

1 House BILL NO. 714
 2 INTRODUCED BY Waldron Falgout Paton
 3 Quilini & Co

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE
 5 LOWER-INCOME MORTGAGE FINANCE BOND INSURANCE FUND; AMENDING
 6 SECTIONS 35-503 AND 35-516, R.C.M. 1947."

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

9 Section 1. Section 35-503, R.C.M. 1947, is amended to
 10 read as follows:

11 "35-503. Definitions. As used in this act, unless the
 12 context requires otherwise: (1) "Board" means the board of
 13 housing created in section 82A-907, R.C.M. 1947.

14 (2) "Bond" means any bonds, notes, debentures, interim
 15 certificates or other evidences of financial indebtedness
 16 issued by the board pursuant to this act.

17 (3) "Capital reserve account" means the capital
 18 reserve account provided for in section 35-523.

19 (4) "Department" means the department of community
 20 affairs provided for in Title 82A, chapter 9, R.C.M. 1947.

21 (5) "Federally insured mortgage" means a mortgage loan
 22 for land development or residential housing insured or
 23 guaranteed by the United States or a governmental agency or
 24 instrumentality thereof, or a commitment by the United
 25 States or a governmental agency or instrumentalities thereof

1 to insure such a mortgage.

2 (6) "Federally insured security" means an evidence of
 3 indebtedness insured or guaranteed as to repayment of
 4 principal and interest by the United States or an
 5 instrumentality thereof.

6 (7) "Governmental agency" means any department,
 7 division, public corporation, public agency, political
 8 subdivision, or other public instrumentality of the state,
 9 the federal government, any other state or public agency, or
 10 any two or more thereof.

11 (8) "Housing development" means any work or
 12 undertaking financed, in whole or in part, under this act
 13 for the primary purpose of acquiring, constructing or
 14 rehabilitating dwelling accommodations for persons or
 15 families of lower income in need of housing. An undertaking
 16 may include any buildings, land, equipment, facilities, or
 17 other real or personal properties which are necessary,
 18 convenient, or desirable in connection therewith, including
 19 but not limited to streets, sewers, utilities, parks, site
 20 preparation, landscaping, and other nonhousing facilities as
 21 the board determines to be necessary, convenient, or
 22 desirable.

23 (9) "Housing development costs" means the sum total of
 24 all costs incurred in a housing development approved by the
 25 board as reasonable and necessary, including, but not

HB 714

1 limited to:

2 (a) cost of land acquisition and any buildings
3 thereon, including payments for options, deposits, or
4 contracts to purchase properties on the proposed housing
5 development site or payments for the purchase of properties;

6 (b) cost of site preparation, demolition and clearing;

7 (c) architectural, engineering, legal, accounting,
8 corporation, and other fees paid or payable in connection
9 with the planning, execution and financing of the housing
10 development and the finding of an eligible mortgagee or
11 mortgagees for the housing development;

12 (d) cost of necessary studies, surveys, plans, and
13 permits;

14 (e) insurance, interest, financing, tax and assessment
15 costs and other operating and carrying costs during
16 construction;

17 (f) cost of construction, rehabilitation,
18 reconstruction, fixtures, furnishings, equipment, machinery,
19 apparatus and similar facilities related to the real
20 property;

21 (g) cost of land improvements including landscaping
22 and offsite improvements, whether or not the costs have been
23 paid in cash or in a form other than cash;

24 (h) necessary expenses in connection with initial
25 occupancy of the housing development;

1 (i) a reasonable profit and risk fee in addition to
2 job overhead to the general contractor and if applicable, a
3 limited profit housing sponsor;

4 (j) an allowance established by the board for working
5 capital and contingency reserves, and reserves for any
6 anticipated operating deficits during construction and
7 initial occupancy;

8 (k) costs of other items, including tenant relocation,
9 as the board determines to be reasonable and necessary for
10 the housing development, less any and all net rents and
11 other net revenues received from the operation of the real
12 and personal property on the development site during the
13 construction.

14 (10) "Housing sponsor" means individuals, joint
15 ventures, partnerships, limited partnerships, trusts, firms,
16 associations, corporations, governmental agencies,
17 limited-profit housing sponsor, nonprofit corporation, or
18 other legal entities or any combination thereof, that are:

19 (a) approved by the board;

20 (b) qualified either to own, construct, acquire,
21 rehabilitate, operate, manage, or maintain a housing
22 development;

23 (c) subject to the rules of the board and other terms
24 and conditions set forth in this act.

25 (11) "Lending institution" means any public or private

1 entity or governmental agency, approved by the board,
 2 maintaining an office in this state and authorized by law to
 3 make or participate in making residential mortgages in the
 4 state.

