

SENATE BILL NO. 454

INTRODUCED BY JACOBSON, BLAYLOCK,
HARRINGTON, LYNCH, STIMATZ, QUILICI,
FAGG, HAFLEY, KEMMIS, HARP, MARKS,
RAMIREZ, DAILY, BOYLAN, HAGER,
PAVLOVICH, MCCALLUM, CRIPPEN,
GRAHAM, THOMAS

BY REQUEST OF THE GOVERNOR'S OFFICE

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on State Administration.
	Rereferred to Committee on Highways and Transportation.
February 18, 1983	Fiscal Note requested.
February 19, 1983	Committee recommend bill do pass as amended. Report adopted.
February 21, 1983	Fiscal Note returned.
	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass as amended.
	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 46; Noes, 4. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Highways and Transportation.
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April 6, 1983

Committee recommend bill be concurred in. Report adopted.

On motion rules suspended and bill placed on second reading this day.

Second reading, concurred in.

April 7, 1983

Third reading, concurred in.

IN THE SENATE

April 8, 1983

Returned to Senate. Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. *454*

INTRODUCED BY *J. Jackson Blaylock Hammylin Lynch*

BY REQUEST OF THE GOVERNOR'S OFFICE *Hobby Kemmis*

A BILL FOR AN ACT ENTITLED: "THE MONTANA HIGHWAY REVENUE
BONDS ACT OF 1983; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the
"Montana Highway Revenue Bonds Act of 1983".

Section 2. Purpose. The purpose of [this act] is to
provide for the financing of the cost of state highway and
federal-aid highway projects through the issuance of highway
revenue bonds secured by a pledge and appropriation of
highway revenue.

Section 3. Definitions. As used in [this act], the
following definitions apply:

(1) "Board" means the board of examiners created under
2-15-1007.

(2) "Bonds" means bonds, notes, or other evidences of
indebtedness issued pursuant to [this act] as highway
revenue bonds.

(3) "Cost", as applied to any highway project, means
any cost of construction or acquisition of any part of the
highway project, including but not limited to the cost of

supervising, inspecting, and constructing the highway
project, interest during construction and for up to 6 months
thereafter, and all costs and expenses incidental thereto;
the costs of locating, surveying, mapping, resurfacing,
restoration, and rehabilitation; acquisition of
rights-of-way; relocation assistance; elimination of hazards
of railroad grade crossings; acquisition of replacement
housing, sites; and acquisition, rehabilitation, relocation,
and construction of replacement housing; and improvements
necessary to directly facilitate and control traffic flow,
including grade separation of intersections, widening of
lanes, channelization of traffic, and traffic control
systems.

(4) "Department" means the department of highways
provided for in Title 2, chapter 15, part 25.

(5) "Highway projects" means the construction,
reconstruction, maintenance, and repair of federal-aid
highways and state highways as such terms are defined in
60-1-103.

(6) "Highway revenues" means the revenues specified in
Article VIII, section 6, of the Montana constitution as
revenues from gross vehicle weight fees and excise and
license taxes (except general sales and use taxes, if any)
on gasoline, fuel, and other energy sources used to propel
vehicles on public highways and any other revenues, taxes,

1 or receipts are credited to the highway earmarked revenue
2 fund.

3 (7) "Outstanding bonds" means bonds issued and
4 outstanding at any particular time but does not include
5 bonds owned by the state, bonds that have been refunded, or
6 bonds for the payment of which an irrevocable deposit of
7 cash and United States government securities has been made
8 in an amount sufficient to pay principal, interest, and
9 redemption premium, if any, when due.

10 Section 4. Highway revenue bond sinking account --
11 deposit of bond proceeds. (1) There is in the sinking fund a
12 highway revenue bond sinking account. Subject only to the
13 prior pledge and appropriation made by 17-5-507, the state
14 treasurer must deposit such highway revenues as may be
15 pledged to the payment of particular bonds, to the credit of
16 the highway revenue bond sinking account as required by
17 resolution or indenture.

18 (2) All proceeds of an issue of bonds must be
19 deposited in a separate account in the bond proceeds and
20 insurance clearance funds, except that any premiums and
21 accrued interest received may be deposited in a sinking
22 account established for that bond issue by resolution or
23 indenture. Money deposited in such sinking accounts until
24 spent for project purposes may be pledged and appropriated
25 for the payment of bonds, which are a first lien and prior

1 charge upon such funds, and such funds may be used for
2 payment of bonds to the extent highway revenues deposited in
3 the highway revenue bond sinking account are not sufficient
4 for such purpose.

5 Section 5. Pledge of highway revenues. All or any
6 portion of highway revenues may be pledged to the payment of
7 the principal, interest, and redemption premium, if any, on
8 particular issues of state highway revenue bonds, and such
9 pledge is and remains at all times a first lien and prior
10 charge upon such pledged highway revenues credited to the
11 highway revenue bond sinking account, subject to a first
12 lien and charge in favor of certain highway bonds as
13 provided in 17-5-507 and subject to the pledge of particular
14 highway revenues to secure particular issues of highway
15 revenue bonds.

16 Section 6. Authority to issue highway revenue bonds.
17 The board may issue and sell highway revenue bonds to
18 finance the cost of highway projects, to pay the costs of
19 issuing the bonds, and to provide for reserves, upon
20 recommendation of the department. The state reserves the
21 right to issue additional bonds secured equally and ratably
22 by the pledge and appropriation of the highway revenues or
23 separately secured by a portion of highway revenues subject
24 only to the pledge of particular highway revenues to secure
25 particular bonds.

1 Section 7. Continuation of taxes -- limit on
2 additional highway revenue bonds. The legislature shall
3 provide for the continued assessment, levy, collection, and
4 deposit into the highway earmarked revenue fund of highway
5 revenues in amounts sufficient to pay, when due, the annual
6 debt service charges on all outstanding highway revenue
7 bonds. The board is authorized to include a contractual
8 undertaking for the benefit of bondholders to this effect in
9 the resolution or indenture under which the bonds are
10 issued.

11 Section 8. Bond anticipation notes -- issued when --
12 payment of principal and interest. (1) The board may,
13 pending the issuance of bonds, issue temporary notes in
14 anticipation of the proceeds to be derived from the sale of
15 the bonds, which notes are designated as "bond anticipation
16 notes". The proceeds of the sale of the bond anticipation
17 notes must be used only for the purpose for which the
18 proceeds of the bonds could be used, including costs of
19 issuance. If, prior to the issuance of the bonds, it becomes
20 necessary or desirable to redeem outstanding notes,
21 additional bond anticipation notes may be issued to redeem
22 the outstanding notes. No renewal of any note may be issued
23 after the sale of bonds in anticipation of which the
24 original notes were issued.

