

HOUSE BILL 178

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Business and Industry.
January 24, 1979	Committee recommend bill, as amended.
January 25, 1979	Printed and placed on members' desks.
January 26, 1979	Second reading, do pass.
January 27, 1979	Considered correctly engrossed.
January 29, 1979	Third reading, passed.

IN THE SENATE

January 30, 1979	Introduced and referred to Committee on State Administration.
April 20, 1979	Died in Committee.

1 House BILL NO. 178
 2 INTRODUCED BY Romalt
 3 BY REQUEST OF THE BOARD OF HOUSING

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE STATUS OF
 6 REVENUES, FUNDS, AND ACCOUNTS OF THE MONTANA BOARD OF
 7 HOUSING; AMENDING SECTIONS 90-6-103 AND 90-6-111, MCA;
 8 REPEALING SECTIONS 90-6-107, 90-6-119, AND 90-6-120, MCA;
 9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 NEW SECTION. Section 1. Housing finance account.
 13 There is a housing finance account in the bond proceeds and
 14 insurance clearance fund provided for in 17-2-102,
 15 consisting of all revenues received by the board from the
 16 programs authorized in this part, including but not limited
 17 to proceeds of bonds and notes, repayments and prepayments
 18 of loans made from the proceeds and interest thereon,
 19 proceeds of loan insurance and of rental or sale of property
 20 taken on foreclosure or in lieu of foreclosure, any money
 21 appropriated for a loan financing program, and all income
 22 and gain from the investment and reinvestment of the
 23 foregoing. All such revenues are continuously appropriated
 24 to the board for the purposes authorized in this part.
 25 NEW SECTION. Section 2. Trust accounts. (1) The board

1 may, by resolution or trust indenture, establish funds and
 2 accounts to be held in trust by trustees or other
 3 depositories for the disbursement and collection of loans
 4 authorized by the board and for the payment and security of
 5 its bonds and notes. Revenues may be deposited and must be
 6 administered, accounted for, secured, invested, and
 7 reinvested in such funds and accounts, in accordance with
 8 the provisions of such resolutions or indentures, in trust
 9 for the holders of the bonds or notes from the proceeds of
 10 which the revenue are derived and not subject to the
 11 provisions of law governing the deposit and investment of
 12 funds of the state derived from other sources.
 13 (2) Revenues in excess of current requirements of
 14 funds and accounts created by any resolution or indenture,
 15 including such operating or reserve funds as may be
 16 established for the program financed thereunder, may be
 17 transferred by the board to a general reserve account, to be
 18 used for the administration and support of its financing
 19 programs generally, in furtherance of the purposes set forth
 20 in 90-6-102. The general reserve account must be held in
 21 trust by the board for the maintenance of all programs until
 22 all bonds and notes are fully paid.
 23 (3) For bookkeeping purposes, all such funds and
 24 accounts must be considered subfunds or subaccounts of the
 25 housing finance account within the state treasury fund

1 structure. All reports of the transactions thereof which are
 2 received by the board must be available for inspection by
 3 the state treasurer. An annual report of the examination of
 4 the board's financial statements, prepared in accordance
 5 with generally accepted accounting principles by an
 6 independent firm of certified public accountants retained by
 7 the board, shall be filed with the state treasurer.

8 NEW SECTION. Section 3. Capital reserve funds. (1)
 9 The board may in any bond resolution or indenture establish
 10 one or more capital reserve funds from the proceeds of bonds
 11 issued thereunder, from funds in the general reserve
 12 account, or from any funds made available to it by
 13 appropriation or otherwise. It may establish a capital
 14 reserve requirement for each such fund and may agree that no
 15 withdrawal will be made from a particular fund which would
 16 reduce its balance below the requirement for such fund,
 17 except to pay principal, interest, or a redemption premium
 18 due and payable with respect to bonds secured by such fund,
 19 for which sufficient money is not then available in other
 20 funds or accounts under the terms of the applicable
 21 resolution or indenture or in the general reserve account.
 22 The amount of the capital reserve requirement for each such
 23 fund must be specified for each series of bonds issued under
 24 the resolution or indenture, none of which may at any time
 25 exceed the maximum amount of principal and interest to

1 become due and payable on bonds of that series in any
 2 subsequent fiscal year (assuming the prescribed amount of
 3 bonds to be paid at any mandatory sinking fund redemption
 4 date and all other bonds at maturity).

5 (2) On or before September 1 in each year preceding
 6 the convening of the legislature, the chairman of the board
 7 shall certify to the governor the amount, if any, which is
 8 required, after application of all funds available under
 9 each existing bond resolution and indenture, to restore each
 10 capital reserve fund to its capital reserve requirement. The
 11 governor shall include each sum so certified in the
 12 executive budget submitted to the legislature.

13 NEW SECTION. Section 4. Housing finance revolving
 14 account. There is a housing finance revolving account in the
 15 revolving fund provided for in 17-2-102, consisting of any
 16 funds appropriated by the legislature for the restoration of
 17 a deficiency in a capital reserve fund and any other funds
 18 appropriated to the board for the payment of administrative
 19 expenses and not as a permanent contribution to a housing
 20 finance program. The board shall repay all sums withdrawn
 21 from the revolving account, without interest, from the first
 22 revenues thereafter available in excess of amounts needed to
 23 maintain all capital reserve requirements and all current
 24 requirements of all other funds and accounts created under
 25 bond and note resolutions and indentures.