5 (12) "Limited-profit housing sponsor" means a
 6 corporation, trust, partnership, association, other entity,
 7 or an individual restricted as to distribution of income and
 8 regulated as to rents, charges, rate of return, and methods
 9 of operation as the board determines necessary to carry out
 10 this act.

11 (13) "Mortgage" means a mortgage deed, deed of trust,
 12 or other instrument which shall constitute a valid lien on
 13 real property in fee simple or on a leasehold under a lease
 14 having a remaining term at the time the mortgage is
 15 acquired, which does not expire for at least that number of
 16 years beyond the maturity date of the obligation secured by
 17 the mortgage established by the board as necessary to
 18 protect its interest as mortgagee.

19 (14) "Mortgage loan" means an interest bearing
 20 obligation secured by a mortgage on land and improvements in
 21 the state.

22 (15) "Nonprofit housing sponsor" means a housing
 23 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
 24 or a nonprofit corporation formed under Title 15, chapter
 25 23, R.C.M. 1947, restricted as to distribution of income and

1 regulated as to rents, charges, rate of return and methods
 2 of operation as the board determines necessary, and whose
 3 articles of incorporation provide, in addition that:

4 (a) the organization has been organized exclusively to
 5 provide housing developments for persons and families of
 6 lower income;

7 (b) all the income and earnings of the organization
 8 shall be used exclusively for housing development purposes
 9 and no part of the net income or net earnings of the
 10 organization shall inure to the benefit or profit of any
 11 private individual, firm, corporation, partnership, or
 12 association;

13 (c) the organization is in no manner controlled or
 14 under the direction or acting in the substantial interest of
 15 any private individual, firm, partnership, or association
 16 seeking to derive profit or gain therefrom, or seeking to
 17 eliminate or minimize losses in any transactions therewith,
 18 except that the limitations shall apply to members of a
 19 cooperative only to the extent provided by rules of the
 20 board;

21 (d) the operations of the organization may be
 22 supervised by the board and the organization will enter into
 23 agreements with the board to regulate planning, development,
 24 and management of any housing development undertaken by the
 25 organization and the disposition of the property or other

1 interests of the organization.

2 (16) "Persons and families of lower income" means
3 persons and families, with insufficient personal or family
4 income who require assistance under this act, as determined
5 by the board, taking into consideration:

6 (a) the amount of the total personal and family income
7 available for housing needs;

8 (b) the size of the family;

9 (c) the eligibility of persons and families under
10 federal housing assistance of any type based on lower income
11 or a functional or physical disability;

12 (d) the ability of persons and families to compete
13 successfully in the normal housing market and to pay the
14 amount at which private enterprise is providing decent,
15 safe, and sanitary housing;

16 (e) the availability and cost of housing in particular
17 areas; and

18 (f) needs of particular persons or families due to age
19 or physical handicaps.

20 (17) "Rehabilitation" means the repair, reconstruction,
21 or improvement of an existing structure to provide decent,
22 safe and sanitary housing or to conform housing with state
23 or local health, building, fire prevention, and safety codes
24 as determined by the board.

25 (18) "Low-income households" means, for the purposes of

1 35-516(5), those persons whose incomes do not exceed 80% of
2 the median income for the area, as determined by the
3 secretary of the United States department of housing and
4 urban development.

5 (19) "Rural area" means, for the purposes of 35-516(5),
6 any area of the state where the farmers home administration
7 of the United States department of agriculture is operating
8 or is authorized to operate."

9 Section 2. Section 35-516, R.C.M. 1947, is amended to
10 read as follows:

11 "35-516. Reserve funds and appropriations. (1) The
12 board shall pay into the capital reserve account:

13 (a) any funds appropriated and made available by the
14 state for the purpose of the account;

15 (b) any proceeds of sale of notes or bonds to the
16 extent provided in the resolutions or indentures of the
17 board authorizing their issuance; and

18 (c) any other funds which may be available to the
19 board for the purpose of the account from any other source.

20 (2) All funds held in the capital reserve account
21 shall be used solely for the payment of the principal of
22 bonds secured in whole or in part by the account or of the
23 sinking fund payments with respect to the bonds, the
24 purchase or redemption of the bonds, the payment of interest
25 on the bonds or the payment of any redemption premium

1 required to be paid when the bonds are redeemed prior to
 2 maturity. Funds in the account shall not be withdrawn at
 3 any time in an amount which reduces the amount of the
 4 account to less than the sum of minimum capital reserve
 5 requirements established for the account, except for the
 6 purpose of making, with respect to bonds secured in whole or
 7 in part by the account, payment, when due, of principal,
 8 interest, redemption premiums, and sinking fund payments for
 9 the payment of which other moneys pledged are not available.
 10 Any income or interest earned by, or incremental to, the
 11 capital reserve account due to its investment may be
 12 transferred to other accounts of the board to the extent it
 13 does not reduce the amount of the capital reserve account
 14 below the sum of minimum capital reserve requirements for
 15 the account.