25 (2) Bond anticipation notes or other short-term

1 evidences of indebtedness maturing not more than 3 years
2 after the date of issue may be issued from time to time as
3 the proceeds thereof are needed. Such notes must be
4 authorized by the board and have such terms and provisions
5 as may be provided by resolution of the board; however, each
6 resolution of the board authorizing notes must:

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

9 (b) specify the principal amount of the notes or
10 maximum principal amount of the notes which may be
11 outstanding at any one time, the rate or rates of interest
12 or maximum rate of interest or interest rate formula (to be
13 determined in the manner specified in the resolution
14 authorizing the notes) of such notes, and the maturity date
15 or maximum maturity date of the notes.

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

1 delegation, the state treasurer. The board may, in its
2 discretion but subject to the limitations contained in this
3 section, provide in the resolution authorizing the issuance
4 of notes for:

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

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

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

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

16 Section 9. Form -- principal and interest -- fiscal
17 agent -- bonds authorized. (1) Each series of bonds may be
18 issued by the board at public or private sale, in such
19 denominations and form, whether payable to bearer or
20 registered as to principal or both principal and interest,
21 with such provisions for the conversion or exchange, bearing
22 interest at such rate or rates or the method of determining
23 such rate or rates, maturing at such times, not more than 40
24 years from date of issue, subject to redemption at such
25 earlier times and prices and upon such notice, and payable

1 at the office of a fiscal agency of the state as the board
2 shall determine, subject to the limitations contained in
3 [this act]. Any action taken by the board under [this act]
4 must be approved by at least a majority vote of its members.

5 (2) In all other respects the board is authorized to
6 prescribe the form and terms of the bonds and shall do
7 whatever is lawful and necessary for their issuance and
8 payment.

9 (3) Bonds and any interest coupons appurtenant thereto
10 must be signed by the members of the board, and the bonds
11 must be issued under the great seal of the state of Montana.
12 The bonds and coupons may be executed with facsimile
13 signatures and seal in the manner and subject to the
14 limitations prescribed by law. The state treasurer shall
15 keep a record of all such bonds issued and sold.

16 (4) The board may employ a fiscal agent and a bond
17 registrar and transfer agent to assist in the performance of
18 its duties under [this act].

19 (5) In connection with the issuance and sale of bonds,
20 the board may arrange for lines of credit or letters of
21 credit with any bank, firm, or person for the purpose of
22 providing an additional source of repayment for bonds issued
23 pursuant to [this act]. Amounts drawn on such lines of
24 credit may be evidenced by negotiable or nonnegotiable notes
25 or other evidences of indebtedness, containing such terms

1 and conditions as the board may authorize in the resolution
2 approving the same.

3 (5) No more than \$150 million of bonds issued under
4 [this act] may be outstanding at any time.

5 Section 10. Trust indenture. In the discretion of the
6 board, bonds issued under [this act] may be secured by a
7 trust indenture by and between the board and a trustee,
8 which may be any trust company or bank having the powers of
9 a trust company inside or outside of the state. Each trust
10 indenture or an executed counterpart thereof must be filed
11 in the office of the secretary of state. The filing of a
12 trust indenture or an executed counterpart thereof in the
13 office of the county clerk and recorder of the county in
14 which the property covered by the trust indenture is located
15 is constructive notice of its content to all persons from
16 the time of filing, and the recording of the trust indenture
17 or its content is not necessary.

18 Section 11. Provisions for protecting bondholders. The
19 resolution of the board providing for the issuance of bonds
20 or the trust indenture may contain provisions for protecting
21 and enforcing the rights and remedies of the bondholders
22 that are reasonable, proper, and not in violation of law,
23 including covenants setting forth the duties of the state,
24 the board, and the departments, boards, or agencies of state
25 government in relation to the construction, reconstruction,

1 improvement, maintenance, and repair of the highway projects
2 financed with the proceeds of the bonds and the custody,
3 safeguarding, and application of all money. The trust
4 indenture may set forth the rights and remedies of the
5 bondholders customary in trust indentures, deeds of trusts,
6 and mortgages securing bonds or debentures of corporations.
7 No enumeration of particular powers granted by this section
8 impairs any general grant of power contained in [this act].

9 Section 12. Personal liability -- suit to compel
10 performance. (1) The members of the board and officers and
11 employees of the departments, boards, or agencies of state
12 government are not personally liable or accountable by
13 reason of the issuance of or on any bond issued by the board
14 under [this act].

15 (2) Any holder of bonds issued under [this act] or any
16 person or officer who is a party in interest, subject to any
17 applicable agreements or trust indentures, may sue to
18 enforce and compel the performance of the bond provisions as
19 set out in [this act].

20 Section 13. Negotiability of bonds. Bonds issued under
21 [this act] are negotiable instruments under the Uniform
22 Commercial Code, subject only to the provisions for
23 registration of bonds.

24 Section 14. Signatures of board members. In case any
25 member of the board whose signature appears on bonds or

1 coupons issued under this part ceases to be a member before
2 the delivery of the bonds, his signature is nevertheless
3 valid and sufficient for all purposes as if the member had
4 remained in office until delivery.

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

16 (2) Refunding obligations issued as provided in
17 subsection (1) may be sold or exchanged for outstanding
18 obligations issued under [this act]. The proceeds may be
19 applied to the purchase, redemption, or payment of the
20 outstanding obligations. Pending the application of the
21 proceeds of refunding obligations, with other available
22 funds, to the payment of principal, accrued interest, and
23 any redemption premium on the obligations being refunded
24 and, if permitted in the resolution authorizing the issuance
25 of the refunding obligations or in the trust agreement

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

4 Section 16. Pledge of the state. In accordance with
5 the constitutions of the United States and the state of
6 Montana, the state pledges that it will not in any way
7 impair the obligations of any agreement between the state
8 and the holders of notes and bonds issued by the state under
9 [this act].

10 Section 17. Tax exemption of bonds -- legal
11 investments. (1) All bonds issued under [this act], their
12 transfer, and their income, including any profits made on
13 their sale, are exempt from taxation by the state or any
14 political subdivision or other instrumentality of the state,
15 excepting inheritance, estate, and gift taxes.

16 (2) Bonds issued under [this act] are legal
17 investments for any person or board charged with investment
18 of public funds and are acceptable as security for any
19 deposit of public money.

20 Section 18. Effective date. This act is effective on
21 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 470-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 454 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 454 provides for the issuance of up to \$150 million worth of Highway Revenue Bonds for the general purpose of financing state highway projects and for the specific purpose of accelerating construction on five projects which are currently gaps in Montana's interstate system. The bill has an immediate effective date.

