

HOUSE BILL NO. 448

INTRODUCED BY BARDANOUVE

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

IN THE HOUSE

January 22, 1983	Introduced and referred to Committee on State Administration.
February 2, 1983	Committee recommend bill do pass as amended. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 4, 1983	Second reading, do pass.
February 5, 1983	Considered correctly engrossed.
February 7, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 8, 1983	Introduced and referred to Committee on Taxation.
March 4, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 7, 1983	Second reading, concurred in.
March 9, 1983	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

March 9, 1983	Returned to House with amendments.
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March 11, 1983

Second reading,
amendments concurred in.

March 12, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly
enrolled.

1 HOUSE BILL NO. 448
2 INTRODUCED BY Baillone

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A GENERAL
6 OBLIGATION BOND AND NOTE LAW UNDER WHICH THE STATE MAY ISSUE
7 GENERAL OBLIGATION BONDS AND NOTES AS AUTHORIZED BY
8 PARTICULAR BOND ACTS APPROVED BY THE LEGISLATURE; AMENDING
9 SECTION 18-1-203, NCA; AND PROVIDING AN EFFECTIVE DATE AND
10 AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Definitions. As used in
14 [sections 1 through 6], unless the context requires
15 otherwise, the following definitions apply:

16 (1) "Board" means the board of examiners provided for
17 in 2-15-1007.

18 (2) "Bond act" means an act approved by the vote of
19 two-thirds of the members of each house of the legislature
20 or by a majority of the electors voting thereon, authorizing
21 the issuance of bonds for the purpose set forth therein and
22 adopting [sections 1 through 6] by reference.

23 (3) "Bonds" means general obligation bonds, notes, or
24 other evidences of indebtedness issued in accordance with
25 the provisions of [sections 1 through 6].

1 (4) "Capital projects account" means a separate
2 general obligation bond and note account created within the
3 capital projects fund type established in 17-2-102.

4 (5) "Debt service account" means a separate general
5 obligation bond and note account created within the debt
6 service fund type established in 17-2-102.

7 (6) "Department" means the department of
8 administration created in 2-15-1001.

9 (7) "Treasurer" means the ex officio state treasurer,
10 referred to in 2-15-1002.

11 NEW SECTION. Section 2. Authority to issue general
12 obligation bonds and notes. (1) When authorized by and
13 within the limits of a bond act and as provided in [sections
14 1 through 6], the board may issue and sell bonds of the
15 state in such manner as it considers necessary and proper to
16 provide funds for the purpose set forth in the bond act.

17 (2) The full faith and credit and taxing powers of the
18 state must be pledged for the payment of all bonds and notes
19 issued pursuant to [sections 1 through 6], with all interest
20 thereon and premiums payable upon the redemption thereof.
21 All principal, interest, and redemption premium, if any,
22 becoming due during a fiscal year must be included in the
23 state budget for such year, and sufficient revenues must be
24 appropriated for payment thereof from the general fund and,
25 if the general fund is not sufficient, from any other funds

of the state legally available for payment thereof. No bonds may be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) No additional long-range building bonds may be issued under Title 17, chapter 5, part 4.

NEW SECTION. Section 3. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent -- deposit of proceeds. (1) In furtherance of each bond act, bonds may be issued by the board upon request of the department in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at such rate or rates, maturing at such times not exceeding 30 years from date of issue, subject to redemption at such earlier times and prices and on such notice, and payable at the office of such fiscal agency of the state as the board shall determine, subject to the limitations contained in [sections 1 through 6] and in the bond act.

(2) In all other respects the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Bonds and any interest coupons appurtenant thereto must be signed

by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. Action taken by the board under [this act] must be by a majority vote of its members. The state treasurer shall keep a record of all such bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 1 through 6].

(4) The board is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available therefor in the general fund or from the proceeds of the bonds, in the discretion of the board.

(5) All proceeds of bonds and notes issued under [sections 1 through 6] must be deposited in the capital projects account, except that any premiums and accrued interest received and the proceeds of refunding bonds or notes must be deposited in the debt service account.

NEW SECTION. Section 4. Use of capital projects account. The capital projects account must be segregated by

1 the treasurer from all other money in that or any other
 2 account in the state treasury and used only to pay costs of
 3 the projects for which bonds were issued, in accordance with
 4 the respective bond accounts, upon order of the department
 5 acting within the limits of the authority conferred upon it
 6 by the legislature.

7 NEW SECTION. Section 5. Bond anticipation notes --
 8 when issued -- payment of principal and interest. (1) When
 9 the board has been authorized to issue and sell bonds under
 10 [sections 1 through 6], it may, pending the issuance of the
 11 bonds, issue in the name of the state temporary notes in
 12 anticipation of the money to be derived from the sale of the
 13 bonds. The notes must be designated as "bond anticipation
 14 notes". The proceeds of the sale of the bond anticipation
 15 notes may be used only for the purposes for which the
 16 proceeds of the bonds could be used, including costs of
 17 issuance. If, prior to the issuance of the bonds, it becomes
 18 necessary to redeem outstanding notes, additional bond
 19 anticipation notes may be issued to redeem the outstanding
 20 notes. No renewal of any note may be issued after the sale
 21 of bonds in anticipation of which the original notes were
 22 issued.

