

House Bill 754

In The House

February 13, 1981	Introduced and referred to Committee on State Administration.
February 16, 1981	Fiscal note requested.
February 19, 1981	Committee recommend bill do not pass.

1 *House* BILL NO. *754*  
 2 INTRODUCED BY *Bengtson, Donalds, Keedy, Amusan*  
 3 *O'Connell, Pistorio, Luciani, Hussain*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
 5 CONSOLIDATED FINANCING OF SCHOOL DISTRICT IMPROVEMENTS BY  
 6 AUTHORIZING THE BOARD OF EXAMINERS TO ISSUE REVENUE BONDS  
 7 AND TO LEND THE PROCEEDS THEREOF TO SCHOOL DISTRICTS FOR  
 8 AUTHORIZED IMPROVEMENTS."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Short title. [This act] may be cited as the  
 12 "School District Financing Act of 1981".

13 Section 2. Legislative finding. The legislature finds  
 14 and declares that it is in the public interest of the entire  
 15 state to provide for a consolidation of financing school  
 16 district improvements in order to reduce borrowing costs.

17 Section 3. Definitions. As used in [this act], unless  
 18 the context clearly indicates otherwise, the following  
 19 definitions apply:

- 20 (1) "Bond" or "bonds" means any bonds, notes,  
 21 debentures, interim certificates, or other evidences of  
 22 indebtedness issued by the board pursuant to [this act].
- 23 (2) "Board" means the board of examiners provided for  
 24 in 2-15-1007.
- 25 (3) "Capital reserve account" means the capital

1 reserve account provided for in [section 15].

2 (4) "Revenues" means all fees, charges, money,  
 3 profits, payments of principal of or interest on school  
 4 bonds and other investments, gifts, grants, contributions,  
 5 appropriations, and all other income derived or to be  
 6 derived by the board under [this act].

7 (5) "School bonds" means bonds issued by a school  
 8 district as provided in 20-9-403.

9 (6) "School district" means a school district as  
 10 defined in 20-9-402 for purposes of issuing indebtedness.

11 (7) "School district finance fund" means the fund  
 12 created in [section 4].

13 Section 4. School district finance fund. There is  
 14 created a school district finance fund in the bond proceeds  
 15 and insurance clearance fund provided for in 17-2-102(6).  
 16 All funds from the proceeds of bonds issued under [this  
 17 act], fees and other money received by the board in carrying  
 18 out [this act], money appropriated by the legislature for  
 19 the use of the board in carrying out [this act], and money  
 20 made available from any other source for the use of the  
 21 board in carrying out [this act] shall be deposited in the  
 22 school district finance fund, except where otherwise  
 23 provided by law and except as necessary to maintain the  
 24 capital reserve account. All funds deposited in the school  
 25 district finance fund are continuously appropriated to and

1 may be expended by the board for the purposes authorized in  
2 [this act].

3 Section 5. Lending powers of board -- authority of  
4 school districts to participate. (1) The board, for the  
5 purposes authorized by [this act], may lend money to school  
6 districts through the purchase by the school district  
7 finance fund of school bonds issued by such school districts  
8 in fully marketable form. Such school bonds must be  
9 accompanied by a favorable report by the attorney general as  
10 to validity in accordance with 20-9-463. The board may  
11 impose such fees, charges, and interest rates as it  
12 determines necessary and appropriate to provide sufficient  
13 revenues to pay debt service on bonds issued under [this  
14 act] and associated administrative expenses of the board.

15 (2) All expenses incurred in carrying out the purposes  
16 of [this act] shall be payable solely from revenues or other  
17 funds provided or to be provided under [this act], and  
18 nothing in [this act] may be construed to authorize the  
19 board to incur any indebtedness or liability on behalf of or  
20 payable by the state.

21 (3) The school bonds purchased by the school district  
22 finance fund pursuant to [this act] shall be secured by the  
23 full faith, credit, and taxable resources of the respective  
24 school districts and, if the board so determines, shall be  
25 additionally secured by a pledge of state equalization aid

1 receivable by a school district pursuant to Title 20,  
2 chapter 9, part 3, and any other financial aid receivable by  
3 school districts from the state.

4 (4) Notwithstanding the provisions of Title 20,  
5 chapter 9, part 4, or any other law applicable to or  
6 constituting any limitation on the maximum rate of interest  
7 per annum payable on school bonds before or after maturity,  
8 any school district may contract to pay interest on money  
9 borrowed from the board and evidenced by its school bonds  
10 purchased by the board.