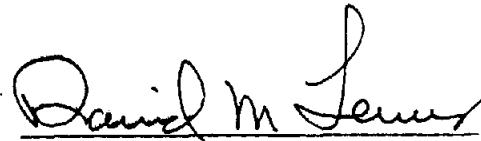
ASSUMPTIONS:

- 1) Issue highway revenue bonds in the amount of \$144.9 million.
- 2) Net interest cost = 7.06 percent.
- 3) Final maturity date: 9-1-90.
- 4) Bond proceeds attributable to this program will generate investment earnings and will be credited to the retirement of the bonds.
- 5) The Federal Highway Administration will reimburse the state for the construction costs of those interstate projects (ACI) which will be financed with the proceeds from this bond sale.
- 6) Actual cost of the bonds can vary depending on the final financial structure used, the market conditions, and the legal requirements at the time of the sale.
- 7) Interest earned on the highway earmarked account will remain in the general fund through June 30, 1985.

FISCAL IMPACT:Components of the Bond Issue
(in millions of \$)

Construction funds:	\$120.0
Financing costs:	3.2
Debt Service Reserve Fund:	21.7
Total	\$144.9

(Continued)



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-83

Flow of Funds
(in millions of \$)

Total Debt Service	\$199.0
Less:	
Dept. Construction Funds:	(70.0)
Investment Earnings:	(48.0)
Debt Svc. Res. Fund	
Principal:	(21.7)
ACI Reimbursements:	<u>(58.8)</u>
Total Cost to Highway	
Earmarked Fund	<u><u>\$ 0.5</u></u>

FISCAL NOTE 16: FF/2

SB 454

Rereferred and
Approved by Committee
on Highways & Transportation

SENATE BILL NO. 454
INTRODUCED BY JACOBSON, BLAYLOCK,
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Section 3. Definitions. As used in [this act], the
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indebtedness issued pursuant to [this act] as highway
revenue bonds.

(3) "Cost", as applied to any highway project, means
any cost of construction or acquisition of any part of the
highway project, including but not limited to the cost of
supervising, inspecting, and constructing the highway
project, interest during construction and for up to 6 months
thereafter, and all costs and expenses incidental thereto;
the costs of locating, surveying, mapping, resurfacing,
restoration, and rehabilitation; acquisition of
rights-of-way; relocation assistance; elimination of hazards
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reconstruction, maintenance, and repair of federal-aid
highways and state highways as such terms are defined in
60-1-103.

(5) "Highway revenues" means the revenues specified in

1 Article VIII, section 6, of the Montana constitution as
 2 revenues from gross vehicle weight fees and excise and
 3 license taxes (except general sales and use taxes, if any)
 4 on gasoline, fuel, and other energy sources used to propel
 5 vehicles on public highways and any other revenues, taxes,
 6 or receipts are credited to the highway earmarked revenue
 7 fund ~~AND THE HIGHWAY TRUST, FEDERAL AND PRIVATE REVENUE~~
 8 ~~ACCOUNT.~~

9 (7) "Outstanding bonds" means bonds issued and
 10 outstanding at any particular time but does not include
 11 bonds owned by the state, bonds that have been refunded, or
 12 bonds for the payment of which an irrevocable deposit of
 13 cash and United States government securities has been made
 14 in an amount sufficient to pay principal, interest, and
 15 redemption premium, if any, when due.

16 Section 4. Highway revenue bond sinking account --
 17 deposit of bond proceeds. (1) There is in the sinking fund a
 18 highway revenue bond sinking account. Subject only to the
 19 prior pledge and appropriation made by 17-5-507, the state
 20 treasurer must deposit such highway revenues as may be
 21 pledged to the payment of particular bonds, to the credit of
 22 the highway revenue bond sinking account as required by
 23 resolution or indenture.

24 (2) All proceeds of an issue of bonds must be
 25 deposited in a separate account in the bond--proceeds--and

1 ~~insurance--clearance--fund~~ HIGHWAY EARMARKED REVENUE FUND,
 2 except that any premiums and accrued interest received may
 3 be deposited in a sinking account established for that bond
 4 issue by resolution or indenture. Money deposited in such
 5 sinking accounts until spent for project purposes may be
 6 pledged and appropriated for the payment of bonds, which are
 7 a first lien and prior charge upon such funds, and such
 8 funds may be used for payment of bonds to the extent highway
 9 revenues deposited in the highway revenue bond sinking
 10 account are not sufficient for such purpose.

11 ~~(3) INTEREST AND INVESTMENT EARNINGS ON THE SEPARATE~~
 12 ~~ACCOUNTS NAMED IN SUBSECTIONS (1) AND (2) SHALL BE RETAINED~~
 13 ~~IN THE HIGHWAY EARMARKED REVENUE FUND.~~

14 ~~(4) NOTWITHSTANDING 17-6-202 AND EXCEPT AS PROVIDED IN~~
 15 ~~SUBSECTION (3), INTEREST AND INVESTMENT EARNINGS ON THE~~
 16 ~~HIGHWAY EARMARKED REVENUE FUND SHALL BE CREDITED TO THE~~
 17 ~~GENERAL FUND UNTIL JULY 1, 1985, AND THEREAFTER SHALL BE~~
 18 ~~RETAINED IN THE HIGHWAY EARMARKED REVENUE FUND.~~

19 Section 5. Pledge of highway revenues. All or any
 20 portion of highway revenues may be pledged to the payment of
 21 the principal, interest, and redemption premium, if any, on
 22 particular issues of state highway revenue bonds, and such
 23 pledge is and remains at all times a first lien and prior
 24 charge upon such pledged highway revenues credited to the
 25 highway revenue bond sinking account, subject to a first

lien and charge in favor of certain highway bonds as provided in 17-5-507 and subject to the pledge of particular highway revenues to secure particular issues of highway revenue bonds.

Section 6. Authority to issue highway revenue bonds. The board may issue and sell highway revenue bonds to finance the cost of highway projects, to pay the costs of issuing the bonds, and to provide for reserves, upon recommendation of the department. The state reserves the right to issue additional bonds secured equally and ratably by the pledge and appropriation of the highway revenues or separately secured by a portion of highway revenues subject only to the pledge of particular highway revenues to secure particular bonds.

Section 7. Continuation of taxes -- limit on additional highway revenue bonds. The legislature shall provide for the continued assessment, levy, collection, and deposit into the highway earmarked revenue fund of highway revenues in amounts sufficient to pay, when due, the annual debt service charges on all outstanding highway revenue bonds. The board is authorized to include a contractual undertaking for the benefit of bondholders to this effect in the resolution or indenture under which the bonds are issued.

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payment of principal and interest. (1) The board may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds, which notes are designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary or desirable to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued.

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

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

(b) specify the principal amount of the notes or maximum principal amount of the notes which may be outstanding at any one time, the rate or rates of interest

1 or maximum rate of interest or interest rate formula (to be
2 determined in the manner specified in the resolution
3 authorizing the notes) of such notes, and the maturity date
4 or maximum maturity date of the notes.