16 (3) The board may not issue bonds secured in whole or
 17 in part by the capital reserve account, unless the board
 18 deposits in the account, from the proceeds of the bonds
 19 issued or from any other sources, an amount not less than
 20 the minimum capital reserve requirement for these bonds.
 21 For the purposes of this section, the term "minimum capital
 22 reserve requirement" means, as of any particular date of
 23 computation, an amount of money, as provided in the
 24 resolution or indenture of the board authorizing the bonds
 25 or notes, equal to not more than the greatest of the

1 respective amounts for the current or any future fiscal year
 2 of the board of annual debt service on the bonds of the
 3 board secured in whole or in part by the account. The
 4 annual debt service for any fiscal year is the amount of
 5 money equal to the aggregate of all interest and principal
 6 payable on the bonds during the fiscal year, calculated on
 7 the assumption that all the bonds are paid at maturity. If
 8 any amount of the bonds is required to be redeemed on an
 9 earlier date by the operation of a sinking fund, then that
 10 amount is considered payable on those bonds during the year
 11 they are to be redeemed for the purposes of this
 12 calculation.

13 (4) In computing the amount of the capital reserve
 14 account, securities in which all or a portion of the account
 15 shall be invested shall be valued at par, or if purchased
 16 at less than par, at their cost to the board.

17 ~~(5) There is established within the capital reserve~~
 18 ~~account a low-income mortgage finance bond insurance fund.~~
 19 ~~The fund shall be used for the purposes described in~~
 20 ~~subsections (1), (2), (3), and (4) of this section. However,~~
 21 ~~the proceeds from the bonds secured by the fund shall be~~
 22 ~~used to finance projects in which no less than 20% of the~~
 23 ~~occupants are low-income households. At least 50% of the~~
 24 ~~projects financed through the fund must be in rural areas of~~
 25 ~~the state."~~

STATE OF MONTANA

REQUEST NO. 399-77

FISCAL NOTE

Form BD-15

compliance with a written request received February 8, 1977, there is hereby submitted a Fiscal Note
House Bill 714 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
 of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 714 amends the state "Housing Act of 1975" by establishing a Lower-Income Mortgage Finance Bond Insurance
 Fund. The purpose of the fund is to finance household mortgages in which no less than 20% of the occupants are low-income
 persons and at least 50% of the projects financed are to be in rural areas of the state.

ASSUMPTION:

- 1. It is assumed that the Low-Income Mortgage Finance Bond Insurance Fund would be about \$15,000,000 annually.
- 2. One full-time underwriter would be needed, who would do extensive traveling.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Expenditures under proposed law		
Personal services	\$ 84,300	\$ 84,300
Operating expenses	<u>23,200</u>	<u>23,200</u>
Total expenditures under proposed law	107,500	107,500
Expenditures under current law	<u>89,500</u>	<u>89,500</u>
Increased expenditures under proposed law	<u>\$ 18,000</u>	<u>\$ 18,000</u>

Richard D. Franzen
 BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-14-77

STATE OF MONTANA

REQUEST NO. Revised 399-77

FISCAL NOTE

Form BD-15

In compliance with a written request received March 18, 19 77, there is hereby submitted a Fiscal Note for House Bill 714 Amended pursuant to Chapt. 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 714 amends the state "Housing Act of 1975" by establishing a Lower-Income Mortgage Finance Bond Insurance Fund. The purpose of the fund is to finance household mortgages in which no less than 20% of the occupants are low-income persons and at least 50% of the projects financed are to be in rural areas of the state.

Section 2 of the proposed legislation establishes a Low-Income Mortgage Finance Fund within the existing Housing Finance Account to be used to secure bonds to finance housing developments for low-income persons. The Housing Finance Account is a yet-to-be-established "Bond Proceeds and Insurance Clearance Account" which will consist of the moneys deposited in the state treasury obtained from the sale of bonds issued under the "Housing Act of 1975."

ASSUMPTION:

One full-time underwriter would be needed, who would do extensive traveling.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Expenditures under proposed law		
Personal services	\$ 84,300	\$ 84,300
Operating expenses	<u>23,200</u>	<u>23,200</u>
Total expenditures under proposed law	107,500	107,500
Expenditures under current law	<u>89,500</u>	<u>89,500</u>
Increased expenditures under proposed law	<u>\$ 18,000</u>	<u>\$ 18,000</u>

TECHNICAL NOTE:

The legislative intent of the amended language in Section 2(5) is not clear: (a) How much money is earmarked for the Low-Income Mortgage Finance Insurance Fund to secure such bonds? (2) Does the proposed legislation intend to use bond proceeds to secure additional low-income housing bonds, or does it mean a general fund obligation?