11 (5) Any school district may contract with the board  
12 with respect to a loan or purchase, and the contract shall  
13 contain the terms and conditions of the loan or purchase.  
14 Any school district may pay fees and charges required to be  
15 paid to the board for its services.

16 (6) Notwithstanding Title 20, chapter 9, part 4, or  
17 any other law applicable to or constituting any limitation  
18 on the sale of school bonds, any school district may sell  
19 school bonds to the board without limitation as to  
20 denomination, and the bonds or notes may:

21 (a) be fully registered, registrable as to principal,  
22 or in bearer form;

23 (b) bear interest at a rate or rates in accordance  
24 with this section;

25 (c) be evidenced in that manner and may contain other

1 provisions not inconsistent herewith; and

2 (d) be sold to the board without advertisement at a  
3 price of par and accrued interest, all as provided for in  
4 the proceedings of the trustees of the school district under  
5 which the bonds or notes are issued.

6 (7) The trustees of the school district may provide  
7 for the exchange of coupon bonds for fully registered bonds,  
8 for the exchange of fully registered bonds for coupon bonds,  
9 and for the exchange of the bonds after issuance for bonds  
10 of larger or smaller denominations. The school district may  
11 require that all expenses incurred in connection with the  
12 exchange be paid by the holders. If any of the officers  
13 whose signatures appear on the bonds or coupons cease to be  
14 officers before the delivery of the bonds, their signatures  
15 shall be valid for all purposes.

16 Section 6. General powers. In carrying out the  
17 purposes of [this act], the board may:

18 (1) sue and be sued;

19 (2) adopt all procedural and substantive rules  
20 necessary for the administration of [this act];

21 (3) make contracts, agreements, and other instruments  
22 necessary or convenient for the exercise of its powers under  
23 [this act];

24 (4) fix and revise from time to time and charge fees  
25 and collect charges for the use of its services or

1 facilities;

2 (5) borrow money and issue its negotiable bonds or  
3 notes and provide for and secure the payment thereof;  
4 provide for the rights of the holders thereof; and purchase,  
5 hold, and dispose of any of its bonds or notes;

6 (6) (a) accept gifts or grants of property, funds,  
7 money, materials, labor, supplies, or services from the  
8 United States government or the state or any other state or  
9 agencies or departments thereof or from any governmental  
10 unit or any person, firm, or corporation;

11 (b) carry out the terms or provisions or make  
12 agreements with respect to any such gifts or grants; and

13 (c) do any and all things necessary, useful,  
14 desirable, or convenient in connection with procurement,  
15 acceptance, or disposition of such gifts or grants;

16 (7) perform any acts authorized by [this act] under,  
17 through, or by means of its officers, agents, or employees  
18 or by contracts with any person, firm, or corporation;

19 (8) make, enter into, and enforce all contracts or  
20 agreements necessary, convenient, or desirable for the  
21 purposes of the school district finance fund or pertaining  
22 to any loan to a school district or any purchase or sale of  
23 school bonds or to the performance of its duties and  
24 execution or carrying out of any of its powers under [this  
25 act];

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1 (9) purchase or hold school bonds at such prices and  
 2 in such manner as the board considers advisable and sell  
 3 school bonds acquired or held by it at prices without  
 4 relation to cost and in a manner the board considers  
 5 advisable;

6 (10) fix and prescribe any form of application or  
 7 procedure to be required of a school district for the  
 8 purpose of any loan or the purchase of its school bonds and  
 9 fix the terms and conditions of any loan or purchase and  
 10 enter into agreements with school districts with respect to  
 11 any loan or purchase;

12 (11) invest any funds not required for immediate use,  
 13 subject to any agreements with its bondholders and  
 14 noteholders, as provided in Title 17, chapter 6, except that  
 15 all investment income from funds of the board administered  
 16 under [this act] less the cost for investment as prescribed  
 17 by law shall be deposited in the school district finance  
 18 fund; and

19 (12) perform all acts necessary, convenient, or  
 20 desirable to carry out the powers expressly granted or  
 21 necessarily implied in [this act].

22 Section 7. Bonds and notes. (1) The board may by  
 23 resolution, from time to time, issue negotiable notes and  
 24 bonds in a principal amount as the board determines  
 25 necessary to provide sufficient funds for achieving the

1 purposes of [this act], including the payment of interest on  
 2 notes and bonds of the board; for establishment of reserves  
 3 to secure the notes and bonds, including the capital reserve  
 4 account created under [section 15]; and for all other  
 5 expenditures of the board incident to and necessary or  
 6 convenient to carry out [this act].