1 Section 5. Section 90-6-103, MCA, is amended to read:

2 "90-6-103. Definitions. As used in this part, unless
3 the context requires otherwise, the following definitions
4 apply:

5 (1) "Board" means the board of housing created in
6 2-15-1008.

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

10 ~~(3) "Capital reserve account" means the capital~~
11 ~~reserve account provided for in 90-6-107.~~

12 (4)(3) "Department" means the department of
13 administration provided for in Title 2, chapter 15, part 10.

14 (5)(4) "Federally insured mortgage" means a mortgage
15 loan for land development or residential housing insured or
16 guaranteed by the United States or a governmental agency or
17 instrumentality thereof or a commitment by the United States
18 or a governmental agency or instrumentalities thereof to
19 insure such a mortgage.

20 (6)(5) "Federally insured security" means an evidence
21 of indebtedness insured or guaranteed as to repayment of
22 principal and interest by the United States or an
23 instrumentality thereof.

24 (7)(6) "Governmental agency" means any department,
25 division, public corporation, public agency, political

1 subdivision, or other public instrumentality of the state,
2 the federal government, any other state or public agency, or
3 any two or more thereof.

4 (8)(7) "Housing development" means any work or
5 undertaking financed in whole or in part under this part for
6 the primary purpose of acquiring, constructing, or
7 rehabilitating dwelling accommodations for persons or
8 families of lower income in need of housing. An undertaking
9 may include any buildings, land, equipment, facilities, or
10 other real or personal properties which are necessary,
11 convenient, or desirable in connection therewith, including
12 but not limited to streets, sewers, utilities, parks, site
13 preparation, landscaping, and other nonhousing facilities as
14 the board determines to be necessary, convenient, or
15 desirable.

16 (9)(8) "Housing development costs" means the sum total
17 of all costs incurred in a housing development approved by
18 the board as reasonable and necessary, including but not
19 limited to:

20 (a) cost of land acquisition and any buildings
21 thereon, including payments for options, deposits, or
22 contracts to purchase properties on the proposed housing
23 development site or payments for the purchase of properties;

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

1 (c) architectural, engineering, legal, accounting,
2 corporation, and other fees paid or payable in connection
3 with the planning, execution, and financing of the housing
4 development and the finding of an eligible mortgagee or
5 mortgagees for the housing development;

6 (d) cost of necessary studies, surveys, plans, and
7 permits;

8 (e) insurance, interest, financing, tax and assessment
9 costs and other operating and carrying costs during
10 construction;

11 (f) cost of construction, rehabilitation,
12 reconstruction, fixtures, furnishings, equipment, machinery,
13 apparatus, and similar facilities related to the real
14 property;

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

18 (h) necessary expenses in connection with initial
19 occupancy of the housing development;

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

23 (j) an allowance established by the board for working
24 capital and contingency reserves and reserves for any
25 anticipated operating deficits during construction and

1 initial occupancy;

2 (k) costs of other items, including tenant relocation,
3 as the board determines to be reasonable and necessary for
4 the housing development, less any and all net rents and
5 other net revenues received from the operation of the real
6 and personal property on the development site during the
7 construction.

8 ~~(10)(9)~~ "Housing sponsor" means individuals, joint
9 ventures, partnerships, limited partnerships, trusts, firms,
10 associations, corporations, governmental agencies, or
11 limited-profit housing sponsors, nonprofit corporations, or
12 other legal entities or any combination thereof that are:

13 (a) approved by the board;

14 (b) qualified either to own, construct, acquire,
15 rehabilitate, operate, manage, or maintain a housing
16 development;

17 (c) subject to the rules of the board and other terms
18 and conditions set forth in this part.

19 ~~(11)(10)~~ "Lending institution" means any public or
20 private entity or governmental agency approved by the board
21 maintaining an office in this state and authorized by law to
22 make or participate in making residential mortgages in the
23 state.

24 ~~(12)(11)~~ "Limited-profit housing sponsor" means a
25 corporation, trust, partnership, association, other entity,

1 or an individual restricted as to distribution of income and
2 regulated as to rents, charges, rate of return, and methods
3 of operation as the board determines necessary to carry out
4 this part.

5 ~~†13†~~†12† "Mortgage" means a mortgage deed, deed of
6 trust, or other instrument which shall constitute a valid
7 lien on real property in fee simple or on a leasehold under
8 a lease having a remaining term at the time the mortgage is
9 acquired, which does not expire for at least that number of
10 years beyond the maturity date of the obligation secured by
11 the mortgage established by the board as necessary to
12 protect its interest as mortgagee.

13 ~~†14†~~†13† "Mortgage loan" means an interest bearing
14 obligation secured by a mortgage on land and improvements in
15 the state.

16 ~~†15†~~†14† "Nonprofit housing sponsor" means a housing
17 cooperative formed under Title 35, chapter 15, or a
18 nonprofit corporation formed under Title 35, chapter 7,
19 restricted as to distribution of income and regulated as to
20 rents, charges, rate of return, and methods of operation as
21 the board determines necessary, and whose articles of
22 incorporation provide in addition that:

23 (a) the organization has been organized exclusively to
24 provide housing developments for persons and families of
25 lower income;

1 (b) all the income and earnings of the organization
2 shall be used exclusively for housing development purposes
3 and no part of the net income or net earnings of the
4 organization shall inure to the benefit or profit of any
5 private individual, firm, corporation, partnership, or
6 association;

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

15 (d) the operations of the organization may be
16 supervised by the board and the organization will enter into
17 agreements with the board to regulate planning, development,
18 and management of any housing development undertaken by the
19 organization and the disposition of the property or other
20 interests of the organization.