5 (3) Subject to the limitations contained in this
6 section and the standards and limitations prescribed in the
7 authorizing resolution, the board in its discretion may
8 provide for the notes described in subsection (2) to be
9 issued and sold, in whole or in part, from time to time, and
10 may delegate to the state treasurer the power to determine
11 the time or times of sale, the manner of sale, the amounts,
12 the maturities, the rate or rates of interest, and such
13 other terms and details of the notes as may be considered
14 appropriate by the board or, if there has been such a
15 delegation, the state treasurer. The board may, in its
16 discretion but subject to the limitations contained in this
17 section, provide in the resolution authorizing the issuance
18 of notes for:

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

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

25 (c) the refunding of the notes, from time to time,

1 without further action by the board, unless and until the
2 board revokes such authority to refund; and

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

5 Section 9. Form -- principal and interest -- fiscal
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8 denominations and form, whether payable to bearer or
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10 with such provisions for the conversion or exchange, bearing
11 interest at such rate or rates or the method of determining
12 such rate or rates, maturing at such times, not more than 40
13 years from date of issue, subject to redemption at such
14 earlier times and prices and upon such notice, and payable
15 at the office of a fiscal agency of the state as the board
16 shall determine, subject to the limitations contained in
17 [this act]. Any action taken by the board under [this act]
18 must be approved by at least a majority vote of its members.

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20 prescribe the form and terms of the bonds and shall do
21 whatever is lawful and necessary for their issuance and
22 payment.

23 (3) Bonds and any interest coupons appurtenant thereto
24 must be signed by the members of the board, and the bonds
25 must be issued under the great seal of the state of Montana.

1 The bonds and coupons may be executed with facsimile
2 signatures and seal in the manner and subject to the
3 limitations prescribed by law. The state treasurer shall
4 keep a record of all such bonds issued and sold.

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6 registrar and transfer agent to assist in the performance of
7 its duties under [this act].

8 (5) In connection with the issuance and sale of bonds,
9 the board may arrange for lines of credit or letters of
10 credit with any bank, firm, or person for the purpose of
11 providing an additional source of repayment for bonds issued
12 pursuant to [this act]. Amounts drawn on such lines of
13 credit may be evidenced by negotiable or nonnegotiable notes
14 or other evidences of indebtedness, containing such terms
15 and conditions as the board may authorize in the resolution
16 approving the same.

17 (6) No more than \$150 million of bonds issued under
18 [this act] may be outstanding at any time. ~~NO ADDITIONAL~~
19 ~~BONDS, OTHER THAN REFINANCING BONDS, MAY BE ISSUED UNTIL THE~~
20 ~~PLEDGE IN FAVOR OF THE HIGHWAY REVENUE BONDS IS SATISFIED~~
21 ~~AND DISCHARGED.~~

22 Section 10. Trust indenture. In the discretion of the
23 board, bonds issued under [this act] may be secured by a
24 trust indenture by and between the board and a trustee,
25 which may be any trust company or bank having the powers of

1 a trust company inside or outside of the state. Each trust
2 indenture or an executed counterpart thereof must be filed
3 in the office of the secretary of state. The filing of a
4 trust indenture or an executed counterpart thereof in the
5 office of the county clerk and recorder of the county in
6 which the property covered by the trust indenture is located
7 is constructive notice of its content to all persons from
8 the time of filing, and the recording of the trust indenture
9 or its content is not necessary.

10 Section 11. Provisions for protecting bondholders. The
11 resolution of the board providing for the issuance of bonds
12 or the trust indenture may contain provisions for protecting
13 and enforcing the rights and remedies of the bondholders
14 that are reasonable, proper, and not in violation of law,
15 including covenants setting forth the duties of the state,
16 the board, and the departments, boards, or agencies of state
17 government in relation to the construction, reconstruction,
18 improvement, maintenance, and repair of the highway projects
19 financed with the proceeds of the bonds and the custody,
20 safeguarding, and application of all money. The trust
21 indenture may set forth the rights and remedies of the
22 bondholders customary in trust indentures, deeds of trusts,
23 and mortgages securing bonds or debentures of corporations.
24 No enumeration of particular powers granted by this section
25 impairs any general grant of power contained in [this act].

Section 12. Personal liability -- suit to compel performance. (1) The members of the board and officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of or on any bond issued by the board under [this act].

(2) Any holder of bonds issued under [this act] or any person or officer who is a party in interest, subject to any applicable agreements or trust indentures, may sue to enforce and compel the performance of the bond provisions as set out in [this act].

Section 13. Negotiability of bonds. Bonds issued under [this act] are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of bonds.

Section 14. Signatures of board members. In case any member of the board whose signature appears on bonds or coupons issued under this part ceases to be a member before the delivery of the bonds, his signature is nevertheless valid and sufficient for all purposes as if the member had remained in office until delivery.

Section 15. Refunding obligations. (1) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under [this act], including the payment of any

redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of the obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under [this act]. The proceeds may be applied to the purchase, redemption, or payment of the outstanding obligations. Pending the application of the proceeds of refunding obligations, with other available funds, to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in connection with refunding, the proceeds may be invested as provided in Title 17, chapter 6.

Section 16. Pledge of the state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of notes and bonds issued by the state under

1 [this act].

2 Section 17. Tax exemption of bonds -- legal
3 investments. (1) All bonds issued under [this act], their
4 transfer, and their income, including any profits made on
5 their sale, are exempt from taxation by the state or any
6 political subdivision or other instrumentality of the state,
7 excepting inheritance, estate, and gift taxes.

8 (2) Bonds issued under [this act] are legal
9 investments for any person or board charged with investment
10 of public funds and are acceptable as security for any
11 deposit of public money.

12 Section 18. Effective date. This act is effective on
13 passage and approval.

-End-

SENATE BILL NO. 454

INTRODUCED BY JACOBSON, BLAYLOCK,
HARRINGTON, LYNCH, STIMATZ, QUILICI,
FAGG, HAFLEY, KEMMIS, HARP, MARKS,
RAMIREZ, DAILY, BOYLAN, HAGER,
PAVLOVICH, MCCALLUM, CRIPPEN,
GRAHAM, THOMAS
BY REQUEST OF THE GOVERNOR'S OFFICE

A BILL FOR AN ACT ENTITLED: "THE MONTANA HIGHWAY REVENUE
BONDS ACT OF 1983; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the
"Montana Highway Revenue Bonds Act of 1983".

Section 2. Purpose. The purpose of [this act] is to
provide for the financing of the cost of state highway and
federal-aid highway projects through the issuance of highway
revenue bonds secured by a pledge and appropriation of
highway revenue.

Section 3. Definitions. As used in [this act], the
following definitions apply:

(1) "Board" means the board of examiners created under
2-15-1007.