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

14 (3) Except as otherwise expressly provided by  
 15 resolution of the board, every issue of its notes and bonds  
 16 is a special limited obligation of the state payable out of  
 17 any revenues, assets, or money of the school district  
 18 finance fund, subject only to agreements with the holders of  
 19 particular notes or bonds pledging particular revenues,  
 20 assets, or money in the school district finance fund.

21 (4) The notes and bonds shall be authorized by  
 22 resolutions of the board, shall bear a date, and shall  
 23 mature at times as the resolutions provide. A note may not  
 24 mature more than 5 years and a bond may not mature more than  
 25 25 years from the date of its issue. The bonds may be issued

1 as serial bonds payable in annual installments or as term  
 2 bonds or as a combination thereof. The notes and bonds  
 3 shall bear interest at a rate, or rates, be in  
 4 denominations, be in a form, either coupon or registered,  
 5 carry registration privileges, be executed in a manner, be  
 6 payable in a medium of payment, at places within or without  
 7 the state, and be subject to terms of redemption as provided  
 8 in board resolutions. The notes and bonds issued by the  
 9 board under [this act] may be sold at public or private sale  
 10 at such prices, which may be above or below par, as are  
 11 determined by the board.

12 (5) The total amount of notes and bonds issued under  
 13 [this act] and outstanding at any one time, except notes or  
 14 bonds on which the obligation has been satisfied and  
 15 discharged by refunding or for which reserve for payment or  
 16 other means of payment have been otherwise provided, may not  
 17 exceed \$100 million.

18 Section 8. Provision of bond resolutions. A resolution  
 19 authorizing any notes or bonds or any issue thereof may  
 20 contain provisions, which must be a part of the contract or  
 21 contracts with the holders thereof, for:

22 (1) pledging all or any part of the revenues or  
 23 property of the school district finance fund to secure the  
 24 payment of the notes or bonds or of any issue thereof,  
 25 subject to existing agreements with noteholders or

1 bondholders;

2 (2) pledging all or any part of the assets of the  
 3 school district finance fund, including school bonds and  
 4 state equalization and other aid payments to school  
 5 districts pledged to secure school bonds, to secure the  
 6 payment of the notes or bonds or of any issue thereof,  
 7 subject to existing agreements with noteholders or  
 8 bondholders;

9 (3) the use and disposition of the income and  
 10 principal from school bonds owned by the board;

11 (4) the setting aside of reserves of sinking funds in  
 12 the hands of trustees, paying agents, and other depositories  
 13 and the regulation and disposition thereof;

14 (5) limitations on:

15 (a) the purpose to which the proceeds of sale of notes  
 16 or bonds may be applied;

17 (b) the pledge of the proceeds to secure the payment  
 18 of the notes or bonds or of any issue thereof;

19 (c) the issuance of additional notes or bonds;

20 (d) the terms upon which additional notes or bonds may  
 21 be issued and secured; or

22 (e) the refunding of outstanding notes or bonds;

23 (6) the procedure, if any, by which the terms of any  
 24 contract with noteholders or bondholders may be amended or  
 25 abrogated, the amount of notes or bonds the holders of which

1 must consent thereto, and the manner in which such consent  
2 may be given;

3 (7) a commitment to employ adequate and competent  
4 personnel at such reasonable compensation, salaries, fees,  
5 and charges as may be determined by the board and to  
6 maintain suitable facilities and services for the purpose of  
7 carrying out its programs;

8 (8) vesting in a trustee property, rights, powers, and  
9 duties in trust as the board determines;

10 (9) defining the acts or omissions that shall  
11 constitute a default in the obligations and duties of the  
12 board to the holders of the notes or bonds and providing for  
13 the rights and remedies of the holders of notes or bonds in  
14 the event of such default, including as a matter of right  
15 the appointment of a receiver, but rights and remedies may  
16 not be inconsistent with the laws of the state and the other  
17 provisions of [this act]; and

18 (10) any other matters of like or different character  
19 that affect in any way the security or protection of the  
20 holders of the notes or bonds.

21 Section 9. Validity of pledge. Any pledge made by the  
22 board shall be valid and binding from the time the pledge is  
23 made. The revenues, money, or property pledged and  
24 thereafter received by the board shall immediately be  
25 subject to the lien of the pledge without any physical

1 delivery thereof or further act. The lien of any pledge  
2 shall be valid and binding against all parties having claims  
3 of any kind in tort, contract, or otherwise against the  
4 board, irrespective of whether such parties have notice  
5 thereof. Neither the resolution nor any other instrument by  
6 which a pledge is created need be recorded.