Richard L. Zungfer
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-21-77

Approved by Committee
on Labor & Employment
Relations

HOUSE BILL NO. 714

INTRODUCED BY WALDRON, FABREGA, PALMER, QUILICI, ELLIS

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE
LOWER-INCOME MORTGAGE FINANCE BOND INSURANCE FUND; AMENDING
SECTIONS 35-503 AND 35-516, R.C.M. 1947."

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

Section 1. Section 35-503, R.C.M. 1947, is amended to
read as follows:

"35-503. Definitions. As used in this act, unless the
context requires otherwise: (1) "Board" means the board of
housing created in section 82A-907, R.C.M. 1947.

(2) "Bond" means any bonds, notes, debentures, interim
certificates or other evidences of financial indebtedness
issued by the board pursuant to this act.

(3) "Capital reserve account" means the capital
reserve account provided for in section 35-523.

(4) "Department" means the department of community
affairs provided for in Title 82A, chapter 9, R.C.M. 1947.

(5) "Federally insured mortgage" means a mortgage loan
for land development or residential housing insured or
guaranteed by the United States or a governmental agency or
instrumentality thereof, or a commitment by the United
States or a governmental agency or instrumentalities thereof

to insure such a mortgage.

(6) "Federally insured security" means an evidence of
indebtedness insured or guaranteed as to repayment of
principal and interest by the United States or an
instrumentality thereof.

(7) "Governmental agency" means any department,
division, public corporation, public agency, political
subdivision, or other public instrumentality of the state,
the federal government, any other state or public agency, or
any two or more thereof.

(8) "Housing development" means any work or
undertaking financed, in whole or in part, under this act
for the primary purpose of acquiring, constructing or
rehabilitating dwelling accommodations for persons or
families of lower income in need of housing. An undertaking
may include any buildings, land, equipment, facilities, or
other real or personal properties which are necessary,
convenient, or desirable in connection therewith, including
but not limited to streets, sewers, utilities, parks, site
preparation, landscaping, and other nonhousing facilities as
the board determines to be necessary, convenient, or
desirable.

(9) "Housing development costs" means the sum total of
all costs incurred in a housing development approved by the
board as reasonable and necessary, including, but not

1 limited to:

2 (a) cost of land acquisition and any buildings
3 thereon, including payments for options, deposits, or
4 contracts to purchase properties on the proposed housing
5 development site or payments for the purchase of properties;

6 (b) cost of site preparation, demolition and clearing;

7 (c) architectural, engineering, legal, accounting,
8 corporation, and other fees paid or payable in connection
9 with the planning, execution and financing of the housing
10 development and the finding of an eligible mortgagee or
11 mortgagees for the housing development;

12 (d) cost of necessary studies, surveys, plans, and
13 permits;

14 (e) insurance, interest, financing, tax and assessment
15 costs and other operating and carrying costs during
16 construction;

17 (f) cost of construction, rehabilitation,
18 reconstruction, fixtures, furnishings, equipment, machinery,
19 apparatus and similar facilities related to the real
20 property;

21 (g) cost of land improvements including landscaping
22 and offsite improvements, whether or not the costs have been
23 paid in cash or in a form other than cash;

24 (h) necessary expenses in connection with initial
25 occupancy of the housing development;

1 (i) a reasonable profit and risk fee in addition to
2 job overhead to the general contractor and if applicable, a
3 limited profit housing sponsor;

4 (j) an allowance established by the board for working
5 capital and contingency reserves, and reserves for any
6 anticipated operating deficits during construction and
7 initial occupancy;

8 (k) costs of other items, including tenant relocation,
9 as the board determines to be reasonable and necessary for
10 the housing development, less any and all net rents and
11 other net revenues received from the operation of the real
12 and personal property on the development site during the
13 construction.

14 (10) "Housing sponsor" means individuals, joint
15 ventures, partnerships, limited partnerships, trusts, firms,
16 associations, corporations, governmental agencies,
17 limited-profit housing sponsor, nonprofit corporation, or
18 other legal entities or any combination thereof, that are:

19 (a) approved by the board;

20 (b) qualified either to own, construct, acquire,
21 rehabilitate, operate, manage, or maintain a housing
22 development;

23 (c) subject to the rules of the board and other terms
24 and conditions set forth in this act.