23 (2) Bond anticipation notes or other short-term
 24 evidences of indebtedness maturing not more than 1 year
 25 after the date of issue may be issued from time to time as

1 the proceeds thereof are needed. Such notes must be
 2 authorized by the board and must have such terms and details
 3 as may be provided by resolution of the board. However, each
 4 resolution of the board authorizing notes must:

5 (a) describe the need for the proceeds of the notes to
 6 be issued; and

7 (b) specify:

8 (i) the principal amount of the notes or maximum
 9 principal amount of the notes that may be outstanding at any
 10 one time;

11 (ii) the rate or rates of interest, the maximum rate of
 12 interest, or the interest rate formula (to be determined in
 13 the manner specified in the resolution authorizing the
 14 notes) to be incurred through the issuance of such notes;
 15 and

16 (iii) the maturity date or maximum maturity date of the
 17 notes.

18 (3) Subject to the limitations contained in this
 19 section and the standards and limitations prescribed in the
 20 authorizing resolution, the board in its discretion may
 21 provide for the notes described in subsection (2) to be
 22 issued and sold, in whole or in part, from time to time, and
 23 may delegate to the state treasurer the power to determine
 24 the time or times of sale, the manner of sale, the amounts,
 25 the maturities, the rate or rates of interest, and such

other terms and details of the notes as may be considered appropriate by the board, or the state treasurer in the event of such delegation. The board in its discretion, but subject to the limitations contained in this section, may also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either in or outside of the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless and until the board revokes such authority to refund; and

(d) such other terms and conditions as the board may consider appropriate.

(4) In connection with the issuance and sale of notes as provided in this section, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on such lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing such terms and conditions as the board may authorize in the resolution

approving them.

NEW SECTION. Section 6. Bid security. Notwithstanding 18-1-203, in any case where bids are solicited for the purchase and sale of bonds or notes under [sections 1 through 6], the bid must be accompanied by lawful money of the United States or a cashier's check, certified check, bank money order, or bank draft drawn and issued by any federally chartered or state-chartered bank that is insured by the federal deposit insurance corporation, in such amount as may be required by the board or by the state treasurer under authority of [section 5].

Section 7. Section 18-1-203, MCA, is amended to read:

"18-1-203. Form of security. (1) In Except as provided in subsection (4), in all cases under 18-1-202(1)(a) the bidder, offeror, or tenderer shall accompany any bid with either:

(a) lawful moneys of the United States;

(b) a cashier's check, certified check, bank money order, or bank draft, in any case drawn and issued by a national banking association located in the state of Montana or by any banking corporation incorporated under the laws of the state of Montana; or

(c) a bid bond or bonds executed by a surety corporation authorized to do business in the state of Montana.

1 (2) ~~in Except as provided in subsection (4),~~ in all
2 cases under 18-1-202(1)(b) the bidder shall accompany the
3 bid with the security described in (1)(a) or (1)(b) above.

4 (3) The moneys or, in lieu of moneys, any of such bank
5 instruments or bid bonds shall be payable directly to the
6 public authority soliciting or advertising for bids.

7 ~~(4) The provisions of this section do not apply to~~
8 ~~bonds issued under [sections 1 through 6]."~~

9 ~~NEW SECTION.~~ Section 8. Effective date. This act is
10 effective July 1, 1983.

11 ~~NEW SECTION.~~ Section 9. Applicability. This act
12 applies to bonds issued after July 1, 1983.

-End-

Approved by Committee
on State Administration

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A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A GENERAL OBLIGATION BOND AND NOTE LAW UNDER WHICH THE STATE MAY ISSUE GENERAL OBLIGATION BONDS AND NOTES AS AUTHORIZED BY PARTICULAR BOND ACTS APPROVED BY THE LEGISLATURE; TO MODIFY THE CONDITIONS UNDER WHICH THE BOARD OF EXAMINERS MAY REFUND BONDS AND DEBENTURES ISSUED BY THE STATE; AMENDING SECTION SECTIONS 17-5-301, 17-5-305, AND 18-1-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of examiners provided for in 2-15-1007.

(2) "Bond act" means an act approved by the vote of two-thirds of the members of each house of the legislature or by a majority of the electors voting thereon, authorizing the issuance of bonds for the purpose set forth therein and adopting [sections 1 through 6] by reference.

(3) "Bonds" means general obligation bonds, notes, or other evidences of indebtedness issued in accordance with the provisions of [sections 1 through 6].

(4) "Capital projects account" means a separate general obligation bond and note account created within the capital projects fund type established in 17-2-102.

(5) "Debt service account" means a separate general obligation bond and note account created within the debt service fund type established in 17-2-102.

(6) "Department" means the department of administration created in 2-15-1001.

(7) "Treasurer" means the ex officio state treasurer, referred to in 2-15-1002.