7 Section 10. Personal liability. The board members and  
8 staff of the board are not personally liable or accountable  
9 on or otherwise liable or accountable by reason of the  
10 issuance of any bond or note issued by the board.

11 Section 11. Purchase of notes and bonds --  
12 cancellation. The board, subject to existing agreements with  
13 noteholders or bondholders, may, out of any funds available  
14 for that reason, purchase notes or bonds of the board, which  
15 shall thereupon be canceled, at a price not exceeding:

16 (1) the current redemption price plus accrued interest  
17 to the next interest payment thereon if the notes or bonds  
18 are then redeemable; or

19 (2) the redemption price applicable on the first date  
20 after the purchase upon which the notes or bonds become  
21 subject to redemption plus accrued interest to that date if  
22 the notes or bonds are not then redeemable.

23 Section 12. Trust indenture. (1) In the discretion of  
24 the board, the bonds may be secured by a trust indenture  
25 between the board and a corporate trustee, which may be a

1 trust company or bank having the power of a trust company  
 2 within or without the state. A trust indenture may contain  
 3 provisions for protecting and enforcing the rights and  
 4 remedies of the bondholders that are reasonable and proper  
 5 and not in violation of law, including covenants setting  
 6 forth the duties of the board in relation to the exercise of  
 7 its powers and the custody, safeguarding, and application of  
 8 all money. The board may provide by a trust indenture for  
 9 the payment of the proceeds of the bonds and the revenues to  
 10 the trustee under the trust indenture of another depository  
 11 and for the method of disbursement, with safeguards and  
 12 restrictions it considers necessary.

13 (2) All expenditures incurred in carrying out a trust  
 14 indenture may be treated as part of the operating  
 15 expenditures of the board.

16 Section 13. Negotiability of bonds. Notes and bonds  
 17 issued by the board under [this act] are negotiable  
 18 instruments under the Uniform Commercial Code, subject only  
 19 to the provisions for registration of notes and bonds.

20 Section 14. Signatures of board members. In case any  
 21 of the board members whose signatures appear on notes or  
 22 bonds or coupons cease to be members before the delivery of  
 23 the notes or bonds, their signatures shall nevertheless be  
 24 valid and sufficient for all purposes as if the members had  
 25 remained in office until delivery.

1 Section 15. Reserve funds and appropriations. (1) The  
 2 board shall pay into a capital reserve account established  
 3 as an account within the school district financing fund:

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

6 (b) any proceeds of sale of notes or bonds to the  
 7 extent provided in the resolutions or indentures of the  
 8 board authorizing their issuance; and

9 (c) any other funds, from any other source, that may  
 10 be available to the board for the purpose of the account.

11 (2) All funds held in the capital reserve account  
 12 shall be used solely for the payment of the principal of  
 13 bonds secured in whole or in part by the account or of the  
 14 sinking fund payments with respect to the bonds, the  
 15 purchase or redemption of the bonds, the payment of interest  
 16 on the bonds, or the payment of any redemption premium  
 17 required to be paid when the bonds are redeemed prior to  
 18 maturity. Funds in the account may not be withdrawn at any  
 19 time in an amount that reduces the amount of the account to  
 20 less than the minimum capital reserve requirements  
 21 established for the account except, with respect to bonds  
 22 secured in whole or in part by the account, for the purpose  
 23 of making payment when due of principal, interest,  
 24 redemption premiums, and sinking fund payments for the  
 25 payment of which other money is pledged but not available.



1 Any income or interest earned by or incremental to the  
 2 capital reserve account due to its investment may be  
 3 transferred to another account of the board within the  
 4 school district financing fund to the extent it does not  
 5 reduce the amount of the capital reserve account below the  
 6 minimum capital reserve requirement for the account.

7 (3) The board may not issue bonds secured in whole or  
 8 in part by the capital reserve account unless the board  
 9 deposits in the account from the proceeds of the bonds  
 10 issued or from any other sources an amount not less than the  
 11 minimum capital reserve requirement for these bonds. For the  
 12 purposes of this section, the term "minimum capital reserve  
 13 requirement" means, as of any particular date of  
 14 computation, an amount of money, as provided in the  
 15 resolution or indenture of the board authorizing the bonds  
 16 or notes, equal to the greatest of the respective amounts  
 17 for the current or any future fiscal year of the board on  
 18 the bonds of the board secured in whole or in part by the  
 19 account. The annual debt service for any fiscal year is the  
 20 amount of money equal to the aggregate of all interest and  
 21 principal payable on the bonds during the fiscal year,  
 22 calculated on the assumption that all the bonds are paid at  
 23 maturity. If any amount of the bonds is required to be  
 24 redeemed at an earlier date by the operation of a sinking  
 25 fund, that amount is considered payable on those bonds

1 during the year they are to be redeemed for the purposes of  
 2 this calculation.

