

Senate Bill 423

In The Senate

February 10, 1981	Introduced and referred to Committee on Taxation.
	Fiscal note requested.
February 16, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

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

11 Section 1. Short title. [This act] shall be known and
12 may be cited as the "Municipal Finance Act of 1981".

13 Section 2. Legislative findings. 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 municipal
16 improvements to reduce borrowing costs.

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

20 (1) "Authorized purpose" means any project for which a
21 municipality could issue municipal bonds on its own behalf.

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

25 (3) "Board" means the board of investments created in

1 2-15-1005.

2 (4) "Capital reserve account" means the capital
3 reserve account provided for in [section 16].

4 (5) "Municipal bonds" means general obligation bonds,
5 notes, warrants, or other evidence of indebtedness issued by
6 a municipality in accordance with Title 7, chapter 7, part
7 42 or 43.

8 (6) "Municipal finance fund" means the fund created in
9 [section 4].

10 (7) "Municipality" means an entity incorporated as a
11 city or town under state law.

12 (8) "Revenues" means all fees, charges, money,
13 profits, payments of principal of or interest on municipal
14 bonds and other investments, gifts, grants, contributions,
15 appropriations, and all other income derived or to be
16 derived by the board under [this act].

17 Section 4. Municipal finance fund. There is created a
18 municipal finance fund in the bond proceeds and insurance
19 clearance fund provided for in 17-2-102. All funds from the
20 proceeds of bonds issued under [this act], fees, and other
21 money received by the board, money appropriated by the
22 legislature for the use of the board in carrying out [this
23 act], and money made available from any other source for the
24 use of the board shall be deposited in the municipal finance
25 fund, except as otherwise provided by law and except as

1 necessary to maintain the capital reserve accounts. All
 2 funds deposited in the municipal finance fund are
 3 continuously appropriated to and may be expended by the
 4 board for the purposes authorized in [this act].

5 Section 5. Lending powers. (1) The board, for
 6 authorized purposes may lend money to municipalities, not to
 7 exceed \$100,000 for any project, through the purchase by the
 8 board of municipal bonds issued by such municipalities in
 9 fully marketable form. The board may impose such fees,
 10 charges, and interest rates as it determines necessary and
 11 appropriate to provide sufficient revenues to pay debt
 12 service on bonds issued under [this act] and associated
 13 administrative expenses of the board. All expenses incurred
 14 in carrying out the purposes of [this act] shall be payable
 15 solely from revenues or other funds provided or to be
 16 provided under [this act], and nothing in [this act] may be
 17 construed to authorize the board to incur any indebtedness
 18 or liability on behalf of or payable by the state.

19 (2) The general obligation municipal bonds purchased
 20 by the municipal finance fund pursuant to [this act] shall
 21 be secured by the full faith, credit, and taxable resources
 22 of the respective municipalities and if the board so
 23 determines may be additionally secured by a pledge of state
 24 aid receivable by a municipality from the state. The
 25 governing body of a municipality may include such pledge in

1 the resolution providing for the issuance of the bonds.

2 (3) The state treasurer shall withhold any funds or
 3 money in the custody or control of the state treasurer due
 4 or payable to a municipality subsequent to written notice of
 5 a default as to payment of principal or interest on any
 6 bonds of the municipality owned by the municipal finance
 7 fund until the default has been cured or the state treasurer
 8 has been advised that arrangements satisfactory to the board
 9 have been made for the payment of the principal and
 10 interest.

11 (4) Notwithstanding the provisions of 7-7-4207,
 12 7-7-4251, 7-7-4263, or 17-5-102, or any other law applicable
 13 to or constituting any limitation on the maximum rate of
 14 interest per annum payable on municipal bonds before or
 15 after maturity, a municipality may contract to pay interest
 16 at the contract rate on money borrowed from the board and
 17 evidenced by its municipal bonds purchased by the board.

18 (5) Any municipality may contract with the board with
 19 respect to the loan or purchase and the contract shall
 20 contain the terms and conditions of the loan or purchase.
 21 Every municipality may pay fees and charges required to be
 22 paid to the board for its services. Such fees and charges
 23 may include reimbursement of the board for attorney's fees,
 24 brokerage fees, or other fees or commissions of any kind
 25 paid to any person or corporation for assisting in the

1 proceedings, in the preparation of the bonds, or in
2 negotiating the sale thereof.

3 (6) Notwithstanding Title 7, chapter 7, part 42, or
4 any other law applicable to or constituting any limitation
5 on the sale of municipal bonds, any municipality may sell
6 municipal bonds to the board without limitations as to
7 denomination, and the bonds or notes may be fully registered
8 or registerable as to principal or in bearer form, may bear
9 interest at a rate or rates in accordance with this section,
10 may be evidenced in that manner and may contain other
11 provisions not inconsistent with this section, and may be
12 sold to the board without advertisement at a price equal to
13 par and accrued interest, all as provided in the proceedings
14 of the commissioners of the municipality under which the
15 bonds or notes are issued.