NEW SECTION. Section 2. Authority to issue general obligation bonds and notes. (1) When authorized by and within the limits of a bond act and as provided in [sections 1 through 6], the board may issue and sell bonds of the state in such manner as it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to [sections 1 through 6], with all interest thereon and premiums payable upon the redemption thereof. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the

1 state budget for such year, and sufficient revenues must be
 2 appropriated for payment thereof from the general fund and,
 3 if the general fund is not sufficient, from any other funds
 4 of the state legally available for payment thereof. No bonds
 5 may be issued to cover deficits incurred because
 6 appropriations exceeded anticipated revenue. Money
 7 transferred for the payment of bonds and notes must be
 8 deposited in the debt service account.

9 (3) No additional long-range building bonds may be
 10 issued under Title 17, chapter 5, part 4.

11 **NEW SECTION.** Section 3. Form -- principal and
 12 interest -- fiscal agent -- bond registrar and transfer
 13 agent -- deposit of proceeds. (1) In furtherance of each
 14 bond act, bonds may be issued by the board upon request of
 15 the department in such denominations and form, whether
 16 payable to bearer or registered as to principal or both
 17 principal and interest, with such provisions for conversion
 18 or exchange, and for the issuance of temporary bonds bearing
 19 interest at such rate or rates, maturing at such times not
 20 exceeding 30 years from date of issue, subject to redemption
 21 at such earlier times and prices and on such notice, and
 22 payable at the office of such fiscal agency of the state as
 23 the board shall determine, subject to the limitations
 24 contained in [sections 1 through 6] and in the bond act.

25 (2) In all other respects the board is authorized to

1 prescribe the form and terms of the bonds and do whatever is
 2 lawful and necessary for their issuance and payment. Bonds
 3 and any interest coupons appurtenant thereto must be signed
 4 by the members of the board, and the bonds must be issued
 5 under the great seal of the state of Montana. The bonds and
 6 coupons may be executed with facsimile signatures and seal
 7 in the manner and subject to the limitations prescribed by
 8 law. Action taken by the board under [this act] must be by a
 9 majority vote of its members. The state treasurer shall keep
 10 a record of all such bonds issued and sold.

11 (3) The board is authorized to employ a fiscal agent
 12 and a bond registrar and transfer agent to assist in the
 13 performance of its duties under [sections 1 through 6].

14 (4) The board is authorized to pay all costs of
 15 issuance of bonds, including without limitation rating
 16 agency fees, printing costs, legal fees, bank or trust
 17 company fees, costs to employ persons or firms to assist in
 18 the sale of the bonds, line of credit fees and charges, and
 19 all other amounts related to the costs of issuing the bonds
 20 from amounts available therefor in the general fund or from
 21 the proceeds of the bonds, in the discretion of the board.

22 (5) All proceeds of bonds and notes issued under
 23 [sections 1 through 6] must be deposited in the capital
 24 projects account, except that any premiums and accrued
 25 interest received and the proceeds of refunding bonds or

1 notes must be deposited in the debt service account.

2 NEW SECTION. Section 4. Use of capital projects
3 account. The capital projects account must be segregated by
4 the treasurer from all other money in that or any other
5 account in the state treasury and used only to pay costs of
6 the projects for which bonds were issued, in accordance with
7 the respective bond accounts, upon order of the department
8 acting within the limits of the authority conferred upon it
9 by the legislature.

10 NEW SECTION. Section 5. Bond anticipation notes --
11 when issued -- payment of principal and interest. (1) When
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13 [sections 1 through 6], it may, pending the issuance of the
14 bonds, issue in the name of the state temporary notes in
15 anticipation of the money to be derived from the sale of the
16 bonds. The notes must be designated as "bond anticipation
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25 issued.

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9 be issued; and

10 (b) specify:

11 (i) the principal amount of the notes or maximum
12 principal amount of the notes that may be outstanding at any
13 one time;

14 (ii) the rate or rates of interest, the maximum rate of
15 interest, or the interest rate formula (to be determined in
16 the manner specified in the resolution authorizing the
17 notes) to be incurred through the issuance of such notes;
18 and

19 (iii) the maturity date or maximum maturity date of the
20 notes.

21 (3) Subject to the limitations contained in this
22 section and the standards and limitations prescribed in the
23 authorizing resolution, the board in its discretion may
24 provide for the notes described in subsection (2) to be
25 issued and sold, in whole or in part, from time to time, and

may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and such other terms and details of the notes as may be considered appropriate by the board, or the state treasurer in the event of such delegation. The board in its discretion, but subject to the limitations contained in this section, may also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either in or outside of the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless and until the board revokes such authority to refund; and

(d) such other terms and conditions as the board may consider appropriate.

(4) In connection with the issuance and sale of notes as provided in this section, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on such lines of

credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing such terms and conditions as the board may authorize in the resolution approving them.

~~NEW SECTION.~~ Section 6. Bid security. Notwithstanding 18-1-203, in any case where bids are solicited for the purchase and sale of bonds or notes under [sections 1 through 6], the bid must be accompanied by lawful money of the United States or a cashier's check, certified check, bank money order, or bank draft drawn and issued by any federally chartered or state-chartered bank that is insured by the federal deposit insurance corporation, in such amount as may be required by the board or by the state treasurer under authority of [section 5].

