

HOUSE BILL 425

Introduced by Kadas, et al.

2/02	Introduced
2/02	Referred to Appropriations
2/02	First Reading
2/03	Fiscal Note Requested
2/06	Fiscal Note Received
2/08	Fiscal Note Printed
2/09	Hearing
2/19	Committee Report--Bill Passed as Amended
2/22	2nd Reading Passed as Amended
2/24	3rd Reading Passed
	Transmitted to Senate
3/01	First Reading
3/01	Referred to Finance & Claims
3/05	Hearing
3/12	Tabled in Committee

1 House BILL NO. 425  
 2 INTRODUCED BY Kadas, Boudreau  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE Tom Nelson  
 4 Carl Jacobson AND THE LEGISLATIVE FINANCE COMMITTEE Gergeron

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT MERGING THE FUNCTIONS  
 7 OF THE BOARD OF HOUSING AND THE HEALTH FACILITY AUTHORITY IN  
 8 THE STATE REVENUE BOND AUTHORITY; PROVIDING NEW DUTIES FOR A  
 9 REVISED BOARD OF HOUSING; ASSIGNING CERTAIN REVENUE BOND  
 10 FUNCTIONS OF THE BOARD OF INVESTMENTS TO THE STATE REVENUE  
 11 BOND AUTHORITY; CLARIFYING THE STATUTORY APPROPRIATION OF  
 12 FUNDS; AMENDING SECTIONS 2-15-1808, 2-15-1814, 17-5-1302,  
 13 17-5-1312, 17-5-1325, 17-5-1502, 17-5-1503, 17-5-1504,  
 14 17-5-1505, 17-5-1506, 17-5-1507, 17-5-1508, 17-5-1509,  
 15 17-5-1510, 17-5-1511, 17-5-1512, 17-5-1513, 17-5-1514,  
 16 17-5-1515, 17-5-1516, 17-5-1517, 17-5-1518, 17-5-1521,  
 17 17-5-1522, 17-5-1523, 17-5-1524, 17-5-1525, 17-5-1526,  
 18 17-5-1527, 17-5-1528, 17-5-1529, 17-5-1604, 17-5-1605,  
 19 17-5-1606, 17-5-1607, 17-5-1608, 17-5-1609, 17-5-1610,  
 20 17-5-1611, 17-5-1621, 17-5-1622, 17-5-1623, 17-5-1624,  
 21 17-5-1625, 17-5-1626, 17-5-1629, 17-5-1630, 17-5-1631,  
 22 17-5-1641, 17-5-1642, 17-5-1643, 17-5-1644, 17-5-1645,  
 23 17-5-1646, 17-5-1647, 17-5-1648, 17-5-1649, 17-5-1650,  
 24 17-5-1651, 17-6-211, 17-7-502, 90-6-103, 90-6-104, 90-6-105,  
 25 90-6-106, 90-6-107, 90-6-108, 90-6-109, 90-6-110, 90-6-111,

1 90-6-112, 90-6-113, 90-6-114, 90-6-115, 90-6-116, 90-6-117,  
 2 90-6-118, 90-6-119, 90-6-120, 90-6-121, 90-6-123, 90-6-124,  
 3 90-6-125, 90-6-126, 90-6-127, 90-7-102, 90-7-201, 90-7-202,  
 4 90-7-220, AND 90-7-317, MCA; REPEALING SECTIONS 2-15-1815  
 5 AND 90-7-203, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 6

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

8 **Section 1.** Section 2-15-1808, MCA, is amended to read:

9 "2-15-1808. Board of investments -- allocation --  
 10 composition -- quasi-judicial. (1) There is a board of  
 11 investments within the department of commerce.

12 (2) Except as otherwise provided in this subsection,  
 13 the board is allocated to the department for administrative  
 14 purposes as prescribed in 2-15-121. The board may employ an  
 15 investment officer, an assistant investment officer, and  
 16 department shall hire an executive director who have has  
 17 general responsibility for selection and management of the  
 18 board's staff and for direct investment, state revenue bond,  
 19 and economic development activities. The investment officer,  
 20 assistant investment officer, and executive director serve  
 21 at the pleasure of the board. The board shall prescribe the  
 22 duties and annual salaries of the investment officer,  
 23 assistant investment officer, executive director, and three  
 24 professional staff positions.

25 (3) The board is composed of nine members appointed by

the governor as prescribed in 2-15-124. The members are:

(a) one member from the public employees' retirement board provided for in 2-15-1009 and one member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member of the retirement board, the position of that member on the board of investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

(b) seven members who will provide a balance of professional expertise and public interest and accountability and who are informed and experienced in the subject of investments and who are representative of:

- (i) the financial community;
- (ii) small business;
- (iii) agriculture; and
- (iv) labor.