25 (11) "Lending institution" means any public or private

1 entity or governmental agency, approved by the board,
 2 maintaining an office in this state and authorized by law to
 3 make or participate in making residential mortgages in the
 4 state.

5 (12) "Limited-profit housing sponsor" means a
 6 corporation, trust, partnership, association, other entity,
 7 or an individual restricted as to distribution of income and
 8 regulated as to rents, charges, rate of return, and methods
 9 of operation as the board determines necessary to carry out
 10 this act.

11 (13) "Mortgage" means a mortgage deed, deed of trust,
 12 or other instrument which shall constitute a valid lien on
 13 real property in fee simple or on a leasehold under a lease
 14 having a remaining term at the time the mortgage is
 15 acquired, which does not expire for at least that number of
 16 years beyond the maturity date of the obligation secured by
 17 the mortgage established by the board as necessary to
 18 protect its interest as mortgagee.

19 (14) "Mortgage loan" means an interest bearing
 20 obligation secured by a mortgage on land and improvements in
 21 the state.

22 (15) "Nonprofit housing sponsor" means a housing
 23 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
 24 or a nonprofit corporation formed under Title 15, chapter
 25 23, R.C.M. 1947, restricted as to distribution of income and

1 regulated as to rents, charges, rate of return and methods
 2 of operation as the board determines necessary, and whose
 3 articles of incorporation provide, in addition that:

4 (a) the organization has been organized exclusively to
 5 provide housing developments for persons and families of
 6 lower income;

7 (b) all the income and earnings of the organization
 8 shall be used exclusively for housing development purposes
 9 and no part of the net income or net earnings of the
 10 organization shall inure to the benefit or profit of any
 11 private individual, firm, corporation, partnership, or
 12 association;

13 (c) the organization is in no manner controlled or
 14 under the direction or acting in the substantial interest of
 15 any private individual, firm, partnership, or association
 16 seeking to derive profit or gain therefrom, or seeking to
 17 eliminate or minimize losses in any transactions therewith,
 18 except that the limitations shall apply to members of a
 19 cooperative only to the extent provided by rules of the
 20 board;

21 (d) the operations of the organization may be
 22 supervised by the board and the organization will enter into
 23 agreements with the board to regulate planning, development,
 24 and management of any housing development undertaken by the
 25 organization and the disposition of the property or other

1 interests of the organization.

2 (16) "Persons and families of lower income" means
 3 persons and families, with insufficient personal or family
 4 income who require assistance under this act, as determined
 5 by the board, taking into consideration:

6 (a) the amount of the total personal and family income
 7 available for housing needs;

8 (b) the size of the family;

9 (c) the eligibility of persons and families under
 10 federal housing assistance of any type based on lower income
 11 or a functional or physical disability;

12 (d) the ability of persons and families to compete
 13 successfully in the normal housing market and to pay the
 14 amount at which private enterprise is providing decent,
 15 safe, and sanitary housing;

16 (e) the availability and cost of housing in particular
 17 areas; and

18 (f) needs of particular persons or families due to age
 19 or physical handicaps.

20 (17) "Rehabilitation" means the repair, reconstruction,
 21 or improvement of an existing structure to provide decent,
 22 safe and sanitary housing or to conform housing with state
 23 or local health, building, fire prevention, and safety codes
 24 as determined by the board.

25 (18) "Low-income households PERSONS OR FAMILIES" means,

1 for the purposes of 35-516(5), those persons whose incomes
 2 do not exceed 80% of the median income for the area, as
 3 determined by the secretary of the United States department
 4 of housing and urban development.

5 (19) "Rural area" means, for the purposes of 35-516(5),
 6 any area of the state where the farmers home administration
 7 of the United States department of agriculture is operating
 8 or is authorized to operate."

9 Section 2. Section 35-516, R.C.M. 1947, is amended to
 10 read as follows:

11 "35-516. Reserve funds and appropriations. (1) The
 12 board shall pay into the capital reserve account:

13 (a) any funds appropriated and made available by the
 14 state for the purpose of the account;

15 (b) any proceeds of sale of notes or bonds to the
 16 extent provided in the resolutions or indentures of the
 17 board authorizing their issuance; and

18 (c) any other funds which may be available to the
 19 board for the purpose of the account from any other source.