~~SECTION 7. SECTION 17-5-301, MCA, IS AMENDED TO READ:~~

"17-5-301. Refunding bonds or debentures authorized -- interest rate. The board of examiners is hereby authorized and empowered to refund any issue of bonds, highway or other debentures heretofore issued by the state and which are outstanding or which may hereafter be issued by the state whenever in the judgment of such board it shall be deemed for the best interests of the state to do so, provided that:

~~(1) when the amount of any such issue of bonds or debentures is less than \$500,000, the same shall not be~~

1 refunded-unless-such-refunding-bonds-shall-bear-interest-at
2 a-rate-of-at-least-1/2-of-18-per-annum-less-than-the-rate-of
3 interest-on-the-bonds-to-be-refunded;

4 {2}--when--the--amount--of--any--such-issue-of-bonds-or
5 debentures-is-more-than-\$500,000--the--same--shall--not--be
6 refunded--unless-such-refunding-bonds-shall-bear-interest-at
7 a-rate-of-at-least-1/4-of-18-per-annum-less-than-the-rate-of
8 interest-on-the-bonds-to-be-refunded; and

9 {3}--refunding Refunding bonds or debentures shall not
10 be issued in any greater amount than will be required to pay
11 the principal of the bonds or debentures to be refunded,
12 costs of issuance, plus any defaulted interest thereon."

13 SECTION 8. SECTION 17-5-305, MCA, IS AMENDED TO READ:

14 "17-5-305. Sale of bonds and debentures. The refunding
15 bonds or debentures which may be issued under the provisions
16 of this part shall be sold by the board of examiners in such
17 manner as they shall deem for the best interests of the
18 state, provided that:

19 (1) none thereof shall be sold at less than its par
20 value; and

21 (2) if the state shall hold any bonds or debentures to
22 be refunded by any such issue of refunding bonds or
23 debentures as investments of institutional or other funds,
24 the same may be exchanged for the refunding bonds or
25 debentures if such exchange be authorized by the proper

1 state officers or boards-subject-however-to-the-provisions
2 for-reduced-interest-rates-required-by-17-5-301."

3 Section 9. Section 18-1-203, MCA, is amended to read:

4 "18-1-203. Form of security. (1) In Except as provided
5 in subsection (4), in all cases under 18-1-202(1)(a) the
6 bidder, offeror, or tenderer shall accompany any bid with
7 either:

8 (a) lawful moneys of the United States;

9 (b) a cashier's check, certified check, bank money
10 order, or bank draft, in any case drawn and issued by a
11 national banking association located in the state of Montana
12 or by any banking corporation incorporated under the laws of
13 the state of Montana; or

14 (c) a bid bond or bonds executed by a surety
15 corporation authorized to do business in the state of
16 Montana.

17 (2) In Except as provided in subsection (4), in all
18 cases under 18-1-202(1)(b) the bidder shall accompany the
19 bid with the security described in (1)(a) or (1)(b) above.

20 (3) The moneys or, in lieu of moneys, any of such bank
21 instruments or bid bonds shall be payable directly to the
22 public authority soliciting or advertising for bids.

23 (4) The provisions of this section do not apply to
24 bonds issued under [sections 1 through 6]."

25 NEW SECTION. Section 10. Effective date. This act is

1 effective July-17-1983 ON PASSAGE AND APPROVAL.
2 ~~NEW-SECTION~~ Section-9--Applicability--This--act
3 applies-to-bonds-issued-after-July-17-1983.
-End-

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(5) "Debt service account" means a separate general obligation bond and note account created within the debt service fund type established in 17-2-102.

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state budget for such year, and sufficient revenues must be appropriated for payment thereof from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for payment thereof. No bonds may be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) No additional long-range building bonds may be issued under Title 17, chapter 5, part 4.

NEW SECTION. Section 3. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent -- deposit of proceeds. (1) In furtherance of each bond act, bonds may be issued by the board upon request of the department in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at such rate or rates, maturing at such times not exceeding 30 years from date of issue, subject to redemption at such earlier times and prices and on such notice, and payable at the office of such fiscal agency of the state as the board shall determine, subject to the limitations contained in [sections 1 through 6] and in the bond act.

(2) In all other respects the board is authorized to

prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Bonds and any interest coupons appurtenant thereto must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. Action taken by the board under [this act] must be by a majority vote of its members. The state treasurer shall keep a record of all such bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 1 through 6].

(4) The board is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available therefor in the general fund or from the proceeds of the bonds, in the discretion of the board.

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1 notes must be deposited in the debt service account.

2 NEW SECTION. Section 4. Use of capital projects
3 account. The capital projects account must be segregated by
4 the treasurer from all other money in that or any other
5 account in the state treasury and used only to pay costs of
6 the projects for which bonds were issued, in accordance with
7 the respective bond accounts, upon order of the department
8 acting within the limits of the authority conferred upon it
9 by the legislature.