(4) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(5) The department shall consult with the board and the state revenue bond authority in the selection of an executive director. The executive director serves at the pleasure of the department. The executive director, in consultation with the board, shall prescribe the duties and annual salaries of the investment officer, assistant investment officer, and three professional staff positions.

The administrative and accounting support staff of the board shall also serve the state revenue bond authority."

**Section 2.** Section 2-15-1814, MCA, is amended to read:

"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial duties. (1) There is a board of housing.

(2) The board consists of seven members appointed by the governor ~~as provided in 2-15-124~~. The members ~~shall~~ must be informed and experienced in housing, economics, or finance.

(3) The board shall elect a chairman presiding officer and other necessary officers. The executive director of the state revenue bond authority shall serve as the executive secretary to the board.

~~(4) The board is designated a quasi-judicial board for purposes of 2-15-124.~~

~~(5) The board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.~~

~~(6) (5) In compliance with the state pay plan, the department shall provide all staff and services to the board as are determined by the board in conjunction with the department to be necessary for the purposes of carrying out the board's programs. The department shall assess the board for reasonable costs.~~

~~(7) A member of the board shall not be deemed to have a conflict of interest under the provisions of 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution who may participate in the board's programs. The board shall assess housing availability and needs in the state, counties, cities, and towns.~~

(6) The board shall identify and review all federal housing programs and make recommendations to the department of commerce, the state revenue bond authority, the board of investments, and the governor concerning housing program coordination, planning, and operations."

**NEW SECTION. Section 3.** State revenue bond authority -- allocation -- composition -- quasi-judicial. (1) There is a state revenue bond authority.

(2) The authority consists of nine members appointed by the governor as provided in 2-15-124. The members must be informed and experienced in housing, health institutions, economics, or finance.

(3) The authority shall elect a presiding officer and other necessary officers.

(4) The authority is designated a quasi-judicial board for purposes of 2-15-124.

(5) The authority is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

(6) In compliance with the state pay plan and 2-15-1808, the department shall provide all staff and services to the authority as are determined by the authority, in conjunction with the department, to be necessary for the purposes of carrying out the authority's programs. The department shall assess the authority for reasonable costs.

(7) A member of the authority is not considered to have a conflict of interest under the provisions of 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution that may participate in the authority's programs.

**Section 4.** Section 17-5-1302, MCA, is amended to read:

"17-5-1302. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Allocation" means an allocation of a part of the volume cap to an issuer pursuant to this part.

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the volume cap is required to be allocated pursuant to the tax act.

(5) "Department" means the department of administration.

(6) "Economic development" means projects for which bonds may be issued pursuant to Title 17, chapter 5, part 15.

{6}{7} "Governmental bonds" means bonds other than private activity bonds.

(8) "Health facility" means a health facility project for which bonds may be issued pursuant to Title 90, chapter 7.

(9) "Housing" means housing projects for which bonds may be issued pursuant to Title 90, chapter 6, part 1.

{7}{10} "Issuer" means a state issuer or local issuer.

{8}{11} "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

{9}{12} "Local portion" means that portion of the volume cap reserved for local issuers.

~~{10}-"Montana--board--of--housing"--{MBH}-means-the-board-created-in-2-15-1814-~~

~~{11}-"Montana-board--of--investments"--{MBI}-means--the-board-provided-for-in-2-15-1808-~~

~~{12}-"Montana--health--facility--authority"--{MHPA}-means-the-authority-provided-for-in-2-15-1815-~~

(13) "Montana higher education student assistance

corporation" (MHESAC) means the nonprofit corporation established under Title 20, chapter 26, part 11.

(14) "Private activity bonds" (PABs) has the meaning prescribed under section 1301 of the tax act.

(15) "State issuer" means the state and any agency thereof of the state authorized to issue private activity bonds. For this part only, the Montana higher education student assistance corporation is considered an agency of the state.

(16) "State portion" means that portion of the volume cap reserved for state issuers.

(17) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(18) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act."

**Section 5.** Section 17-5-1312, MCA, is amended to read:

"17-5-1312. Allocation to state issuers. (1) Except as provided in subsection (5), the state portion must be allocated to state issuers pursuant to 17-5-1316.

(2) As a condition of receiving an allocation, each state issuer, upon issuance of the bonds, shall pay 30 cents per thousand of bonds to be deposited in the state general fund for the purpose of funding a portion of the

comprehensive annual financial report audit.