20 (2) All funds held in the capital reserve account
 21 shall be used solely for the payment of the principal of
 22 bonds secured in whole or in part by the account or of the
 23 sinking fund payments with respect to the bonds, the
 24 purchase or redemption of the bonds, the payment of interest
 25 on the bonds or the payment of any redemption premium

1 required to be paid when the bonds are redeemed prior to
 2 maturity. Funds in the account shall not be withdrawn at
 3 any time in an amount which reduces the amount of the
 4 account to less than the sum of minimum capital reserve
 5 requirements established for the account, except for the
 6 purpose of making, with respect to bonds secured in whole or
 7 in part by the account, payment, when due, of principal,
 8 interest, redemption premiums, and sinking fund payments for
 9 the payment of which other moneys pledged are not available.
 10 Any income or interest earned by, or incremental to, the
 11 capital reserve account due to its investment may be
 12 transferred to other accounts of the board to the extent it
 13 does not reduce the amount of the capital reserve account
 14 below the sum of minimum capital reserve requirements for
 15 the account.

16 (3) The board may not issue bonds secured in whole or
 17 in part by the capital reserve account, unless the board
 18 deposits in the account, from the proceeds of the bonds
 19 issued or from any other sources, an amount not less than
 20 the minimum capital reserve requirement for these bonds.
 21 For the purposes of this section, the term "minimum capital
 22 reserve requirement" means, as of any particular date of
 23 computation, an amount of money, as provided in the
 24 resolution or indenture of the board authorizing the bonds
 25 or notes, equal to not more than the greatest of the

1 respective amounts for the current or any future fiscal year
 2 of the board of annual debt service on the bonds of the
 3 board secured in whole or in part by the account. The
 4 annual debt service for any fiscal year is the amount of
 5 money equal to the aggregate of all interest and principal
 6 payable on the bonds during the fiscal year, calculated on
 7 the assumption that all the bonds are paid at maturity. If
 8 any amount of the bonds is required to be redeemed on an
 9 earlier date by the operation of a sinking fund, then that
 10 amount is considered payable on those bonds during the year
 11 they are to be redeemed for the purposes of this
 12 calculation.

13 (4) In computing the amount of the capital reserve
 14 account, securities in which all or a portion of the account
 15 shall be invested shall be valued at par, or if purchased
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 19 ~~The fund shall be used for the purposes described in~~
 20 ~~subsections (1), (2), (3), and (4) of this section. However,~~
 21 ~~the proceeds from the bonds secured by the fund shall be~~
 22 ~~used to finance projects in which no less than 20% of the~~
 23 ~~occupants are low-income households. At least 50% of the~~
 24 ~~projects financed through the fund must be in rural areas of~~
 25 ~~the state.~~ HOUSING FINANCE ACCOUNT IN 35-523(A) A LOW-INCOME

1 MORTGAGE FINANCE INSURANCE FUND. THIS FUND SHALL BE USED TO
2 SECURE ANY BONDS ISSUED TO FINANCE HOUSING DEVELOPMENTS IN
3 WHICH NO LESS THAN 20% OF THE OCCUPANTS ARE LOW-INCOME
4 PERSONS OR FAMILIES. AT LEAST 50% OF THE HOUSING
5 DEVELOPMENTS FINANCED THROUGH THE USE OF THIS FUND MUST BE
6 IN RURAL AREAS OF THE STATE."

-End-

HOUSE BILL NO. 714

INTRODUCED BY WALDRON, FABREGA, PALMER, QUILICI, ELLIS

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE LOWER-INCOME MORTGAGE FINANCE BOND INSURANCE FUND; AMENDING SECTIONS 35-503 AND 35-516, R.C.M. 1947."

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(3) "Capital reserve account" means the capital reserve account provided for in section 35-523.

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(5) "Federally insured mortgage" means a mortgage loan for land development or residential housing insured or guaranteed by the United States or a governmental agency or instrumentality thereof, or a commitment by the United States or a governmental agency or instrumentalities thereof

to insure such a mortgage.

(6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an instrumentality thereof.

(7) "Governmental agency" means any department, division, public corporation, public agency, political subdivision, or other public instrumentality of the state, the federal government, any other state or public agency, or any two or more thereof.

(8) "Housing development" means any work or undertaking financed, in whole or in part, under this act for the primary purpose of acquiring, constructing or rehabilitating dwelling accommodations for persons or families of lower income in need of housing. An undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable in connection therewith, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities as the board determines to be necessary, convenient, or desirable.