10 NEW SECTION. Section 5. Bond anticipation notes --
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12 the board has been authorized to issue and sell bonds under
13 [sections 1 through 6], it may, pending the issuance of the
14 bonds, issue in the name of the state temporary notes in
15 anticipation of the money to be derived from the sale of the
16 bonds. The notes must be designated as "bond anticipation
17 notes". The proceeds of the sale of the bond anticipation
18 notes may be used only for the purposes for which the
19 proceeds of the bonds could be used, including costs of
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24 of bonds in anticipation of which the original notes were
25 issued.

1 (2) Bond anticipation notes or other short-term
2 evidences of indebtedness maturing not more than 1 year
3 after the date of issue may be issued from time to time as
4 the proceeds thereof are needed. Such notes must be
5 authorized by the board and must have such terms and details
6 as may be provided by resolution of the board. However, each
7 resolution of the board authorizing notes must:

8 (a) describe the need for the proceeds of the notes to
9 be issued; and

10 (b) specify:

11 (i) the principal amount of the notes or maximum
12 principal amount of the notes that may be outstanding at any
13 one time;

14 (ii) the rate or rates of interest, the maximum rate of
15 interest, or the interest rate formula (to be determined in
16 the manner specified in the resolution authorizing the
17 notes) to be incurred through the issuance of such notes;
18 and

19 (iii) the maturity date or maximum maturity date of the
20 notes.

21 (3) Subject to the limitations contained in this
22 section and the standards and limitations prescribed in the
23 authorizing resolution, the board in its discretion may
24 provide for the notes described in subsection (2) to be
25 issued and sold, in whole or in part, from time to time, and

1 may delegate to the state treasurer the power to determine
 2 the time or times of sale, the manner of sale, the amounts,
 3 the maturities, the rate or rates of interest, and such
 4 other terms and details of the notes as may be considered
 5 appropriate by the board, or the state treasurer in the
 6 event of such delegation. The board in its discretion, but
 7 subject to the limitations contained in this section, may
 8 also provide in the resolution authorizing the issuance of
 9 notes for:

10 (a) the employment of one or more persons or firms to
 11 assist the board in the sale of the notes;

12 (b) the appointment of one or more banks or trust
 13 companies, either in or outside of the state, as depository
 14 for safekeeping and as agent for the delivery and payment of
 15 the notes;

16 (c) the refunding of the notes, from time to time,
 17 without further action by the board, unless and until the
 18 board revokes such authority to refund; and

19 (d) such other terms and conditions as the board may
 20 consider appropriate.

21 (4) In connection with the issuance and sale of notes
 22 as provided in this section, the board may arrange for lines
 23 of credit with any bank, firm, or person for the purpose of
 24 providing an additional source of repayment for notes issued
 25 pursuant to this section. Amounts drawn on such lines of

1 credit may be evidenced by negotiable or nonnegotiable notes
 2 or other evidences of indebtedness, containing such terms
 3 and conditions as the board may authorize in the resolution
 4 approving them.

5 NEW SECTION. Section 6. Bid security. Notwithstanding
 6 18-1-203, in any case where bids are solicited for the
 7 purchase and sale of bonds or notes under [sections 1
 8 through 6], the bid must be accompanied by lawful money of
 9 the United States or a cashier's check, certified check,
 10 bank money order, or bank draft drawn and issued by any
 11 federally chartered or state-chartered bank that is insured
 12 by the federal deposit insurance corporation, in such amount
 13 as may be required by the board or by the state treasurer
 14 under authority of [section 5].

15 SECTION 7. SECTION 17-5-301, MCA, IS AMENDED TO READ:

16 "17-5-301. Refunding bonds or debentures authorized --
 17 interest rate. The board of examiners is hereby authorized
 18 and empowered to refund any issue of bonds, highway or other
 19 debentures heretofore issued by the state and which are
 20 outstanding or which may hereafter be issued by the state
 21 whenever in the judgment of such board it shall be deemed
 22 for the best interests of the state to do so, provided
 23 that:

24 ~~that when the amount of any such issue of bonds or~~
 25 ~~debentures is less than \$500,000, the same shall not be~~

~~refunded unless such refunding bonds shall bear interest at a rate of at least 1/2 of 1% per annum less than the rate of interest on the bonds to be refunded;~~

~~(2) when the amount of any such issue of bonds or debentures is more than \$500,000, the same shall not be refunded unless such refunding bonds shall bear interest at a rate of at least 1/4 of 1% per annum less than the rate of interest on the bonds to be refunded; and~~

~~(3) refunding Refunding bonds or debentures shall not be issued in any greater amount than will be required to pay the principal of the bonds or debentures to be refunded, costs of issuance, plus any defaulted interest thereon."~~

SECTION 8. SECTION 17-5-305, MCA, IS AMENDED TO READ:

"17-5-305. Sale of bonds and debentures. The refunding bonds or debentures which may be issued under the provisions of this part shall be sold by the board of examiners in such manner as they shall deem for the best interests of the state, provided that:

(1) none thereof shall be sold at less than its par value; and

(2) if the state shall hold any bonds or debentures to be refunded by any such issue of refunding bonds or debentures as investments of institutional or other funds, the same may be exchanged for the refunding bonds or debentures if such exchange be authorized by the proper

state officers or board, subject, however, to the provisions for reduced interest rates required by 17-5-301."