(3) The following set-asides must be made in each calendar year for the following state issuers:

<u>State Issuer</u>	<u>Percentage</u>	<u>Allocation Amount</u>
Board	4	\$4,200,000
MBH Housing	41	43,050,000
MBH Economic development	25	26,250,000
MHESAC	26	27,300,000
MHPA Health facility	4	4,200,000
Total	100%	\$105,000,000

(4) Each set-aside expires on the first Monday in September.

(5) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to 17-5-1316 and no a state issuer is not entitled to an allocation except from its set-aside unless otherwise provided by the governor.

(6) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to 17-5-1316 without preference or priority."

**Section 6.** Section 17-5-1325, MCA, is amended to read:

"17-5-1325. Reassignment of bonding authority for

agricultural purposes -- contingency. If, at some time in the future, federal taxation laws allow the use of tax-exempt bonds to provide loans for the acquisition of farm or ranch land, a downpayment on the acquisition of farm or ranch land, or the acquisition or construction of depreciable property used in the operation of a farm or ranch, the allocation of bonding authority originally assigned to the Montana agricultural loan authority must be reassigned to the Montana-board-of-investments state revenue bond authority to provide those loans."

**Section 7.** Section 17-6-211, MCA, is amended to read:

"17-6-211. Preference to in-state investment firms -- commitment agreement with board of housing. (1) The board of investments shall endeavor to direct its portion of the state's investment business to those investment firms and/or or financial institutions which that maintain offices in the state and thereby make contributions to the state economy. ~~Further, due consideration shall~~ Consideration must be given to investments which that will benefit the smaller communities in the state. The state's investment business ~~will~~ may be directed to out-of-state firms only when there is a distinct economic advantage to the state of Montana.

(2) The board may enter into a commitment agreement with the ~~board--of-housing~~ state revenue bond authority at the time of an issue of bonds or notes by the ~~board--of~~

housing authority providing for the purchase at a specified future date, not to exceed 15 years from the date of the issue, of all or any portion of the amount of mortgage loans purchased with the proceeds of the issue. The board of investments may charge reasonable fees for any commitment and may agree to purchase the mortgage loans on terms that in the judgment of the board of investments provide a fair market rate of return to the purchasers."

**Section 8.** Section 17-5-1502, MCA, is amended to read:

"17-5-1502. Legislative declaration. (1) It is the policy of the state of Montana, in the interest of promoting the health, safety, and general welfare of all the people of the state, to increase job opportunities and to retain existing jobs by making available, through the board--of investments state revenue bond authority, funds for industrial, commercial, manufacturing, natural resource, agricultural, livestock, recreational, tourist, and health care development.

(2) The legislature finds that:

(a) a vigorous, diversified, and growing economy is the basic source of job opportunities;

(b) protection against unemployment and its economic burdens and the spread of economic stagnation can best be provided by promoting, attracting, stimulating, and revitalizing a diversified economy with contributions from

industry, manufacturing, commerce, natural resource development, agriculture, livestock, recreation, tourism, and health care facilities; and

(c) the state of Montana has a responsibility to help create a favorable climate for new and improved job opportunities and a stable, growing, and healthy economy for its citizens by encouraging the development of business."

**Section 9.** Section 17-5-1503, MCA, is amended to read:

"17-5-1503. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" "Authority" means the board-of-investments created state revenue bond authority provided for in 2-15-1888 [section 3].

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board authority pursuant to this part.

(3) "Department" means the department of commerce provided for in 2-15-1801.

(4) "Finance" means to supply capital and, in the case of agricultural enterprises, to refinance a project and project costs.

(5) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust

company, savings institution, or other financial institution approved by the board authority.

(6) "Local government" means the city in which the project is located, if the project is located within an incorporated municipality, or the county if the project is located within the county but outside the boundaries of an incorporated municipality.

(7) "Major project" means a project whose cost or appraised value exceeds \$800,000.

(8) "Project" means a project as defined in 90-5-101.

(9) "Project costs" means the costs of acquiring or improving any project, including the following:

(a) the actual cost of acquiring or improving real estate for any project;

(b) the actual cost of construction of all or any part of a project, including architects' and engineers' fees;

(c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such the acquisition or improvement;

(d) bond reserves and premiums for insurance or guaranty of loan payments or lease rentals pledged to pay the bonds;

(e) the interest on such bonds for a reasonable time prior to construction, during construction, and not exceeding 6 months after completion of construction; and

(f) working capital for agricultural enterprise projects for a period not to exceed 1 year."

