement of Position and General Requirements

The City of Great Falls (hereinafter referred to as the "City") is a Self Governing Charter City operating under the laws of the State of Montana. The City manages an operational portfolio ranging in size from \$25,000,000 to \$35,000,000, which is comprised mainly of U.S. Treasury and Agency obligations. The City has adopted a written Investment Policy which regulates the standards and procedures used in its cash management activities. A copy of the Investment Policy is attached as an Appendix to this document.

The City maintains relationships with qualified members of the broker/dealer community who, in their opinion, understand the needs, constraints, and goals of the City.

Broker/Dealers will be notified of their approval by the City in writing. No transactions will be conducted with an approved broker/dealer until all paperwork required by both parties has been executed. The City solicits competitive bids and offers on the majority of its transactions. All securities will be delivered against payment to the third-party custodian named by the City. City personnel will review and substantiate all information and references requested in the documents; therefore, please answer all questions as thoroughly as possible.

Section II – Part I: Request for General Information from Broker/Dealer Candidate

1. Name of firm _____
2. Address – Local _____
Headquarters _____

(Provide both street address and/or P.O. Box No., if applicable)
3. Telephone No. Local () _____
(800) _____
Headquarters () _____
4. Contact personnel: (provide as an attachment if more space is required)
Name _____
Title _____
Telephone No. _____

Name _____
Title _____
Telephone No. _____

Name _____
Title _____
Telephone No. _____

- 4a. Provide background information concerning the account representatives listed in No. 4 above. Please include information on the individual's employment history as it relates to the securities industry, official licenses and certificates, the history and details of any disciplinary actions or complaints and the disposition of each as well as the history of any arbitration or litigation, the nature of the case and status or disposition.
5. Please provide the following information regarding at least four comparable clients with whom any of the representatives listed in No. 4 has an established relationship. We would prefer public sector clients in our geographical area, if possible.

Client Name _____
Address _____

Person to contact _____
Telephone No. _____
Length of relationship _____

Client Name _____
Address _____

Person to contact _____
Telephone No. _____
Length of relationship _____

Client Name _____
Address _____

Person to contact _____
Telephone No. _____
Length of relationship _____

Client Name _____
Address _____

Person to contact _____
Telephone No. _____
Length of relationship _____

6. Has/have the representative(s) listed in No. 4 above been authorized by the firm to be account representative(s) for the City of Great Falls?
Yes _____ No _____
If yes, by whom? _____

7. Please list the name of the immediate supervisor of the account representative(s) named in your response to No. 4 above. _____

Briefly describe any formal program of supervision of the account representative(s) named in No. 4, if your firm has established such a program.

8. Is your firm a member of NASD? Yes _____ No _____
If not, why?

9. Place an "X" by each regulatory agency that your firm is examined by and/or subject to its rules and regulations.

FDIC _____ SEC _____ NYSE _____
Comptroller of Currency _____ Federal Reserve System _____
Other (example: State Regulatory Agency). Multistate firms please note: It is not necessary to include regulatory agencies which do not have jurisdiction over your firm's activities in the City of Great Falls' jurisdiction.

10. Have you obtained all required licenses to operate as a broker/dealer in the State of Montana?
Yes _____ No _____

11. If you are not a Bank, please provide the following information regarding your principal banking relationship.

Bank Name _____
Address _____
Person to Contact _____
Telephone Number _____
Length of Relationship _____

12. Place an "X" in the block next to each of the instruments set forth below in which you make an active market (both buy and sell).

T-Bills	_____	T Notes/Bonds	_____
BA	_____	Commercial Paper	_____
Bank CDs	_____	S&L CDs	_____
GNMAs	_____	FHLMCs	_____

Other Federal Agencies (Please Specify) _____
Instrumentalities (Please Specify) _____

13. Does your firm specialize in any of the instruments listed above? If so, please specify which ones.

Section II - Part II: Request for Broker/Dealer Candidate Disclosure

14. To the best of your knowledge, has there been any "material" litigation, arbitration or regulatory proceedings, either pending, adjudicated or settled, that your firm has been subject to within the last five years that involved issues concerning the suitability of the sale or purchase of securities to institutional clients or fraudulent or unfair practices related to the sale of securities to an institutional client? If so, please describe each such matter briefly. For purposes of this section, proceedings are "material" if your independent accountant applying generally accepted accounting principals determines that such proceedings required disclosure on your financial statements.
15. Please provide certified audited financial statements for the last three years. In addition, for those dealers preparing and submitting financial statements to the following organizations, please provide publicly available financial documents filed with these agencies for the previous two years:

National Association of Securities Dealers
Securities and Exchange Commission
New York Stock Exchange
Federal Deposit Insurance Corp.

16. Will the representative(s) assigned to the City of Great Falls account be required to read the City of Great Falls Investment Policy?
Yes _____ No _____

Section III: Certification

I hereby certify that the above is true and correct to the best of my knowledge and that I am authorized to execute this request for information on behalf of _____
(Name of Firm)

Name of Firm _____
BY _____
*Title _____
DATE _____

- Note the foregoing form must be signed by a registered principal of your firm.