(9) "Housing development costs" means the sum total of all costs incurred in a housing development approved by the board as reasonable and necessary, including, but not

1 limited to:

2 (a) cost of land acquisition and any buildings
3 thereon, including payments for options, deposits, or
4 contracts to purchase properties on the proposed housing
5 development site or payments for the purchase of properties;

6 (b) cost of site preparation, demolition and clearing;

7 (c) architectural, engineering, legal, accounting,
8 corporation, and other fees paid or payable in connection
9 with the planning, execution and financing of the housing
10 development and the finding of an eligible mortgagee or
11 mortgagees for the housing development;

12 (d) cost of necessary studies, surveys, plans, and
13 permits;

14 (e) insurance, interest, financing, tax and assessment
15 costs and other operating and carrying costs during
16 construction;

17 (f) cost of construction, rehabilitation,
18 reconstruction, fixtures, furnishings, equipment, machinery,
19 apparatus and similar facilities related to the real
20 property;

21 (g) cost of land improvements including landscaping
22 and offsite improvements, whether or not the costs have been
23 paid in cash or in a form other than cash;

24 (h) necessary expenses in connection with initial
25 occupancy of the housing development;

1 (i) a reasonable profit and risk fee in addition to
2 job overhead to the general contractor and if applicable, a
3 limited profit housing sponsor;

4 (j) an allowance established by the board for working
5 capital and contingency reserves, and reserves for any
6 anticipated operating deficits during construction and
7 initial occupancy;

8 (k) costs of other items, including tenant relocation,
9 as the board determines to be reasonable and necessary for
10 the housing development, less any and all net rents and
11 other net revenues received from the operation of the real
12 and personal property on the development site during the
13 construction.

14 (10) "Housing sponsor" means individuals, joint
15 ventures, partnerships, limited partnerships, trusts, firms,
16 associations, corporations, governmental agencies,
17 limited-profit housing sponsor, nonprofit corporation, or
18 other legal entities or any combination thereof, that are:

19 (a) approved by the board;

20 (b) qualified either to own, construct, acquire,
21 rehabilitate, operate, manage, or maintain a housing
22 development;

23 (c) subject to the rules of the board and other terms
24 and conditions set forth in this act.

25 (11) "Lending institution" means any public or private

1 entity or governmental agency, approved by the board,
2 maintaining an office in this state and authorized by law to
3 make or participate in making residential mortgages in the
4 state.

5 (12) "Limited-profit housing sponsor" means a
6 corporation, trust, partnership, association, other entity,
7 or an individual restricted as to distribution of income and
8 regulated as to rents, charges, rate of return, and methods
9 of operation as the board determines necessary to carry out
10 this act.

11 (13) "Mortgage" means a mortgage deed, deed of trust,
12 or other instrument which shall constitute a valid lien on
13 real property in fee simple or on a leasehold under a lease
14 having a remaining term at the time the mortgage is
15 acquired, which does not expire for at least that number of
16 years beyond the maturity date of the obligation secured by
17 the mortgage established by the board as necessary to
18 protect its interest as mortgagee.

19 (14) "Mortgage loan" means an interest bearing
20 obligation secured by a mortgage on land and improvements in
21 the state.

22 (15) "Nonprofit housing sponsor" means a housing
23 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
24 or a nonprofit corporation formed under Title 15, chapter
25 23, R.C.M. 1947, restricted as to distribution of income and

1 regulated as to rents, charges, rate of return and methods
2 of operation as the board determines necessary, and whose
3 articles of incorporation provide, in addition that:

4 (a) the organization has been organized exclusively to
5 provide housing developments for persons and families of
6 lower income;

7 (b) all the income and earnings of the organization
8 shall be used exclusively for housing development purposes
9 and no part of the net income or net earnings of the
10 organization shall inure to the benefit or profit of any
11 private individual, firm, corporation, partnership, or
12 association;

13 (c) the organization is in no manner controlled or
14 under the direction or acting in the substantial interest of
15 any private individual, firm, partnership, or association
16 seeking to derive profit or gain therefrom, or seeking to
17 eliminate or minimize losses in any transactions therewith,
18 except that the limitations shall apply to members of a
19 cooperative only to the extent provided by rules of the
20 board;

21 (d) the operations of the organization may be
22 supervised by the board and the organization will enter into
23 agreements with the board to regulate planning, development,
24 and management of any housing development undertaken by the
25 organization and the disposition of the property or other

1 interests of the organization.

2 (16) "Persons and families of lower income" means

3 persons and families, with insufficient personal or family

4 income who require assistance under this act, as determined

5 by the board, taking into consideration:

6 (a) the amount of the total personal and family income

7 available for housing needs;

8 (b) the size of the family;

9 (c) the eligibility of persons and families under

10 federal housing assistance of any type based on lower income

11 or a functional or physical disability;

12 (d) the ability of persons and families to compete

13 successfully in the normal housing market and to pay the

14 amount at which private enterprise is providing decent,

15 safe, and sanitary housing;

16 (e) the availability and cost of housing in particular

17 areas; and

18 (f) needs of particular persons or families due to age

19 or physical handicaps.

20 (17) "Rehabilitation" means the repair, reconstruction,

21 or improvement of an existing structure to provide decent,

22 safe and sanitary housing or to conform housing with state

23 or local health, building, fire prevention, and safety codes

24 as determined by the board.