(2) "Bonds" means bonds, notes, or other evidences of

indebtedness issued pursuant to [this act] as highway
revenue bonds.

(3) "Cost", as applied to any highway project, means
any cost of construction or acquisition of any part of the
highway project, including but not limited to the cost of
supervising, inspecting, and constructing the highway
project, interest during construction and for up to 6 months
thereafter, and all costs and expenses incidental thereto;
the costs of locating, surveying, mapping, resurfacing,
restoration, and rehabilitation; acquisition of
rights-of-way; relocation assistance; elimination of hazards
of railroad grade crossings; acquisition of replacement
housing sites; and acquisition, rehabilitation, relocation,
and construction of replacement housing; and improvements
necessary to directly facilitate and control traffic flow,
including grade separation of intersections, widening of
lanes, channelization of traffic, and traffic control
systems.

(4) "Department" means the department of highways
provided for in Title 2, chapter 15, part 25.

(5) "Highway projects" means the construction,
reconstruction, maintenance, and repair of federal-aid
highways and state highways as such terms are defined in
60-1-103.

(6) "Highway revenues" means the revenues specified in

Article VIII, section 6, of the Montana constitution as revenues from gross vehicle weight fees and excise and license taxes (except general sales and use taxes, if any) on gasoline, fuel, and other energy sources used to propel vehicles on public highways and any other revenues, taxes, or receipts are credited to the highway earmarked revenue fund AND THE HIGHWAY TRUST FEDERAL AND PRIVATE REVENUE ACCOUNT.

(7) "Outstanding bonds" means bonds issued and outstanding at any particular time but does not include bonds owned by the state, bonds that have been refunded, or bonds for the payment of which an irrevocable deposit of cash and United States government securities has been made in an amount sufficient to pay principal, interest, and redemption premium, if any, when due.

Section 4. Highway revenue bond sinking account -- deposit of bond proceeds. (1) There is in the sinking HIGHWAY EARMARKED REVENUE fund a highway revenue bond sinking account. Subject only to the prior pledge and appropriation made by 17-5-507, the state treasurer must deposit such highway revenues as may be pledged to the payment of particular bonds, to the credit of the highway revenue bond sinking account as required by resolution or indenture.

(2) All proceeds of an issue of bonds must be

deposited in a separate account in the bond-proceeds-and insurance-clearance-fund HIGHWAY EARMARKED REVENUE FUND, except that any premiums and accrued interest received may be deposited in a sinking SEPARATE account established for that bond issue by resolution or indenture. NO MORE THAN THE PRINCIPAL AND INTEREST ON THE BONDS DUE IN ANY YEAR MAY BE RETAINED IN THE SEPARATE ACCOUNT FOR THE PAYMENT OF BONDS. THE REMAINDER OF PLEDGED REVENUES IS AVAILABLE FOR AUTHORIZED PURPOSES OF THE DEPARTMENT. Money deposited in such sinking SEPARATE accounts until spent for project purposes may be pledged and appropriated for the payment of bonds, which are a first lien and prior charge upon such funds, and such funds may be used for payment of bonds to the extent highway revenues deposited in the highway revenue bond sinking account are not sufficient for such purpose.

(3) INTEREST AND INVESTMENT EARNINGS ON THE SEPARATE ACCOUNTS NAMED IN SUBSECTIONS (1) AND (2) SHALL BE RETAINED IN THE HIGHWAY EARMARKED REVENUE FUND.

(4) NOTWITHSTANDING 17-6-202 AND EXCEPT AS PROVIDED IN SUBSECTION (3), INTEREST AND INVESTMENT EARNINGS ON THE HIGHWAY EARMARKED REVENUE FUND SHALL BE CREDITED TO THE GENERAL FUND UNTIL JULY 1, 1985, AND THEREAFTER SHALL BE RETAINED IN THE HIGHWAY EARMARKED REVENUE FUND.

Section 5. Pledge of highway revenues. All or any portion of highway revenues may be pledged to the payment of

the principal, interest, and redemption premium, if any, on particular issues of state highway revenue bonds, and such pledge is and remains at all times a first lien and prior charge upon such pledged highway revenues credited to the highway revenue bond sinking account, subject to a first lien and charge in favor of certain highway bonds as provided in 17-5-507 and subject to the pledge of particular highway revenues to secure particular issues of highway revenue bonds.

Section 6. Authority to issue highway revenue bonds. The board may issue and sell highway revenue bonds to finance the cost of highway projects, to pay the costs of issuing the bonds, and to provide for reserves, upon recommendation of the department. The state reserves the right to issue additional bonds secured equally and ratably by the pledge and appropriation of the highway revenues or separately secured by a portion of highway revenues subject only to the pledge of particular highway revenues to secure particular bonds.

Section 7. Continuation of taxes -- limit on additional highway revenue bonds. The legislature shall provide for the continued assessment, levy, collection, and deposit into the highway earmarked revenue fund of highway revenues in amounts sufficient to pay, when due, the annual debt service charges on all outstanding highway revenue

bonds. The board is authorized to include a contractual undertaking for the benefit of bondholders to this effect in the resolution or indenture under which the bonds are issued.

Section 8. Bond anticipation notes -- issued when -- payment of principal and interest. (1) The board may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds, which notes are designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purpose for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary or desirable to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued.

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

1 (a) describe the need for the proceeds of the notes to
2 be issued; and

3 (b) specify the principal amount of the notes or
4 maximum principal amount of the notes which may be
5 outstanding at any one time, the rate or rates of interest
6 or maximum rate of interest or interest rate formula (to be
7 determined in the manner specified in the resolution
8 authorizing the notes) of such notes, and the maturity date
9 or maximum maturity date of the notes.

10 (3) Subject to the limitations contained in this
11 section and the standards and limitations prescribed in the
12 authorizing resolution, the board in its discretion may
13 provide for the notes described in subsection (2) to be
14 issued and sold, in whole or in part, from time to time, and
15 may delegate to the state treasurer the power to determine
16 the time or times of sale, the manner of sale, the amounts,
17 the maturities, the rate or rates of interest, and such
18 other terms and details of the notes as may be considered
19 appropriate by the board or, if there has been such a
20 delegation, the state treasurer. The board may, in its
21 discretion but subject to the limitations contained in this
22 section, provide in the resolution authorizing the issuance
23 of notes for:

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

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

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

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

10 Section 9. Form -- principal and interest -- fiscal
11 agent -- bonds authorized. (1) Each series of bonds may be
12 issued by the board at public or private sale, in such
13 denominations and form, whether payable to bearer or
14 registered as to principal or both principal and interest,
15 with such provisions for the conversion or exchange, bearing
16 interest at such rate or rates or the method of determining
17 such rate or rates, maturing at such times, not more than 40
18 years from date of issue, subject to redemption at such
19 earlier times and prices and upon such notice, and payable
20 at the office of a fiscal agency of the state as the board
21 shall determine, subject to the limitations contained in
22 [this act]. Any action taken by the board under [this act]
23 must be approved by at least a majority vote of its members.