16 (7) The municipality may provide for the exchange of
17 coupon bonds for fully registered bonds, for the exchange of
18 fully registered bonds for coupon bonds, and for exchange of
19 the bonds after issuance for bonds of larger or smaller
20 denominations. The municipality may require all expenses
21 incurred in connection with the exchange to be paid by the
22 holders.

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

25 (1) sue and be sued;

1 (2) have a seal;

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

4 (4) make contracts, agreements, and other instruments
5 necessary or convenient for the exercise of its powers under
6 [this act];

7 (5) fix, revise from time to time, and charge and
8 collect fees and charges for the use of its services or
9 facilities;

10 (6) borrow money and issue its negotiable bonds or
11 notes, provide for and secure the payment of its bonds or
12 notes, provide for the rights of the holders of its bonds or
13 notes, and purchase, hold, and dispose of any of its bonds
14 or notes;

15 (7) accept gifts or grants of property, funds, money,
16 materials, labor, supplies, or services from the United
17 States of America, the state, or any other state or agencies
18 or departments thereof or from any governmental unit or any
19 person, firm, or corporation and carry out the terms or
20 provisions or make agreements with respect to any such gifts
21 or grants and to do any and all things necessary, useful,
22 desirable, or convenient in connection with procurement,
23 acceptance, or disposition of such gifts or grants;

24 (8) do and perform any acts and things authorized by
25 [this act] under, through, or by means of its officers,

1 agents, or employees or by contracts with any person, firm,
2 or corporation;

3 (9) make, enter into, and enforce all contracts or
4 agreements necessary, convenient, or desirable for the
5 purposes of the bond, pertaining to any loan to a
6 municipality, any purchase or sale of municipal bonds, or to
7 the performance of its duties and execution or carrying out
8 of any of its powers under [this act];

9 (10) purchase or hold municipal bonds at such prices
10 and in such manner as the board considers advisable and sell
11 municipal bonds acquired or held by it at such prices
12 without relation to cost and in the manner the board
13 considers advisable;

14 (11) fix and prescribe any form of application or
15 procedure to be required of a municipality for the
16 authorized purpose of any loan or the purchase of its
17 municipal bonds and fix the terms and conditions of any such
18 loan or purchase and enter into agreements with
19 municipalities with respect to any such purchase;

20 (12) invest any funds not required for immediate use,
21 subject to any agreements with its bondholders and
22 noteholders, as provided in Title 17, chapter 6, except that
23 all investment income from funds of the board derived under
24 [this act] less the cost for investment as prescribed by law
25 shall be deposited in the municipal finance fund; and

1 (13) do all acts and things necessary, convenient, or
2 desirable to carry out the powers expressly granted or
3 necessarily implied in [this act].

4 Section 7. Meetings and acts of the board. (1) All
5 meetings of the board are open to the public.

6 (2) All official acts of the board pursuant to [this
7 act] shall be done in a regular or special meeting and
8 approved by a majority of the voting members of the board.

9 Section 8. Bonds and notes. (1) The board may by
10 resolution, from time to time, issue negotiable notes and
11 bonds in a principal amount as the board determines
12 necessary to provide sufficient funds for achieving an
13 authorized purpose, not exceeding \$100,000 for any project,
14 including the payment of interest on notes and bonds of the
15 board, establishment of reserves to secure the notes and
16 bonds, including the reserve account created under [section
17 16], and all other expenditures of the board incident to and
18 necessary or convenient to carry out [this act].

19 (2) The board may by resolution, from time to time,
20 issue notes to renew notes and bonds to pay notes, including
21 interest, and whenever it considers refunding expedient,
22 refund any bonds by the issuance of new bonds, whether the
23 bonds to be refunded have or have not matured, and issue
24 bonds partly to refund bonds outstanding and partly for any
25 of its other purposes.

1 (3) Except as otherwise expressly provided by
 2 resolution of the board, every issue of its notes and bonds
 3 shall be obligations of the board payable out of any
 4 revenues, assets, or money of the board, subject only to
 5 agreements with the holders of particular notes or bonds
 6 pledging particular revenues, assets, or money.

7 (4) The notes and bonds shall be authorized by
 8 resolutions of the board, shall bear a date, and shall
 9 mature at times as the resolutions provide. A note may not
 10 mature more than 5 years and a bond may not mature more than
 11 25 years from the date of its issue. The bonds may be issued
 12 as serial bonds payable in annual installments or as term
 13 bonds or as a combination thereof. The notes and bonds
 14 shall bear interest at a rate or rates, be in denominations,
 15 be in a form, either coupon or registered, carry
 16 registration privileges, be executed in a manner, be payable
 17 in a medium of payment, at places within or without the
 18 state, and be subject to terms of redemption as provided in
 19 resolutions. The notes and bonds of the board may be sold at
 20 public or private sale at such prices, which may be above or
 21 below par, as are determined by the board.