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

7 Section 16. Maintenance of capital reserve account.

8 (1) In order to assure the maintenance of the capital  
 9 reserve account, the board shall, on or before September 1  
 10 in the year preceding the convening of the legislature,  
 11 deliver to the governor a certificate stating the sum, if  
 12 any, required to restore the capital reserve account to the  
 13 minimum capital reserve requirement. The governor shall  
 14 include in the executive budget submitted to the legislature  
 15 the sum required to restore the capital reserve account to  
 16 the sum of minimum capital reserve requirements. All sums  
 17 appropriated by the legislature shall be deposited in the  
 18 capital reserve account.

19 (2) All amounts appropriated to the board by the  
 20 legislature under this section constitute advances to the  
 21 board and, subject to the rights of the holders of any bonds  
 22 or notes of the board, shall be repaid to the state's  
 23 general fund without interest from available operating  
 24 revenues of the school district finance fund in excess of  
 25 amounts required for the payment of bonds, notes, or other

1 obligations of the board for maintenance of the capital  
2 reserve account and for operating expenses.

3 Section 17. Refunding obligations. (1) The board may  
4 provide for the issuance of refunding obligations for  
5 refunding any obligations then outstanding that have been  
6 issued under [this act], including the payment of any  
7 redemption premium and any interest accrued or to accrue to  
8 the date of redemption of the obligations. The issuance of  
9 obligations, the maturities and other details, the rights of  
10 the holders, and the rights, duties, and obligations of the  
11 board are governed by the appropriate provisions of [this  
12 act] relating to the issuance of obligations.

13 (2) Refunding obligations issued as provided above may  
14 be sold or exchanged for outstanding obligations issued  
15 under [this act]. The proceeds may be applied to the  
16 purchase, redemption, or payment of outstanding obligations.  
17 Pending the application of the proceeds of refunding  
18 obligations, with other available funds, to the payment of  
19 principal, accrued interest, and any redemption premium on  
20 the obligations being refunded and, if permitted in the  
21 resolution authorizing the issuance of the refunding  
22 obligations or in the trust agreement securing them, to the  
23 payment of interest on refunding obligations and expenses in  
24 connection with refunding, the proceeds may be invested as  
25 provided in Title 17, chapter 6.

1 Section 18. Credit of state not pledged. Obligations  
2 issued under the provisions of [this act] do not constitute  
3 a liability or obligation or a pledge of the faith and  
4 credit of the state but are payable solely from the revenues  
5 or assets of the school district finance fund. An obligation  
6 issued under [this act] shall contain on the face thereof a  
7 statement to the effect that the state of Montana is not  
8 liable on the obligation and neither the faith and credit  
9 nor the taxing power of the state is pledged to the payment  
10 of the principal of or the interest on the obligation.

11 Section 19. Annual audit. (1) There must be an audit  
12 of the school district finance fund books and records at  
13 least once each fiscal year.

14 (2) The legislative auditor may conduct an audit at  
15 the request of the legislative audit committee.

16 Section 20. Tax exemption of bonds. Bonds, notes, or  
17 other obligations issued by the board under [this act],  
18 their transfer, and their income, including any profits made  
19 on their sale, are exempt from taxation by the state or any  
20 political subdivision or other instrumentality of the state,  
21 except inheritance, estate, and gift taxes. The board is  
22 not required to pay recording or transfer fees or taxes on  
23 instruments recorded by it.

24 Section 21. Pledge of the state. In accordance with  
25 the constitutions of the United States and the state of

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1 Montana, the state pledges that it will not in any way  
2 impair the obligations of any agreement between the board  
3 and the holders of notes and bonds issued by the board,  
4 including but not limited to an agreement to administer a  
5 loan program financed by the issuance of bonds and to employ  
6 a staff sufficient and competent for this purpose.

7 Section 22. Severability. If a part of this act is  
8 invalid, all valid parts that are severable from the invalid  
9 part remain in effect. If a part of this act is invalid in  
10 one or more of its applications, the part remains in effect  
11 in all valid applications that are severable from the  
12 invalid applications.

-End-