Section 9. Section 18-1-203, MCA, is amended to read:

"18-1-203. Form of security. (1) In Except as provided in subsection (4), in all cases under 18-1-202(1)(a) the bidder, offeror, or tenderer shall accompany any bid with either:

(a) lawful moneys of the United States;

(b) a cashier's check, certified check, bank money order, or bank draft, in any case drawn and issued by a national banking association located in the state of Montana or by any banking corporation incorporated under the laws of the state of Montana; or

(c) a bid bond or bonds executed by a surety corporation authorized to do business in the state of Montana.

(2) In Except as provided in subsection (4), in all cases under 18-1-202(1)(b) the bidder shall accompany the bid with the security described in (1)(a) or (1)(b) above.

(3) The moneys or, in lieu of moneys, any of such bank instruments or bid bonds shall be payable directly to the public authority soliciting or advertising for bids.

(4) The provisions of this section do not apply to bonds issued under [sections 1 through 6]."

NEW SECTION. Section 10. Effective date. This act is

- 1 effective July-17-1983 ON PASSAGE AND APPROVAL.
- 2 ~~NEW-SECTION--Section-9--Applicability---This---act~~
- 3 ~~applies-to-bonds-issued-after-July-17-1983~~

-End-

March 4, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 448 be amended as follows:

1. Title, line 11.

Following: "17-5-301,"

Insert: "17-5-303, 17-5-304,"

2. Page 9, line 11.

Following: "the principal"

Insert: "and interest"

3. Page 9.

Following: line 12

Insert: "SECTION 8. SECTION 17-5-303, MCA, IS AMENDED TO READ:

"17-5-303. Application of refunding bond law. All of the provisions of the act authorizing the issuance of the bonds or debentures which are to be refunded, insofar as the same relate to the issuance and sale, term and rate of interest, tax levies or funds for the payment and interest thereof, and time and manner of such payments shall apply fully to such refunding bonds or debentures, except insofar as the same may be in conflict with the provisions of this part, shall apply fully to such refunding bonds or debentures or with the provisions of any law authorizing particular refunding bonds."

SECTION 9. SECTION 17-5-304, MCA, IS AMENDED TO READ:

"17-5-304. Cost and expense of refunding. The board of examiners may require the purchaser to bear the cost and expense of refunding any issue of bonds or debentures in connection with the bid submitted, or the cost and expense may be paid out of the sinking and interest fund when there is money in such fund. The balance remaining in such sinking and interest fund shall be transferred to and shall become the sinking and interest fund for such refunding bonds or debentures. Any and all moneys thereafter received by the state treasurer for such sinking and interest fund shall be placed in the sinking and interest fund of such refunding bonds or debentures in accordance with the provisions under which the refunded bonds were issued or as otherwise provided by law."

Renumber: subsequent sections.

HOUSE BILL NO. 448

INTRODUCED BY BARDANOUVE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A GENERAL OBLIGATION BOND AND NOTE LAW UNDER WHICH THE STATE MAY ISSUE GENERAL OBLIGATION BONDS AND NOTES AS AUTHORIZED BY PARTICULAR BOND ACTS APPROVED BY THE LEGISLATURE; ~~TO MODIFY THE CONDITIONS UNDER WHICH THE BOARD OF EXAMINERS MAY REEVALUATE BONDS AND DEBENTURES ISSUED BY THE STATE; AMENDING SECTIONS 17-5-301, 17-5-303 THROUGH 17-5-305, AND 18-1-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.~~"

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

~~NEW SECTION.~~ Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of examiners provided for in 2-15-1007.

(2) "Bond act" means an act approved by the vote of two-thirds of the members of each house of the legislature or by a majority of the electors voting thereon, authorizing the issuance of bonds for the purpose set forth therein and adopting [sections 1 through 6] by reference.

(3) "Bonds" means general obligation bonds, notes, or other evidences of indebtedness issued in accordance with the provisions of [sections 1 through 6].

(4) "Capital projects account" means a separate general obligation bond and note account created within the capital projects fund type established in 17-2-102.

(5) "Debt service account" means a separate general obligation bond and note account created within the debt service fund type established in 17-2-102.

(6) "Department" means the department of administration created in 2-15-1001.

(7) "Treasurer" means the ex officio state treasurer, referred to in 2-15-1002.

~~NEW SECTION.~~ Section 2. Authority to issue general obligation bonds and notes. (1) When authorized by and within the limits of a bond act and as provided in [sections 1 through 6], the board may issue and sell bonds of the state in such manner as it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to [sections 1 through 6], with all interest thereon and premiums payable upon the redemption thereof. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the

state budget for such year, and sufficient revenues must be appropriated for payment thereof from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for payment thereof. No bonds may be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) No additional long-range building bonds may be issued under Title 17, chapter 5, part 4.