21 ~~†16†~~†15† "Persons and families of lower income" means
22 persons and families with insufficient personal or family
23 income who require assistance under this part, as determined
24 by the board, taking into consideration:

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

1 available for housing needs;

2 (b) the size of the family;

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

6 (d) the ability of persons and families to compete
7 successfully in the normal housing market and to pay the
8 amount at which private enterprise is providing decent,
9 safe, and sanitary housing;

10 (e) the availability and cost of housing in particular
11 areas; and

12 (f) needs of particular persons or families due to age
13 or physical handicaps.

14 ~~(17)~~(16) "Rehabilitation" means the repair,
15 reconstruction, or improvement of an existing structure to
16 provide decent, safe, and sanitary housing or to conform
17 housing with state or local health, building, fire
18 prevention, and safety codes as determined by the board."

19 Section 6. Section 90-6-111, MCA, is amended to read:
20 "90-6-111. Bonds and notes. (1) The board may by
21 resolution, from time to time, issue negotiable notes and
22 bonds in a principal amount as the board determines
23 necessary to provide sufficient funds for achieving any of
24 its purposes, including the payment of interest on notes and
25 bonds of the board, establishment of reserves to secure the

1 notes and bonds, including the reserve funds created under
2 90-6-119 [section 2 or 3], and all other expenditures of the
3 board incident to and necessary or convenient to carry out
4 this part.

5 (2) The board may by resolution, from time to time,
6 issue notes to renew notes and bonds to pay notes, including
7 interest, and whenever it deems refunding expedient, refund
8 any bonds by the issuance of new bonds, whether the bonds to
9 be refunded have or have not matured, and issue bonds partly
10 to refund bonds outstanding and partly for any of its other
11 purposes.

12 (3) Except as otherwise expressly provided by
13 resolution of the board, every issue of its notes and bonds
14 shall be obligations of the board payable out of any
15 revenues, assets, or moneys of the board, subject only to
16 agreements with the holders of particular notes or bonds
17 pledging particular revenues, assets, or moneys.

18 (4) The notes and bonds shall be authorized by
19 resolutions of the board, bear a date, and mature at times
20 as the resolutions provide. A note shall not mature more
21 than 10 years and a bond shall not mature more than 50 years
22 from the date of its issue. The bonds may be issued as
23 serial bonds payable in annual installments or as term bonds
24 or as a combination thereof. The notes and bonds shall bear
25 interest at a rate or rates, be in denominations, be in a

1 form either coupon or registered, carry registration
2 privileges, be executed in a manner, be payable in a medium
3 of payment at places within or without the state, and be
4 subject to terms of redemption as provided in resolutions.
5 The notes and bonds of the board may be sold at public or
6 private sale at prices determined by the board.

7 (5) The total amount of notes and bonds outstanding at
8 any one time may not exceed \$75 million. The maximum rate
9 of interest on bonds issued by the board may not exceed the
10 maximum rate for revenue bonds issued by political
11 subdivisions as provided in 17-5-102. The notes and bonds
12 may not be sold for less than par."

13 Section 7. Prior transactions not impaired. Nothing
14 herein affects or impairs any provision of resolutions,
15 indentures, loans contracts, bonds or notes adopted, entered
16 into, or issued before the effective date of this act.

17 Section 8. Repealer. Sections 90-6-107, 90-6-119, and
18 90-6-120, MCA, are repealed.

19 Section 9. Codification. The code commissioner shall
20 codify sections 1 through 4 as an integral part of Title 90,
21 chapter 6, part 1. All references in the MCA to Title 90,
22 chapter 6, part 1, include sections 1 through 4.

23 Section 10. Effective date. This act is effective on
24 passage and approval.

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 178

INTRODUCED BY ROSENTHAL

BY REQUEST OF THE BOARD OF HOUSING

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE STATUS OF REVENUES, FUNDS, AND ACCOUNTS OF THE MONTANA BOARD OF HOUSING; AMENDING SECTIONS 90-6-103 AND 90-6-111, MCA; REPEALING SECTIONS 90-6-107, 90-6-119, AND 90-6-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Housing finance account.

There is a housing finance account in the bond proceeds and insurance clearance fund provided for in 17-2-102, consisting of all revenues received by the board from the programs authorized in this part, including but not limited to proceeds of bonds and notes, repayments and prepayments of loans made from the proceeds and interest thereon, proceeds of loan insurance and of rental or sale of property taken on foreclosure or in lieu of foreclosure, any money appropriated for a loan financing program, and all income and gain from the investment and reinvestment of the foregoing. All such revenues are continuously appropriated to the board for the purposes authorized in this part.

NEW SECTION. Section 2. Trust accounts. (1) The board

may, by resolution or trust indenture, establish funds and accounts to be held in trust by trustees or other depositories for the disbursement and collection of loans authorized by the board and for the payment and security of its bonds and notes. Revenues may be deposited and must be administered, accounted for, secured, invested, and reinvested in such funds and accounts, in accordance with the provisions of such resolutions or indentures, in trust for the holders of the bonds or notes from the proceeds of which the revenue REVENUES are derived and not subject to the provisions of law governing the deposit and investment of funds of the state derived from other sources.