22 (5) The total amount of notes and bonds outstanding at
 23 any one time, except notes or bonds as to which the board's
 24 obligation has been satisfied and discharged by refunding or
 25 for which reserve for payment or other means of payment have

1 been otherwise provided, may not exceed \$10 million.

2 Section 9. Provision of bond resolutions. A resolution
 3 authorizing any notes or bonds or any issue thereof may
 4 contain provisions, which shall be a part of the contract or
 5 contracts with the holders thereof, as to:

6 (1) pledging all or any part of the revenues or
 7 property of the board to secure the payment of the notes or
 8 bonds or of any issue thereof, subject to existing
 9 agreements with noteholders or bondholders;

10 (2) pledging all or any part of the assets of the
 11 board, including municipal bonds, to secure the payment of
 12 the notes or bonds or of any issue thereof, subject to
 13 existing agreements with noteholders or bondholders;

14 (3) the use and disposition of the income and
 15 principal from municipal bonds owned by the board;

16 (4) the setting aside of reserves of sinking funds in
 17 the hands of trustees, paying agents, and other depositories
 18 and the regulation and disposition thereof;

19 (5) limitations on the authorized purpose to which the
 20 proceeds of sale of notes or bonds may be applied and the
 21 pledge of the proceeds to secure the payment of the notes or
 22 bonds or of any issue thereof;

23 (6) limitations on the issuance of additional notes or
 24 bonds, the terms upon which additional notes or bonds may be
 25 issued and secured, and the refunding of outstanding notes

1 or bonds;

2 (7) the procedure, if any, by which the terms of any
3 contract with noteholders or bondholders may be amended or
4 abrogated, the amount of notes or bonds the holders of which
5 must consent thereto, and the manner in which such consent
6 may be given;

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

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

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

22 (11) any other matters of like or different character
23 that in any way affect the security or protection of the
24 holders of the notes or bonds.

25 Section 10. Validity of pledge. Any pledge made by the

1 board shall be valid and binding from the time the pledge is
2 made. The revenues, money, or property pledged and
3 thereafter received by the board shall immediately be
4 subject to the lien of the pledge without any physical
5 delivery thereof or further act. The lien of any pledge
6 shall be valid and binding against all parties having claims
7 of any kind in tort, contract, or otherwise against the
8 board, irrespective of whether such parties have notice
9 thereof. Neither the resolution nor any other instrument by
10 which a pledge is created need be recorded.

11 Section 11. Personal liability. The board members and
12 staff of the board are not personally liable or accountable
13 by reason of the issuance of or on any bond or note issued
14 by the board.

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

20 (1) the current redemption price plus accrued interest
21 to the next interest payment thereon, if the notes or bonds
22 are then redeemable; or

23 (2) the redemption price applicable on the first date
24 after the purchase upon which the notes or bonds become
25 subject to redemption plus accrued interest to that date, if

1 the notes or bonds are not then redeemable.

2 Section 13. Trust indenture. (1) In the discretion of
3 the board, the bonds may be secured by a trust indenture
4 between the board and a corporate trustee, which may be a
5 trust company or bank having the power of a trust company
6 within or without the state. A trust indenture may contain
7 provisions for protecting and enforcing the rights and
8 remedies of the bondholders that are reasonable and proper
9 and not in violation of law, including covenants setting
10 forth the duties of the board in relation to the exercise of
11 its powers and the custody, safeguarding, and application of
12 all money. The board may provide by a trust indenture for
13 the payment of the proceeds of the bonds and the revenues to
14 the trustee under the trust indenture of another depository
15 and for the method of disbursement, with safeguards and
16 restrictions it considers necessary.

17 (2) All expenditures incurred in carrying out a trust
18 indenture may be treated as part of the operating
19 expenditures of the board.

20 Section 14. Negotiability of bonds. Notes and bonds
21 issued by the board are negotiable instruments under the
22 Uniform Commercial Code, subject only to the provisions for
23 registration of notes and bonds.

24 Section 15. Signatures of board members. In case any
25 of the board members whose signatures appear on notes or

1 bonds or coupons cease to be members before the delivery of
2 the notes or bonds, their signatures shall, nevertheless, be
3 valid and sufficient for all purposes, as if the members had
4 remained in office until delivery.