25 ~~(18) "Low-income households PERSONS OR FAMILIES" means,~~

1 ~~for the purposes of 35-516(5), those persons whose incomes~~

2 ~~do not exceed 80% of the median income for the area, as~~

3 ~~determined by the secretary of the United States department~~

4 ~~of housing and urban development.~~

5 ~~(19) "Rural area" means, for the purposes of 35-516(5),~~

6 ~~any area of the state where the farmers home administration~~

7 ~~of the United States department of agriculture is operating~~

8 ~~or is authorized to operate."~~

9 Section 2. Section 35-516, R.C.M. 1947, is amended to

10 read as follows:

11 "35-516. Reserve funds and appropriations. (1) The

12 board shall pay into the capital reserve account:

13 (a) any funds appropriated and made available by the

14 state for the purpose of the account;

15 (b) any proceeds of sale of notes or bonds to the

16 extent provided in the resolutions or indentures of the

17 board authorizing their issuance; and

18 (c) any other funds which may be available to the

19 board for the purpose of the account from any other source.

20 (2) All funds held in the capital reserve account

21 shall be used solely for the payment of the principal of

22 bonds secured in whole or in part by the account or of the

23 sinking fund payments with respect to the bonds, the

24 purchase or redemption of the bonds, the payment of interest

25 on the bonds or the payment of any redemption premium

1 required to be paid when the bonds are redeemed prior to
 2 maturity. Funds in the account shall not be withdrawn at
 3 any time in an amount which reduces the amount of the
 4 account to less than the sum of minimum capital reserve
 5 requirements established for the account, except for the
 6 purpose of making, with respect to bonds secured in whole or
 7 in part by the account, payment, when due, of principal,
 8 interest, redemption premiums, and sinking fund payments for
 9 the payment of which other moneys pledged are not available.
 10 Any income or interest earned by, or incremental to, the
 11 capital reserve account due to its investment may be
 12 transferred to other accounts of the board to the extent it
 13 does not reduce the amount of the capital reserve account
 14 below the sum of minimum capital reserve requirements for
 15 the account.

16 (3) The board may not issue bonds secured in whole or
 17 in part by the capital reserve account, unless the board
 18 deposits in the account, from the proceeds of the bonds
 19 issued or from any other sources, an amount not less than
 20 the minimum capital reserve requirement for these bonds.
 21 For the purposes of this section, the term "minimum capital
 22 reserve requirement" means, as of any particular date of
 23 computation, an amount of money, as provided in the
 24 resolution or indenture of the board authorizing the bonds
 25 or notes, equal to not more than the greatest of the

1 respective amounts for the current or any future fiscal year
 2 of the board of annual debt service on the bonds of the
 3 board secured in whole or in part by the account. The
 4 annual debt service for any fiscal year is the amount of
 5 money equal to the aggregate of all interest and principal
 6 payable on the bonds during the fiscal year, calculated on
 7 the assumption that all the bonds are paid at maturity. If
 8 any amount of the bonds is required to be redeemed on an
 9 earlier date by the operation of a sinking fund, then that
 10 amount is considered payable on those bonds during the year
 11 they are to be redeemed for the purposes of this
 12 calculation.

13 (4) In computing the amount of the capital reserve
 14 account, securities in which all or a portion of the account
 15 shall be invested shall be valued at par, or if purchased
 16 at less than par, at their cost to the board.

17 ~~(5) There is established within the capital reserve~~
 18 ~~account a low income mortgage finance bond insurance fund.~~
 19 ~~The fund shall be used for the purposes described in~~
 20 ~~subsections (1), (2), (3), and (4) of this section. However,~~
 21 ~~the proceeds from the bonds secured by the fund shall be~~
 22 ~~used to finance projects in which no less than 20% of the~~
 23 ~~occupants are low income households. At least 50% of the~~
 24 ~~projects financed through the fund must be in rural areas of~~
 25 ~~the state.~~ HOUSING FINANCE ACCOUNT IN 35-523(A) A LOW-INCOME

1 MORTGAGE FINANCE INSURANCE FUND. THIS FUND SHALL BE USED TO
2 SECURE ANY BONDS ISSUED TO FINANCE HOUSING DEVELOPMENTS IN
3 WHICH NO LESS THAN 20% OF THE OCCUPANTS ARE LOW-INCOME
4 PERSONS OR FAMILIES. AT LEAST 50% OF THE HOUSING
5 DEVELOPMENTS FINANCED THROUGH THE USE OF THIS FUND MUST BE
6 IN RURAL AREAS OF THE STATE.*

-End-