(2) Revenues in excess of current requirements of funds and accounts created by any resolution or indenture, including such operating or reserve funds as may be established for the program financed thereunder, may be transferred by the board to a general reserve account, to be used for the administration and support of its financing programs generally, in furtherance of the purposes set forth in 90-6-102. The general reserve account must be held in trust by the board for the maintenance of all programs until all bonds and notes are fully paid.

(3) For bookkeeping purposes, all such funds and accounts must be considered subfunds or subaccounts of the housing finance account within the state treasury fund

1 structure. All reports of the transactions thereof which are
 2 received by the board must be available for inspection by
 3 the state treasurer. An annual report of the examination of
 4 the board's financial statements, prepared in accordance
 5 with generally accepted accounting principles by an
 6 independent firm of certified public accountants retained by
 7 the board, shall be filed with the state treasurer.

8 NEW SECTION. Section 3. Capital reserve funds. (1)
 9 The board may in any bond resolution or indenture establish
 10 one or more capital reserve funds from the proceeds of bonds
 11 issued thereunder, from funds in the general reserve
 12 account, or from any funds made available to it by
 13 appropriation or otherwise. It may establish a capital
 14 reserve requirement for each such fund and may agree that no
 15 withdrawal will be made from a particular fund which would
 16 reduce its balance below the requirement for such fund,
 17 except to pay principal, interest, or a redemption premium
 18 due and payable with respect to bonds secured by such fund,
 19 for which sufficient money is not then available in other
 20 funds or accounts under the terms of the applicable
 21 resolution or indenture or in the general reserve account.
 22 The amount of the capital reserve requirement for each such
 23 fund must be specified for each series of bonds issued under
 24 the resolution or indenture, none of which may at any time
 25 exceed the maximum amount of principal and interest to

1 become due and payable on bonds of that series in any
 2 subsequent fiscal year (assuming the prescribed amount of
 3 bonds to be paid at any mandatory sinking fund redemption
 4 date and all other bonds at maturity).

5 (2) On or before September 1 in each year preceding
 6 the convening of the legislature, the chairman of the board
 7 shall certify to the governor the amount, if any, which is
 8 required, after application of all funds available under
 9 each existing bond resolution and indenture, to restore each
 10 capital reserve fund to its capital reserve requirement. The
 11 governor shall include each sum so certified in the
 12 executive budget submitted to the legislature.

13 NEW SECTION. Section 4. Housing finance revolving
 14 account. There is a housing finance revolving account in the
 15 revolving fund provided for in 17-2-102, consisting of any
 16 funds appropriated by the legislature for the restoration of
 17 a deficiency in a capital reserve fund and any other funds
 18 appropriated to the board for the payment of administrative
 19 expenses and not as a permanent contribution to a housing
 20 finance program. The board shall repay all sums withdrawn
 21 from the revolving account, without interest, from the first
 22 revenues thereafter available in excess of amounts needed to
 23 maintain all capital reserve requirements and all current
 24 requirements of all other funds and accounts created under
 25 bond and note resolutions and indentures.

1 Section 5. Section 90-6-103, MCA, is amended to read:
 2 "90-6-103. Definitions. As used in this part, unless
 3 the context requires otherwise, the following definitions
 4 apply:

5 (1) "Board" means the board of housing created in
 6 2-15-1008.

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

10 ~~†3) "Capital reserve account" means the capital~~
 11 ~~reserve account provided for in 90-6-107.~~

12 †4)†3) "Department" means the department of
 13 administration provided for in Title 2, chapter 15, part 10.

14 †5)†4) "Federally insured mortgage" means a mortgage
 15 loan for land development or residential housing insured or
 16 guaranteed by the United States or a governmental agency or
 17 instrumentality thereof or a commitment by the United States
 18 or a governmental agency or instrumentalities thereof to
 19 insure such a mortgage.

20 †6)†5) "Federally insured security" means an evidence
 21 of indebtedness insured or guaranteed as to repayment of
 22 principal and interest by the United States or an
 23 instrumentality thereof.

24 †7)†6) "Governmental agency" means any department,
 25 division, public corporation, public agency, political

1 subdivision, or other public instrumentality of the state,
 2 the federal government, any other state or public agency, or
 3 any two or more thereof.

4 †8)†7) "Housing development" means any work or
 5 undertaking financed in whole or in part under this part for
 6 the primary purpose of acquiring, constructing, or
 7 rehabilitating dwelling accommodations for persons or
 8 families of lower income in need of housing. An undertaking
 9 may include any buildings, land, equipment, facilities, or
 10 other real or personal properties which are necessary,
 11 convenient, or desirable in connection therewith, including
 12 but not limited to streets, sewers, utilities, parks, site
 13 preparation, landscaping, and other nonhousing facilities as
 14 the board determines to be necessary, convenient, or
 15 desirable.