24 (2) In all other respects the board is authorized to
25 prescribe the form and terms of the bonds and shall do

1 whatever is lawful and necessary for their issuance and
2 payment.

3 (3) Bonds and any interest coupons appurtenant thereto
4 must be signed by the members of the board, and the bonds
5 must be issued under the great seal of the state of Montana.
6 The bonds and coupons may be executed with facsimile
7 signatures and seal in the manner and subject to the
8 limitations prescribed by law. The state treasurer shall
9 keep a record of all such bonds issued and sold.

10 (4) The board may employ a fiscal agent and a bond
11 registrar and transfer agent to assist in the performance of
12 its duties under [this act].

13 (5) In connection with the issuance and sale of bonds,
14 the board may arrange for lines of credit or letters of
15 credit with any bank, firm, or person for the purpose of
16 providing an additional source of repayment for bonds issued
17 pursuant to [this act]. Amounts drawn on such lines of
18 credit may be evidenced by negotiable or nonnegotiable notes
19 or other evidences of indebtedness, containing such terms
20 and conditions as the board may authorize in the resolution
21 approving the same.

22 (6) No more than \$150 million of bonds issued under
23 [this act] may be outstanding at any time. ~~NO ADDITIONAL~~
24 ~~BONDS, OTHER THAN REFINANCING BONDS, MAY BE ISSUED UNTIL THE~~
25 ~~PLEDGE IN FAVOR OF THE HIGHWAY REVENUE BONDS IS SATISFIED~~

1 AND DISCHARGED.

2 Section 10. Trust indenture. In the discretion of the
3 board, bonds issued under [this act] may be secured by a
4 trust indenture by and between the board and a trustee,
5 which may be any trust company or bank having the powers of
6 a trust company inside or outside of the state. Each trust
7 indenture or an executed counterpart thereof must be filed
8 in the office of the secretary of state. The filing of a
9 trust indenture or an executed counterpart thereof in the
10 office of the county clerk and recorder of the county in
11 which the property covered by the trust indenture is located
12 is constructive notice of its content to all persons from
13 the time of filing, and the recording of the trust indenture
14 or its content is not necessary.

15 Section 11. Provisions for protecting bondholders. The
16 resolution of the board providing for the issuance of bonds
17 or the trust indenture may contain provisions for protecting
18 and enforcing the rights and remedies of the bondholders
19 that are reasonable, proper, and not in violation of law,
20 including covenants setting forth the duties of the state,
21 the board, and the departments, boards, or agencies of state
22 government in relation to the construction, reconstruction,
23 improvement, maintenance, and repair of the highway projects
24 financed with the proceeds of the bonds and the custody,
25 safeguarding, and application of all money. The trust

1 indenture may set forth the rights and remedies of the
2 bondholders customary in trust indentures, deeds of trusts,
3 and mortgages securing bonds or debentures of corporations.
4 No enumeration of particular powers granted by this section
5 impairs any general grant of power contained in [this act].

6 Section 12. Personal liability -- suit to compel
7 performance. (1) The members of the board and officers and
8 employees of the departments, boards, or agencies of state
9 government are not personally liable or accountable by
10 reason of the issuance of or on any bond issued by the board
11 under [this act].

12 (2) Any holder of bonds issued under [this act] or any
13 person or officer who is a party in interest, subject to any
14 applicable agreements or trust indentures, may sue to
15 enforce and compel the performance of the bond provisions as
16 set out in [this act].

17 Section 13. Negotiability of bonds. Bonds issued under
18 [this act] are negotiable instruments under the Uniform
19 Commercial Code, subject only to the provisions for
20 registration of bonds.

21 Section 14. Signatures of board members. In case any
22 member of the board whose signature appears on bonds or
23 coupons issued under this part ceases to be a member before
24 the delivery of the bonds, his signature is nevertheless
25 valid and sufficient for all purposes as if the member had

1 remained in office until delivery.

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

13 (2) Refunding obligations issued as provided in
14 subsection (1) may be sold or exchanged for outstanding
15 obligations issued under [this act]. The proceeds may be
16 applied to the purchase, redemption, or payment of the
17 outstanding obligations. Pending the application of the
18 proceeds of refunding obligations, with other available
19 funds, to the payment of principal, accrued interest, and
20 any redemption premium on the obligations being refunded
21 and, if permitted in the resolution authorizing the issuance
22 of the refunding obligations or in the trust agreement
23 securing them, to the payment of interest on refunding
24 obligations and expenses in connection with refunding, the
25 proceeds may be invested as provided in Title 17, chapter 6.

1 Section 16. Pledge of the state. In accordance with
2 the constitutions of the United States and the state of
3 Montana, the state pledges that it will not in any way
4 impair the obligations of any agreement between the state
5 and the holders of notes and bonds issued by the state under
6 [this act].

7 Section 17. Tax exemption of bonds — legal
8 investments. (1) All bonds issued under [this act], their
9 transfer, and their income, including any profits made on
10 their sale, are exempt from taxation by the state or any
11 political subdivision or other instrumentality of the state,
12 excepting inheritance, estate, and gift taxes.

13 (2) Bonds issued under [this act] are legal
14 investments for any person or board charged with investment
15 of public funds and are acceptable as security for any
16 deposit of public money.

17 Section 18. Effective date. This act is effective on
18 passage and approval.

-End-

SENATE BILL NO. 454

INTRODUCED BY JACOBSON, BLAYLOCK,
HARRINGTON, LYNCH, STIMATZ, QUILICI,
FAGG, HAFFEY, KENNIS, HARP, MARKS,
RAMIREZ, DAILY, BOYLAN, HAGER,
PAVLOVICH, MCCALLUM, CRIPPEN,
GRAHAM, THOMAS
BY REQUEST OF THE GOVERNOR'S OFFICE

A BILL FOR AN ACT ENTITLED: "THE MONTANA HIGHWAY REVENUE
BONDS ACT OF 1983; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the
"Montana Highway Revenue Bonds Act of 1983".

Section 2. Purpose. The purpose of [this act] is to
provide for the financing of the cost of state highway and
federal-aid highway projects through the issuance of highway
revenue bonds secured by a pledge and appropriation of
highway revenue.

Section 3. Definitions. As used in [this act], the
following definitions apply:

(1) "Board" means the board of examiners created under
2-15-1007.

(2) "Bonds" means bonds, notes, or other evidences of

indebtedness issued pursuant to [this act] as highway
revenue bonds.