NEW SECTION. Section 3. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent -- deposit of proceeds. (1) In furtherance of each bond act, bonds may be issued by the board upon request of the department in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at such rate or rates, maturing at such times not exceeding 30 years from date of issue, subject to redemption at such earlier times and prices and on such notice, and payable at the office of such fiscal agency of the state as the board shall determine, subject to the limitations contained in [sections 1 through 6] and in the bond act.

(2) In all other respects the board is authorized to

prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Bonds and any interest coupons appurtenant thereto must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. Action taken by the board under [this act] must be by a majority vote of its members. The state treasurer shall keep a record of all such bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 1 through 6].

(4) The board is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available therefor in the general fund or from the proceeds of the bonds, in the discretion of the board.

(5) All proceeds of bonds and notes issued under [sections 1 through 6] must be deposited in the capital projects account, except that any premiums and accrued interest received and the proceeds of refunding bonds or

1 notes must be deposited in the debt service account.

2 ~~NEW SECTION.~~ Section 4. Use of capital projects
3 account. The capital projects account must be segregated by
4 the treasurer from all other money in that or any other
5 account in the state treasury and used only to pay costs of
6 the projects for which bonds were issued, in accordance with
7 the respective bond accounts, upon order of the department
8 acting within the limits of the authority conferred upon it
9 by the legislature.

10 ~~NEW SECTION.~~ Section 5. Bond anticipation notes --
11 when issued -- payment of principal and interest. (1) When
12 the board has been authorized to issue and sell bonds under
13 [sections 1 through 6], it may, pending the issuance of the
14 bonds, issue in the name of the state temporary notes in
15 anticipation of the money to be derived from the sale of the
16 bonds. The notes must be designated as "bond anticipation
17 notes". The proceeds of the sale of the bond anticipation
18 notes may be used only for the purposes for which the
19 proceeds of the bonds could be used, including costs of
20 issuance. If, prior to the issuance of the bonds, it becomes
21 necessary to redeem outstanding notes, additional bond
22 anticipation notes may be issued to redeem the outstanding
23 notes. No renewal of any note may be issued after the sale
24 of bonds in anticipation of which the original notes were
25 issued.

1 (2) Bond anticipation notes or other short-term
2 evidences of indebtedness maturing not more than 1 year
3 after the date of issue may be issued from time to time as
4 the proceeds thereof are needed. Such notes must be
5 authorized by the board and must have such terms and details
6 as may be provided by resolution of the board. However, each
7 resolution of the board authorizing notes must:
8 (a) describe the need for the proceeds of the notes to
9 be issued; and
10 (b) specify:
11 (i) the principal amount of the notes or maximum
12 principal amount of the notes that may be outstanding at any
13 one time;
14 (ii) the rate or rates of interest, the maximum rate of
15 interest, or the interest rate formula (to be determined in
16 the manner specified in the resolution authorizing the
17 notes) to be incurred through the issuance of such notes;
18 and
19 (iii) the maturity date or maximum maturity date of the
20 notes.

21 (3) Subject to the limitations contained in this
22 section and the standards and limitations prescribed in the
23 authorizing resolution, the board in its discretion may
24 provide for the notes described in subsection (2) to be
25 issued and sold, in whole or in part, from time to time, and

1 may delegate to the state treasurer the power to determine
 2 the time or times of sale, the manner of sale, the amounts,
 3 the maturities, the rate or rates of interest, and such
 4 other terms and details of the notes as may be considered
 5 appropriate by the board, or the state treasurer in the
 6 event of such delegation. The board in its discretion, but
 7 subject to the limitations contained in this section, may
 8 also provide in the resolution authorizing the issuance of
 9 notes for:

10 (a) the employment of one or more persons or firms to
 11 assist the board in the sale of the notes;

12 (b) the appointment of one or more banks or trust
 13 companies, either in or outside of the state, as depository
 14 for safekeeping and as agent for the delivery and payment of
 15 the notes;

16 (c) the refunding of the notes, from time to time,
 17 without further action by the board, unless and until the
 18 board revokes such authority to refund; and

19 (d) such other terms and conditions as the board may
 20 consider appropriate.

21 (4) In connection with the issuance and sale of notes
 22 as provided in this section, the board may arrange for lines
 23 of credit with any bank, firm, or person for the purpose of
 24 providing an additional source of repayment for notes issued
 25 pursuant to this section. Amounts drawn on such lines of

1 credit may be evidenced by negotiable or nonnegotiable notes
 2 or other evidences of indebtedness, containing such terms
 3 and conditions as the board may authorize in the resolution
 4 approving them.

5 NEW SECTION. Section 6. Bid security. Notwithstanding
 6 18-1-203, in any case where bids are solicited for the
 7 purchase and sale of bonds or notes under [sections 1
 8 through 6], the bid must be accompanied by lawful money of
 9 the United States or a cashier's check, certified check,
 10 bank money order, or bank draft drawn and issued by any
 11 federally chartered or state-chartered bank that is insured
 12 by the federal deposit insurance corporation, in such amount
 13 as may be required by the board or by the state treasurer
 14 under authority of [section 5].