16 †9)†8) "Housing development costs" means the sum total
 17 of all costs incurred in a housing development approved by
 18 the board as reasonable and necessary, including but not
 19 limited to:

20 (a) cost of land acquisition and any buildings
 21 thereon, including payments for options, deposits, or
 22 contracts to purchase properties on the proposed housing
 23 development site or payments for the purchase of properties;

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

1 (c) architectural, engineering, legal, accounting,
 2 corporation, and other fees paid or payable in connection
 3 with the planning, execution, and financing of the housing
 4 development and the finding of an eligible mortgagee or
 5 mortgagees for the housing development;

6 (d) cost of necessary studies, surveys, plans, and
 7 permits;

8 (e) insurance, interest, financing, tax and assessment
 9 costs and other operating and carrying costs during
 10 construction;

11 (f) cost of construction, rehabilitation,
 12 reconstruction, fixtures, furnishings, equipment, machinery,
 13 apparatus, and similar facilities related to the real
 14 property;

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

18 (h) necessary expenses in connection with initial
 19 occupancy of the housing development;

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

23 (j) an allowance established by the board for working
 24 capital and contingency reserves and reserves for any
 25 anticipated operating deficits during construction and

1 initial occupancy;

2 (k) costs of other items, including tenant relocation,
 3 as the board determines to be reasonable and necessary for
 4 the housing development, less any and all net rents and
 5 other net revenues received from the operation of the real
 6 and personal property on the development site during the
 7 construction.

8 ~~§107(9)~~ "Housing sponsor" means individuals, joint
 9 ventures, partnerships, limited partnerships, trusts, firms,
 10 associations, corporations, governmental agencies,
 11 limited-profit housing sponsors, nonprofit corporations, or
 12 other legal entities or any combination thereof that are:

13 (a) approved by the board;

14 (b) qualified either to own, construct, acquire,
 15 rehabilitate, operate, manage, or maintain a housing
 16 development;

17 (c) subject to the rules of the board and other terms
 18 and conditions set forth in this part.

19 ~~§1101~~ "Lending institution" means any public or
 20 private entity or governmental agency approved by the board
 21 maintaining an office in this state and authorized by law to
 22 make or participate in making residential mortgages in the
 23 state.

24 ~~§1111~~ "Limited-profit housing sponsor" means a
 25 corporation, trust, partnership, association, other entity,

1 or an individual restricted as to distribution of income and
 2 regulated as to rents, charges, rate of return, and methods
 3 of operation as the board determines necessary to carry out
 4 this part.

5 ~~{13}~~{12} "Mortgage" means a mortgage deed, deed of
 6 trust, or other instrument which shall constitute a valid
 7 lien on real property in fee simple or on a leasehold under
 8 a lease having a remaining term at the time the mortgage is
 9 acquired, which does not expire for at least that number of
 10 years beyond the maturity date of the obligation secured by
 11 the mortgage established by the board as necessary to
 12 protect its interest as mortgagee.

13 ~~{14}~~{13} "Mortgage loan" means an interest bearing
 14 obligation secured by a mortgage on land and improvements in
 15 the state.

16 ~~{15}~~{14} "Nonprofit housing sponsor" means a housing
 17 cooperative formed under Title 35, chapter 15, or a
 18 nonprofit corporation formed under Title 35, chapter 2,
 19 restricted as to distribution of income and regulated as to
 20 rents, charges, rate of return, and methods of operation as
 21 the board determines necessary, and whose articles of
 22 incorporation provide in addition that:

23 (a) the organization has been organized exclusively to
 24 provide housing developments for persons and families of
 25 lower income;

1 (b) all the income and earnings of the organization
 2 shall be used exclusively for housing development purposes
 3 and no part of the net income or net earnings of the
 4 organization shall inure to the benefit or profit of any
 5 private individual, firm, corporation, partnership, or
 6 association;

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

15 (d) the operations of the organization may be
 16 supervised by the board and the organization will enter into
 17 agreements with the board to regulate planning, development,
 18 and management of any housing development undertaken by the
 19 organization and the disposition of the property or other
 20 interests of the organization.

21 ~~{16}~~{15} "Persons and families of lower income" means
 22 persons and families with insufficient personal or family
 23 income who require assistance under this part, as determined
 24 by the board, taking into consideration:

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

1 available for housing needs;

2 (b) the size of the family;

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

6 (d) the ability of persons and families to compete
7 successfully in the normal housing market and to pay the
8 amount at which private enterprise is providing decent,
9 safe, and sanitary housing;

10 (e) the availability and cost of housing in particular
11 areas; and

12 (f) needs of particular persons or families due to age
13 or physical handicaps.

14 ~~(17)~~ 116 "Rehabilitation" means the repair,
15 reconstruction, or improvement of an existing structure to
16 provide decent, safe, and sanitary housing or to conform
17 housing with state or local health, building, fire
18 prevention, and safety codes as determined by the board."

19 Section 6. Section 90-6-111, MCA, is amended to read:

20 "90-6-111. Bonds and notes. (1) The board may by
21 resolution, from time to time, issue negotiable notes and
22 bonds in a principal amount as the board determines
23 necessary to provide sufficient funds for achieving any of
24 its purposes, including the payment of interest on notes and
25 bonds of the board, establishment of reserves to secure the

1 notes and bonds, including the reserve funds created under
2 90-6-~~119~~ [section 2 or 3], and all other expenditures of the
3 board incident to and necessary or convenient to carry out
4 this part.

5 (2) The board may by resolution, from time to time,
6 issue notes to renew notes and bonds to pay notes, including
7 interest, and whenever it deems refunding expedient, refund
8 any bonds by the issuance of new bonds, whether the bonds to
9 be refunded have or have not matured, and issue bonds partly
10 to refund bonds outstanding and partly for any of its other
11 purposes.

12 (3) Except as otherwise expressly provided by
13 resolution of the board, every issue of its notes and bonds
14 shall be obligations of the board payable out of any
15 revenues, assets, or moneys of the board, subject only to
16 agreements with the holders of particular notes or bonds
17 pledging particular revenues, assets, or moneys.