5 Section 16. Reserve funds and appropriations. (1) The
6 board shall pay into a capital reserve account established
7 as an account within the municipal financing fund:

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

10 (b) any proceeds of sale of notes or bonds to the
11 extent provided in the resolutions or indentures of the
12 board authorizing their issuance; and

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

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

1 secured in whole or in part by the account, for the purpose
 2 of making payment, when due, of principal, interest,
 3 redemption premiums, and sinking fund payments for the
 4 payment of which other money pledged is not available. Any
 5 income or interest earned by or incremental to the capital
 6 reserve account due to its investment may be transferred to
 7 another account of the board within the municipal financing
 8 fund to the extent it does not reduce the amount of the
 9 capital reserve account below the minimum capital reserve
 10 requirement for the account.

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

1 calculated on the assumption that all the bonds are paid at
 2 maturity. If any amount of the bonds is required to be
 3 redeemed on an earlier date by the operation of a sinking
 4 fund, then that amount is considered payable on those bonds
 5 during the year they are to be redeemed for the purposes of
 6 this calculation.

7 (4) In computing the amount of the capital reserve
 8 account, securities in which all or a portion of the account
 9 is invested shall be valued at par or, if purchased at less
 10 than par, at their cost to the board.

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

23 (2) All amounts appropriated to the board by the
 24 legislature under this section constitute advances to the
 25 board and, subject to the rights of the holders of any bonds

1 or notes of the board, shall be repaid to the state's
 2 general fund without interest from available operating
 3 revenues of the municipal financing fund in excess of
 4 amounts required for the payment of bonds, notes, or other
 5 obligations of the board, for maintenance of the capital
 6 reserve account, and for operating expenses.

7 Section 18. Refunding obligations. (1) The board may
 8 provide for the issuance of refunding obligations for
 9 refunding any obligations then outstanding that have been
 10 issued under [this act], including the payment of any
 11 redemption premium and any interest accrued or to accrue to
 12 the date of redemption of the obligations. The issuance of
 13 obligations, the maturities and other details, the rights of
 14 the holders, and the rights, duties, and obligations of the
 15 board are governed by the appropriate provisions of [this
 16 act] that relate to the issuance of obligations.

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

1 obligations or in the trust agreement securing them, to the
 2 payment of interest on refunding obligations and expenses in
 3 connection with refunding, the proceeds may be invested as
 4 provided in Title 17, chapter 6.

5 Section 19. Credit of state not pledged. Obligations
 6 issued under the provisions of [this act] do not constitute
 7 a liability or obligation or a pledge of the faith and
 8 credit of the state but are payable solely from the revenues
 9 or assets of the board. An obligation issued under [this
 10 act] shall contain on the face thereof a statement to the
 11 effect that the state of Montana is not liable on the
 12 obligation and the obligation is not a debt of the state and
 13 neither the faith and credit nor the taxing power of the
 14 state is pledged to the payment of the principal of or the
 15 interest on the obligation.

16 Section 20. Annual audit. (1) The board's books and
 17 records shall be audited at least once each fiscal year.

18 (2) The legislative auditor may conduct an audit at
 19 any time at the request of the legislative audit committee.

20 Section 21. Tax exemption of bonds. Bonds, notes, or
 21 other obligations issued by the board under [this act],
 22 their transfer, and their income (including any profits made
 23 on their sale) are free from taxation by the state or any
 24 political subdivision or other instrumentality of the state,
 25 excepting inheritance, estate, and gift taxes. The board is

1 not required to pay recording or transfer fees or taxes on
2 instruments recorded by it.

3 Section 22. Pledge of the state. In accordance with
4 the constitutions of the United States and the state of
5 Montana, the state pledges that it will not in any way
6 impair the obligations of any agreement between the board
7 and the holders of notes and bonds issued by the board,
8 including but not limited to an agreement to administer a
9 loan program financed by the issuance of bonds and to employ
10 a staff sufficient and competent for this purpose.

11 Section 23. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from the
16 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 352-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 423 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

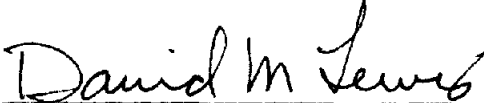
Senate Bill 423 establishes a consolidated fund within the Board of Investments for municipal projects enumerated under Title 7, Chapter 7, Parts 42 and 43, of the MCA with a limit of \$100,000 per project and a maximum indebtedness through revenue bonds and other sources of \$10,000,000.

Fiscal Impact

An estimate of revenues and expenditures cannot be estimated at this time because operating policy is not sufficiently detailed. It is likely, however, that general fund money will be needed for start-up costs. Such costs would include staff and operating costs for fiscal years 1982 and 1983.

Local Impact

There will be a savings in bond indebtedness for approved projects. Municipal bond pools in most states have been used to reduce the cost of issuing municipal bonds since legal and printing costs can be reduced. Lower interest rates are some time possible as well.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____