15 SECTION 7. SECTION 17-5-301, MCA, IS AMENDED TO READ:

16 "17-5-301. Refunding bonds or debentures authorized --
 17 interest rate. The board of examiners is hereby authorized
 18 and empowered to refund any issue of bonds, highway or other
 19 debentures heretofore issued by the state and which are
 20 outstanding or which may hereafter be issued by the state
 21 whenever in the judgment of such board it shall be deemed
 22 for the best interests of the state to do so, provided
 23 that:

24 (1) when the amount of any such issue of bonds or
 25 debentures is less than \$500,000, the same shall not be

1 refunded--unless-such-refunding-bonds-shall-bear-interest-at
2 a-rate-of-at-least-1/2-of-1%--per-annum-less-than-the-rate-of
3 interest-on-the-bonds-to-be-refunded;

4 {2}--when-the-amount-of-any-such-issue-of-bonds-or
5 debentures-is-more-than-\$500,000--the-same-shall-not-be
6 refunded-unless-such-refunding-bonds-shall-bear-interest-at
7 a-rate-of-at-least-1/4-of-1%--per-annum-less-than-the-rate-of
8 interest-on-the-bonds-to-be-refunded;and

9 {3}--refunding Refunding bonds or debentures shall not
10 be issued in any greater amount than will be required to pay
11 the principal AND INTEREST of the bonds or debentures to be
12 refunded, costs of issuance, plus any defaulted interest
13 thereon."

14 SECTION 9. SECTION 17-5-303, MCA, IS AMENDED TO READ:

15 "17-5-303. Application of refunding bond law. All of
16 the provisions of the act authorizing the issuance of the
17 bonds or debentures which are to be refunded, insofar as the
18 same relate to the issuance and sale, term and rate of
19 interest, tax levies or funds for the payment and interest
20 thereof, and time and manner of such payments shall apply
21 fully to such refunding bonds or debentures, except insofar
22 as the same may be in conflict with the provisions of this
23 part, shall apply fully to such refunding bonds or
24 debentures or with the provisions of any law authorizing
25 particular refunding bonds."

1 SECTION 9. SECTION 17-5-304, MCA, IS AMENDED TO READ:

2 "17-5-304. Cost and expense of refunding. The board of
3 examiners may require the purchaser to bear the cost and
4 expense of refunding any issue of bonds or debentures in
5 connection with the bid submitted, or the cost and expense
6 may be paid out of the sinking and interest fund when there
7 is money in such fund. The balance remaining in such sinking
8 and interest fund shall be transferred to and shall become
9 the sinking and interest fund for such refunding bonds or
10 debentures. Any and all moneys thereafter received by the
11 state treasurer for such sinking and interest fund shall be
12 placed in the sinking and interest fund of such refunding
13 bonds or debentures in accordance with the provisions under
14 which the refunded bonds were issued or as otherwise
15 provided by law."

16 SECTION 10. SECTION 17-5-305, MCA, IS AMENDED TO READ:

17 "17-5-305. Sale of bonds and debentures. The refunding
18 bonds or debentures which may be issued under the provisions
19 of this part shall be sold by the board of examiners in such
20 manner as they shall deem for the best interests of the
21 state, provided that:

22 (1) none thereof shall be sold at less than its par
23 value; and

24 (2) if the state shall hold any bonds or debentures to
25 be refunded by any such issue of refunding bonds or

debentures as investments of institutional or other funds, the same may be exchanged for the refunding bonds or debentures if such exchange be authorized by the proper state officers or boards ~~subject, however, to the provisions for reduced interest rates required by 17-5-301.~~"

Section 11. Section 18-1-203, MCA, is amended to read:

"18-1-203. Form of security. (1) ~~In Except as provided in subsection (1),~~ in all cases under 18-1-202(1)(a) the bidder, offeror, or tenderer shall accompany any bid with either:

(a) lawful moneys of the United States;

(b) a cashier's check, certified check, bank money order, or bank draft, in any case drawn and issued by a national banking association located in the state of Montana or by any banking corporation incorporated under the laws of the state of Montana; or

(c) a bid bond or bonds executed by a surety corporation authorized to do business in the state of Montana.

(2) ~~In Except as provided in subsection (1),~~ in all cases under 18-1-202(1)(b) the bidder shall accompany the bid with the security described in (1)(a) or (1)(b) above.

(3) The moneys or, in lieu of moneys, any of such bank instruments or bid bonds shall be payable directly to the public authority soliciting or advertising for bids.

~~(4) The provisions of this section do not apply to bonds issued under [sections 1 through 6]."~~

~~NEW SECTION.~~ Section 12. Effective date. This act is effective ~~July 1, 1983~~ ON PASSAGE AND APPROVAL.

~~NEW SECTION.~~ Section 9. ~~Applicability.~~ ~~---This---act applies to bonds issued after July 1, 1983.~~

-End-