18 (4) The notes and bonds shall be authorized by
19 resolutions of the board, bear a date, and mature at times
20 as the resolutions provide. A note shall not mature more
21 than 10 years and a bond shall not mature more than 50 years
22 from the date of its issue. The bonds may be issued as
23 serial bonds payable in annual installments or as term bonds
24 or as a combination thereof. The notes and bonds shall bear
25 interest at a rate or rates, be in denominations, be in a

1 form either coupon or registered, carry registration
2 privileges, be executed in a manner, be payable in a medium
3 of payment at places within or without the state, and be
4 subject to terms of redemption as provided in resolutions.
5 The notes and bonds of the board may be sold at public or
6 private sale at prices determined by the board.

7 (5) The total amount of notes and bonds outstanding at
8 any one time may not exceed \$75 million. The maximum rate
9 of interest on bonds issued by the board may not exceed the
10 maximum rate for revenue bonds issued by political
11 subdivisions as provided in 17-5-102. The notes and bonds
12 may not be sold for less than par.*

13 Section 7. Prior transactions not impaired. Nothing
14 herein affects or impairs any provision of resolutions,
15 indentures, loans contracts, bonds or notes adopted, entered
16 into, or issued before the effective date of this act.

17 Section 8. Repealer. Sections 90-6-107, 90-6-119, and
18 90-6-120, MCA, are repealed.

19 Section 9. Codification. The code commissioner shall
20 codify sections 1 through 4 as an integral part of Title 90,
21 chapter 6, part 1. All references in the MCA to Title 90,
22 chapter 6, part 1, include sections 1 through 4.

23 Section 10. Effective date. This act is effective on
24 passage and approval.

-End-

1 HOUSE BILL NO. 178

2 INTRODUCED BY ROSENTHAL

3 BY REQUEST OF THE BOARD OF HOUSING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE STATUS OF
6 REVENUES, FUNDS, AND ACCOUNTS OF THE MONTANA BOARD OF
7 HOUSING; AMENDING SECTIONS 90-6-103 AND 90-6-111, MCA;
8 REPEALING SECTIONS 90-6-107, 90-6-119, AND 90-6-120, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 NEW SECTION. Section 1. Housing finance account.

13 There is a housing finance account in the bond proceeds and
14 insurance clearance fund provided for in 17-2-102,
15 consisting of all revenues received by the board from the
16 programs authorized in this part, including but not limited
17 to proceeds of bonds and notes, repayments and prepayments
18 of loans made from the proceeds and interest thereon,
19 proceeds of loan insurance and of rental or sale of property
20 taken on foreclosure or in lieu of foreclosure, any money
21 appropriated for a loan financing program, and all income
22 and gain from the investment and reinvestment of the
23 foregoing. All such revenues are continuously appropriated
24 to the board for the purposes authorized in this part.

25 NEW SECTION. Section 2. Trust accounts. (1) The board

1 may, by resolution or trust indenture, establish funds and
2 accounts to be held in trust by trustees or other
3 depositories for the disbursement and collection of loans
4 authorized by the board and for the payment and security of
5 its bonds and notes. Revenues may be deposited and must be
6 administered, accounted for, secured, invested, and
7 reinvested in such funds and accounts, in accordance with
8 the provisions of such resolutions or indentures, in trust
9 for the holders of the bonds or notes from the proceeds of
10 which the revenue REVENUES are derived and not subject to
11 the provisions of law governing the deposit and investment
12 of funds of the state derived from other sources.

13 (2) Revenues in excess of current requirements of
14 funds and accounts created by any resolution or indenture,
15 including such operating or reserve funds as may be
16 established for the program financed thereunder, may be
17 transferred by the board to a general reserve account, to be
18 used for the administration and support of its financing
19 programs generally, in furtherance of the purposes set forth
20 in 90-6-102. The general reserve account must be held in
21 trust by the board for the maintenance of all programs until
22 all bonds and notes are fully paid.

23 (3) For bookkeeping purposes, all such funds and
24 accounts must be considered subfunds or subaccounts of the
25 housing finance account within the state treasury fund

1 structure. All reports of the transactions thereof which are
 2 received by the board must be available for inspection by
 3 the state treasurer. An annual report of the examination of
 4 the board's financial statements, prepared in accordance
 5 with generally accepted accounting principles by an
 6 independent firm of certified public accountants retained by
 7 the board, shall be filed with the state treasurer.

8 NEW SECTION. Section 3. Capital reserve funds. (1)
 9 The board may in any bond resolution or indenture establish
 10 one or more capital reserve funds from the proceeds of bonds
 11 issued thereunder, from funds in the general reserve
 12 account, or from any funds made available to it by
 13 appropriation or otherwise. It may establish a capital
 14 reserve requirement for each such fund and may agree that no
 15 withdrawal will be made from a particular fund which would
 16 reduce its balance below the requirement for such fund,
 17 except to pay principal, interest, or a redemption premium
 18 due and payable with respect to bonds secured by such fund,
 19 for which sufficient money is not then available in other
 20 funds or accounts under the terms of the applicable
 21 resolution or indenture or in the general reserve account.
 22 The amount of the capital reserve requirement for each such
 23 fund must be specified for each series of bonds issued under
 24 the resolution or indenture, none of which may at any time
 25 exceed the maximum amount of principal and interest to

1 become due and payable on bonds of that series in any
 2 subsequent fiscal year (assuming the prescribed amount of
 3 bonds to be paid at any mandatory sinking fund redemption
 4 date and all other bonds at maturity).