(3) "Cost", as applied to any highway project, means
any cost of construction or acquisition of any part of the
highway project, including but not limited to the cost of
supervising, inspecting, and constructing the highway
project, interest during construction and for up to 6 months
thereafter, and all costs and expenses incidental thereto;
the costs of locating, surveying, mapping, resurfacing,
restoration, and rehabilitation; acquisition of
rights-of-way; relocation assistance; elimination of hazards
of railroad grade crossings; acquisition of replacement
housing sites; and acquisition, rehabilitation, relocation,
and construction of replacement housing; and improvements
necessary to directly facilitate and control traffic flow,
including grade separation of intersections, widening of
lanes, channelization of traffic, and traffic control
systems.

(4) "Department" means the department of highways
provided for in Title 2, chapter 15, part 25.

(5) "Highway projects" means the construction,
reconstruction, maintenance, and repair of federal-aid
highways and state highways as such terms are defined in
60-1-103.

(6) "Highway revenues" means the revenues specified in

Article VIII, section 6, of the Montana constitution as revenues from gross vehicle weight fees and excise and license taxes (except general sales and use taxes, if any) on gasoline, fuel, and other energy sources used to propel vehicles on public highways and any other revenues, taxes, or receipts are credited to the highway earmarked revenue fund ~~AND THE HIGHWAY TRUST FEDERAL AND PRIVATE REVENUE ACCOUNT.~~

(7) "Outstanding bonds" means bonds issued and outstanding at any particular time but does not include bonds owned by the state, bonds that have been refunded, or bonds for the payment of which an irrevocable deposit of cash and United States government securities has been made in an amount sufficient to pay principal, interest, and redemption premium, if any, when due.

Section 4. Highway revenue bond sinking account -- deposit of bond proceeds. (1) There is in the sinking ~~HIGHWAY EARMARKED REVENUE~~ fund a highway revenue bond sinking account. Subject only to the prior pledge and appropriation made by 17-5-507, the state treasurer must deposit such highway revenues as may be pledged to the payment of particular bonds, to the credit of the highway revenue bond sinking account as required by resolution or indenture.

(2) All proceeds of an issue of bonds must be

deposited in a separate account in the bond-proceeds-and insurance-clearance-fund ~~HIGHWAY EARMARKED REVENUE FUND~~, except that any premiums and accrued interest received may be deposited in a sinking ~~SEPARATE~~ account established for that bond issue by resolution or indenture. ~~NO MORE THAN THE PRINCIPAL AND INTEREST ON THE BONDS DUE IN ANY YEAR MAY BE RETAINED IN THE SEPARATE ACCOUNT FOR THE PAYMENT OF BONDS. THE REMAINDER OF PLEDGED REVENUES IS AVAILABLE FOR AUTHORIZED PURPOSES OF THE DEPARTMENT.~~ Money deposited in such sinking ~~SEPARATE~~ accounts until spent for project purposes may be pledged and appropriated for the payment of bonds, which are a first lien and prior charge upon such funds, and such funds may be used for payment of bonds to the extent highway revenues deposited in the highway revenue bond sinking account are not sufficient for such purpose.

~~(2) INTEREST AND INVESTMENT EARNINGS ON THE SEPARATE ACCOUNTS NAMED IN SUBSECTIONS (1) AND (2) SHALL BE RETAINED IN THE HIGHWAY EARMARKED REVENUE FUND.~~

~~(4) NOTWITHSTANDING 17-6-202 AND EXCEPT AS PROVIDED IN SUBSECTION (3), INTEREST AND INVESTMENT EARNINGS ON THE HIGHWAY EARMARKED REVENUE FUND SHALL BE CREDITED TO THE GENERAL FUND UNTIL JULY 1, 1985, AND THEREAFTER SHALL BE RETAINED IN THE HIGHWAY EARMARKED REVENUE FUND.~~

Section 5. Pledge of highway revenues. All or any portion of highway revenues may be pledged to the payment of

1 the principal, interest, and redemption premium, if any, on
2 particular issues of state highway revenue bonds, and such
3 pledge is and remains at all times a first lien and prior
4 charge upon such pledged highway revenues credited to the
5 highway revenue bond sinking account, subject to a first
6 lien and charge in favor of certain highway bonds as
7 provided in 17-5-507 and subject to the pledge of particular
8 highway revenues to secure particular issues of highway
9 revenue bonds.

10 Section 6. Authority to issue highway revenue bonds.
11 The board may issue and sell highway revenue bonds to
12 finance the cost of highway projects, to pay the costs of
13 issuing the bonds, and to provide for reserves, upon
14 recommendation of the department. The state reserves the
15 right to issue additional bonds secured equally and ratably
16 by the pledge and appropriation of the highway revenues or
17 separately secured by a portion of highway revenues subject
18 only to the pledge of particular highway revenues to secure
19 particular bonds.

20 Section 7. Continuation of taxes -- limit on
21 additional highway revenue bonds. The legislature shall
22 provide for the continued assessment, levy, collection, and
23 deposit into the highway earmarked revenue fund of highway
24 revenues in amounts sufficient to pay, when due, the annual
25 debt service charges on all outstanding highway revenue

1 bonds. The board is authorized to include a contractual
2 undertaking for the benefit of bondholders to this effect in
3 the resolution or indenture under which the bonds are
4 issued.

5 Section 8. Bond anticipation notes -- issued when --
6 payment of principal and interest. (1) The board may,
7 pending the issuance of bonds, issue temporary notes in
8 anticipation of the proceeds to be derived from the sale of
9 the bonds, which notes are designated as "bond anticipation
10 notes". The proceeds of the sale of the bond anticipation
11 notes must be used only for the purpose for which the
12 proceeds of the bonds could be used, including costs of
13 issuance. If, prior to the issuance of the bonds, it becomes
14 necessary or desirable to redeem outstanding notes,
15 additional bond anticipation notes may be issued to redeem
16 the outstanding notes. No renewal of any note may be issued
17 after the sale of bonds in anticipation of which the
18 original notes were issued.

19 (2) Bond anticipation notes or other short-term
20 evidences of indebtedness maturing not more than 3 years
21 after the date of issue may be issued from time to time as
22 the proceeds thereof are needed. Such notes must be
23 authorized by the board and have such terms and provisions
24 as may be provided by resolution of the board; however, each
25 resolution of the board authorizing notes must:

1 (a) describe the need for the proceeds of the notes to
2 be issued; and

3 (b) specify the principal amount of the notes or
4 maximum principal amount of the notes which may be
5 outstanding at any one time, the rate or rates of interest
6 or maximum rate of interest or interest rate formula (to be
7 determined in the manner specified in the resolution
8 authorizing the notes) of such notes, and the maturity date
9 or maximum maturity date of the notes.