5 (2) On or before September 1 in each year preceding
 6 the convening of the legislature, the chairman of the board
 7 shall certify to the governor the amount, if any, which is
 8 required, after application of all funds available under
 9 each existing bond resolution and indenture, to restore each
 10 capital reserve fund to its capital reserve requirement. The
 11 governor shall include each sum so certified in the
 12 executive budget submitted to the legislature.

13 NEW SECTION. Section 4. Housing finance revolving
 14 account. There is a housing finance revolving account in the
 15 revolving fund provided for in 17-2-102, consisting of any
 16 funds appropriated by the legislature for the restoration of
 17 a deficiency in a capital reserve fund and any other funds
 18 appropriated to the board for the payment of administrative
 19 expenses and not as a permanent contribution to a housing
 20 finance program. The board shall repay all sums withdrawn
 21 from the revolving account, without interest, from the first
 22 revenues thereafter available in excess of amounts needed to
 23 maintain all capital reserve requirements and all current
 24 requirements of all other funds and accounts created under
 25 bond and note resolutions and indentures.

1 Section 5. Section 90-6-103, MCA, is amended to read:

2 "90-6-103. Definitions. As used in this part, unless
3 the context requires otherwise, the following definitions
4 apply:

5 (1) "Board" means the board of housing created in
6 2-15-1008.

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

10 ~~{3}--"Capital-reserve-account"--means---the---capital~~
11 ~~reserve-account-provided-for-in-90-6-107.~~

12 {4}{3} "Department" means the department of
13 administration provided for in Title 2, chapter 15, part 10.

14 {5}{4} "Federally insured mortgage" means a mortgage
15 loan for land development or residential housing insured or
16 guaranteed by the United States or a governmental agency or
17 instrumentality thereof or a commitment by the United States
18 or a governmental agency or instrumentalities thereof to
19 insure such a mortgage.

20 {6}{5} "Federally insured security" means an evidence
21 of indebtedness insured or guaranteed as to repayment of
22 principal and interest by the United States or an
23 instrumentality thereof.

24 {7}{6} "Governmental agency" means any department,
25 division, public corporation, public agency, political

1 subdivision, or other public instrumentality of the state,
2 the federal government, any other state or public agency, or
3 any two or more thereof.

4 {8}{7} "Housing development" means any work or
5 undertaking financed in whole or in part under this part for
6 the primary purpose of acquiring, constructing, or
7 rehabilitating dwelling accommodations for persons or
8 families of lower income in need of housing. An undertaking
9 may include any buildings, land, equipment, facilities, or
10 other real or personal properties which are necessary,
11 convenient, or desirable in connection therewith, including
12 but not limited to streets, sewers, utilities, parks, site
13 preparation, landscaping, and other nonhousing facilities as
14 the board determines to be necessary, convenient, or
15 desirable.

16 {9}{8} "Housing development costs" means the sum total
17 of all costs incurred in a housing development approved by
18 the board as reasonable and necessary, including but not
19 limited to:

20 (a) cost of land acquisition and any buildings
21 thereon, including payments for options, deposits, or
22 contracts to purchase properties on the proposed housing
23 development site or payments for the purchase of properties;

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

1 (c) architectural, engineering, legal, accounting,
2 corporation, and other fees paid or payable in connection
3 with the planning, execution, and financing of the housing
4 development and the finding of an eligible mortgagee or
5 mortgagees for the housing development;

6 (d) cost of necessary studies, surveys, plans, and
7 permits;

8 (e) insurance, interest, financing, tax and assessment
9 costs and other operating and carrying costs during
10 construction;

11 (f) cost of construction, rehabilitation,
12 reconstruction, fixtures, furnishings, equipment, machinery,
13 apparatus, and similar facilities related to the real
14 property;

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

18 (h) necessary expenses in connection with initial
19 occupancy of the housing development;

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

23 (j) an allowance established by the board for working
24 capital and contingency reserves and reserves for any
25 anticipated operating deficits during construction and

1 initial occupancy;

2 (k) costs of other items, including tenant relocation,
3 as the board determines to be reasonable and necessary for
4 the housing development, less any and all net rents and
5 other net revenues received from the operation of the real
6 and personal property on the development site during the
7 construction.

8 ~~(i)~~(9) "Housing sponsor" means individuals, joint
9 ventures, partnerships, limited partnerships, trusts, firms,
10 associations, corporations, governmental agencies,
11 limited-profit housing sponsors, nonprofit corporations, or
12 other legal entities or any combination thereof that are:

13 (a) approved by the board;

14 (b) qualified either to own, construct, acquire,
15 rehabilitate, operate, manage, or maintain a housing
16 development;

17 (c) subject to the rules of the board and other terms
18 and conditions set forth in this part.

19 ~~(j)~~(10) "Lending institution" means any public or
20 private entity or governmental agency approved by the board
21 maintaining an office in this state and authorized by law to
22 make or participate in making residential mortgages in the
23 state.

24 ~~(k)~~(11) "Limited-profit housing sponsor" means a
25 corporation, trust, partnership, association, other entity,

1 or an individual restricted as to distribution of income and
 2 regulated as to rents, charges, rate of return, and methods
 3 of operation as the board determines necessary to carry out
 4 this part.

5 ~~†3†~~112 "Mortgage" means a mortgage deed, deed of
 6 trust, or other instrument which shall constitute a valid
 7 lien on real property in fee simple or on a leasehold under
 8 a lease having a remaining term at the time the mortgage is
 9 acquired, which does not expire for at least that number of
 10 years beyond the maturity date of the obligation secured by
 11 the mortgage established by the board as necessary to
 12 protect its interest as mortgagee.

13 ~~†4†~~113 "Mortgage loan" means an interest bearing
 14 obligation secured by a mortgage on land and improvements in
 15 the state.

16 ~~†5†~~114 "Nonprofit housing sponsor" means a housing
 17 cooperative formed under Title 35, chapter 15, or a
 18 nonprofit corporation formed under Title 35, chapter 2,
 19 restricted as to distribution of income and regulated as to
 20 rents, charges, rate of return, and methods of operation as
 21 the board determines necessary, and whose articles of
 22 incorporation provide in addition that:

23 (a) the organization has been organized exclusively to
 24 provide housing developments for persons and families of
 25 lower income;

1 (b) all the income and earnings of the organization
 2 shall be used exclusively for housing development purposes
 3 and no part of the net income or net earnings of the
 4 organization shall inure to the benefit or profit of any
 5 private individual, firm, corporation, partnership, or
 6 association;

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

15 (d) the operations of the organization may be
 16 supervised by the board and the organization will enter into
 17 agreements with the board to regulate planning, development,
 18 and management of any housing development undertaken by the
 19 organization and the disposition of the property or other
 20 interests of the organization.

21 ~~†6†~~115 "Persons and families of lower income" means
 22 persons and families with insufficient personal or family
 23 income who require assistance under this part, as determined
 24 by the board, taking into consideration:

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

1 available for housing needs;
 2 (b) the size of the family;
 3 (c) the eligibility of persons and families under
 4 federal housing assistance of any type based on lower income
 5 or a functional or physical disability;
 6 (d) the ability of persons and families to compete
 7 successfully in the normal housing market and to pay the
 8 amount at which private enterprise is providing decent,
 9 safe, and sanitary housing;
 10 (e) the availability and cost of housing in particular
 11 areas; and
 12 (f) needs of particular persons or families due to age
 13 or physical handicaps.
 14 ~~(17)~~(16) "Rehabilitation" means the repair,
 15 reconstruction, or improvement of an existing structure to
 16 provide decent, safe, and sanitary housing or to conform
 17 housing with state or local health, building, fire
 18 prevention, and safety codes as determined by the board."
 19 Section 6. Section 90-6-111, MCA, is amended to read:
 20 "90-6-111. Bonds and notes. (1) The board may by
 21 resolution, from time to time, issue negotiable notes and
 22 bonds in a principal amount as the board determines
 23 necessary to provide sufficient funds for achieving any of
 24 its purposes, including the payment of interest on notes and
 25 bonds of the board, establishment of reserves to secure the

1 notes and bonds, including the reserve funds created under
 2 90-6-~~119~~ [section 2 or 3], and all other expenditures of the
 3 board incident to and necessary or convenient to carry out
 4 this part.
 5 (2) The board may by resolution, from time to time,
 6 issue notes to renew notes and bonds to pay notes, including
 7 interest, and whenever it deems refunding expedient, refund
 8 any bonds by the issuance of new bonds, whether the bonds to
 9 be refunded have or have not matured, and issue bonds partly
 10 to refund bonds outstanding and partly for any of its other
 11 purposes.
 12 (3) Except as otherwise expressly provided by
 13 resolution of the board, every issue of its notes and bonds
 14 shall be obligations of the board payable out of any
 15 revenues, assets, or moneys of the board, subject only to
 16 agreements with the holders of particular notes or bonds
 17 pledging particular revenues, assets, or moneys.
 18 (4) The notes and bonds shall be authorized by
 19 resolutions of the board, bear a date, and mature at times
 20 as the resolutions provide. A note shall not mature more
 21 than 10 years and a bond shall not mature more than 50 years
 22 from the date of its issue. The bonds may be issued as
 23 serial bonds payable in annual installments or as term bonds
 24 or as a combination thereof. The notes and bonds shall bear
 25 interest at a rate or rates, be in denominations, be in a

1 form either coupon or registered, carry registration
2 privileges, be executed in a manner, be payable in a medium
3 of payment at places within or without the state, and be
4 subject to terms of redemption as provided in resolutions.
5 The notes and bonds of the board may be sold at public or
6 private sale at prices determined by the board.

7 (5) The total amount of notes and bonds outstanding at
8 any one time may not exceed \$75 million. The maximum rate
9 of interest on bonds issued by the board may not exceed the
10 maximum rate for revenue bonds issued by political
11 subdivisions as provided in 17-5-102. The notes and bonds
12 may not be sold for less than par."

13 Section 7. Prior transactions not impaired. Nothing
14 herein affects or impairs any provision of resolutions,
15 indentures, loans contracts, bonds or notes adopted, entered
16 into, or issued before the effective date of this act.

17 Section 8. Repealer. Sections 90-6-107, 90-6-119, and
18 90-6-120, MCA, are repealed.

19 Section 9. Codification. The code commissioner shall
20 codify sections 1 through 4 as an integral part of Title 90,
21 chapter 6, part 1. All references in the MCA to Title 90,
22 chapter 6, part 1, include sections 1 through 4.

23 Section 10. Effective date. This act is effective on
24 passage and approval.

-End-