10 (3) Subject to the limitations contained in this
11 section and the standards and limitations prescribed in the
12 authorizing resolution, the board in its discretion may
13 provide for the notes described in subsection (2) to be
14 issued and sold, in whole or in part, from time to time, and
15 may delegate to the state treasurer the power to determine
16 the time or times of sale, the manner of sale, the amounts,
17 the maturities, the rate or rates of interest, and such
18 other terms and details of the notes as may be considered
19 appropriate by the board or, if there has been such a
20 delegation, the state treasurer. The board may, in its
21 discretion but subject to the limitations contained in this
22 section, provide in the resolution authorizing the issuance
23 of notes for:

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

1 (c) the appointment of one or more banks or trust
2 companies, either inside or outside the state, as depository
3 for safekeeping and as agent for the delivery and payment of
4 the notes;

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

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

10 Section 9. Form -- principal and interest -- fiscal
11 agent -- bonds authorized. (1) Each series of bonds may be
12 issued by the board at public or private sale, in such
13 denominations and form, whether payable to bearer or
14 registered as to principal or both principal and interest,
15 with such provisions for the conversion or exchange, bearing
16 interest at such rate or rates or the method of determining
17 such rate or rates, maturing at such times, not more than 40
18 years from date of issue, subject to redemption at such
19 earlier times and prices and upon such notice, and payable
20 at the office of a fiscal agency of the state as the board
21 shall determine, subject to the limitations contained in
22 [this act]. Any action taken by the board under [this act]
23 must be approved by at least a majority vote of its members.

24 (2) In all other respects the board is authorized to
25 prescribe the form and terms of the bonds and shall do

1 whatever is lawful and necessary for their issuance and
2 payment.

3 (3) Bonds and any interest coupons appurtenant thereto
4 must be signed by the members of the board, and the bonds
5 must be issued under the great seal of the state of Montana.
6 The bonds and coupons may be executed with facsimile
7 signatures and seal in the manner and subject to the
8 limitations prescribed by law. The state treasurer shall
9 keep a record of all such bonds issued and sold.

10 (4) The board may employ a fiscal agent and a bond
11 registrar and transfer agent to assist in the performance of
12 its duties under [this act].

13 (5) In connection with the issuance and sale of bonds,
14 the board may arrange for lines of credit or letters of
15 credit with any bank, firm, or person for the purpose of
16 providing an additional source of repayment for bonds issued
17 pursuant to [this act]. Amounts drawn on such lines of
18 credit may be evidenced by negotiable or nonnegotiable notes
19 or other evidences of indebtedness, containing such terms
20 and conditions as the board may authorize in the resolution
21 approving the same.

22 (6) No more than \$150 million of bonds issued under
23 [this act] may be outstanding at any time. ~~NO ADDITIONAL~~
24 ~~BONDS, OTHER THAN REBUNDING BONDS, MAY BE ISSUED UNTIL THE~~
25 ~~PLEDGE IN FAVOR OF THE HIGHWAY REVENUE BONDS IS SATISFIED~~

1 ~~AND DISCHARGED.~~

2 Section 10. Trust indenture. In the discretion of the
3 board, bonds issued under [this act] may be secured by a
4 trust indenture by and between the board and a trustee,
5 which may be any trust company or bank having the powers of
6 a trust company inside or outside of the state. Each trust
7 indenture or an executed counterpart thereof must be filed
8 in the office of the secretary of state. The filing of a
9 trust indenture or an executed counterpart thereof in the
10 office of the county clerk and recorder of the county in
11 which the property covered by the trust indenture is located
12 is constructive notice of its content to all persons from
13 the time of filing, and the recording of the trust indenture
14 or its content is not necessary.

15 Section 11. Provisions for protecting bondholders. The
16 resolution of the board providing for the issuance of bonds
17 or the trust indenture may contain provisions for protecting
18 and enforcing the rights and remedies of the bondholders
19 that are reasonable, proper, and not in violation of law,
20 including covenants setting forth the duties of the state,
21 the board, and the departments, boards, or agencies of state
22 government in relation to the construction, reconstruction,
23 improvement, maintenance, and repair of the highway projects
24 financed with the proceeds of the bonds and the custody,
25 safeguarding, and application of all money. The trust

1 indenture may set forth the rights and remedies of the
2 bondholders customary in trust indentures, deeds of trusts,
3 and mortgages securing bonds or debentures of corporations.
4 No enumeration of particular powers granted by this section
5 impairs any general grant of power contained in [this act].

6 Section 12. Personal liability -- suit to compel
7 performance. (1) The members of the board and officers and
8 employees of the departments, boards, or agencies of state
9 government are not personally liable or accountable by
10 reason of the issuance of or on any bond issued by the board
11 under [this act].

12 (2) Any holder of bonds issued under [this act] or any
13 person or officer who is a party in interest, subject to any
14 applicable agreements or trust indentures, may sue to
15 enforce and compel the performance of the bond provisions as
16 set out in [this act].

17 Section 13. Negotiability of bonds. Bonds issued under
18 [this act] are negotiable instruments under the Uniform
19 Commercial Code, subject only to the provisions for
20 registration of bonds.

21 Section 14. Signatures of board members. In case any
22 member of the board whose signature appears on bonds or
23 coupons issued under this part ceases to be a member before
24 the delivery of the bonds, his signature is nevertheless
25 valid and sufficient for all purposes as if the member had

1 remained in office until delivery.

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

13 (2) Refunding obligations issued as provided in
14 subsection (1) may be sold or exchanged for outstanding
15 obligations issued under [this act]. The proceeds may be
16 applied to the purchase, redemption, or payment of the
17 outstanding obligations. Pending the application of the
18 proceeds of refunding obligations, with other available
19 funds, to the payment of principal, accrued interest, and
20 any redemption premium on the obligations being refunded
21 and, if permitted in the resolution authorizing the issuance
22 of the refunding obligations or in the trust agreement
23 securing them, to the payment of interest on refunding
24 obligations and expenses in connection with refunding, the
25 proceeds may be invested as provided in Title 17, chapter 6.

1 Section 16. Pledge of the state. In accordance with
2 the constitutions of the United States and the state of
3 Montana, the state pledges that it will not in any way
4 impair the obligations of any agreement between the state
5 and the holders of notes and bonds issued by the state under
6 [this act].

7 Section 17. Tax exemption of bonds -- legal
8 investments. (1) All bonds issued under [this act], their
9 transfer, and their income, including any profits made on
10 their sale, are exempt from taxation by the state or any
11 political subdivision or other instrumentality of the state,
12 excepting inheritance, estate, and gift taxes.

13 (2) Bonds issued under [this act] are legal
14 investments for any person or board charged with investment
15 of public funds and are acceptable as security for any
16 deposit of public money.

17 Section 18. Effective date. This act is effective on
18 passage and approval.

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