**Section 10.** Section 17-5-1504, MCA, is amended to read:

"17-5-1504. Powers of the board authority. The board authority may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this part;

(4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under this part;

(5) invest any funds not required for immediate use, as the board authority considers appropriate, subject to any agreements with its bondholders and noteholders;

(6) arrange for lines of credit from and enter into participation agreements with any financial institution;

(7) issue bonds for the purpose of defraying the cost of acquiring or improving any project or projects and securing the payment of the bonds as provided in this part;

(8) enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this part;

(9) sell, purchase, or insure loans to finance the costs of projects;



1 (10) accept services, appropriations, gifts, grants,  
 2 bequests, and devises and utilize or dispose of them in  
 3 carrying out this part;

4 (11) enter into agreements or other transactions with a  
 5 federal agency, an agency or instrumentality of the state, a  
 6 municipality, a private organization, or any other entity or  
 7 organization in carrying out this part;

8 (12) with regard to property:

9 (a) acquire real or personal property or any right,  
 10 interest, or easement therein in property by gift, purchase,  
 11 transfer, foreclosure, lease, or otherwise;

12 (b) hold, sell, assign, lease, encumber, mortgage, or  
 13 otherwise dispose of such property;

14 (c) hold, sell, assign, or otherwise dispose of any  
 15 lease, mortgage, or loan owned by it or in its control or  
 16 custody;

17 (d) release or relinquish any right, title, claim,  
 18 interest, easement, or demand, however acquired, including  
 19 any equity or right of redemption;

20 (e) make any disposition by public or private sale,  
 21 with or without public bidding;

22 (f) commence any action to protect or enforce any right  
 23 conferred upon it by any law, mortgage, contract, or other  
 24 agreement;

25 (g) bid for and purchase property at any foreclosure or

1 other sale or acquire or take possession of it in lieu of  
 2 foreclosure;

3 (h) operate, manage, lease, dispose of, and otherwise  
 4 deal with such property in any manner necessary or desirable  
 5 to protect its interests or the holders of its bonds or  
 6 notes, provided such the action is consistent with any  
 7 agreement with such the holders;

8 (13) service, contract, and pay for the servicing of  
 9 loans;

10 (14) provide financial analysis and technical assistance  
 11 where considered appropriate;

12 (15) consent, whenever it considers necessary or  
 13 desirable in fulfilling its purposes, to the modification of  
 14 the rate of interest, time, and payment of any installment  
 15 of principal, interest, security, or any other term of any  
 16 contract, lease agreement, loan agreement, mortgage,  
 17 mortgage loan, mortgage loan commitment, construction loan,  
 18 advance contract, or agreement of any kind, subject to any  
 19 agreement with bondholders and noteholders;

20 (16) collect reasonable interest, fees, and charges in  
 21 connection with making and servicing its lease agreements,  
 22 loan agreements, mortgage loans, notes, bonds, commitments,  
 23 and other evidences of indebtedness. Interest, fees, and  
 24 charges are limited to the amounts required to pay the costs  
 25 of the board authority, including operating and

administrative expenses and reasonable allowances for losses that may be incurred.

(17) procure insurance or guaranties in amounts and in the form the board authority considers desirable or necessary, from any party, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property; and

(18) perform any other acts necessary and convenient to carry out the purposes of the board authority and this part."

**Section 11.** Section 17-5-1505, MCA, is amended to read:

"17-5-1505. Financing programs of the board authority.

(1) The board authority may:

(a) invest in, purchase or make commitments to purchase, and take assignment from financial institutions of notes, mortgages, loan agreements, and other securities evidencing loans for the acquisition, construction, reconstruction, or improvement of projects located in the state, under terms and conditions determined by the board authority;

(b) acquire, by construction, purchase, devise, gift, lease, or any combination of methods, from financial institutions, projects located in the state and lease such the projects to others for such the rentals and upon such

terms and conditions as determined by the board authority;

(c) make loans to financial institutions, under terms and conditions determined by the board authority, requiring the proceeds to be used by the financial institution for the purpose of financing the acquisition, construction, reconstruction, or improvement of projects located in the state; or

(d) finance projects located in the state upon such terms and conditions as determined by the board authority.

(2) The board authority may not operate any project as a business or in any other manner except as the lessor thereof or as may be necessary for a temporary period through the enforcement of its rights under a lease, loan agreement, or other security agreement."

**Section 12.** Section 17-5-1506, MCA, is amended to read:

"17-5-1506. Bonds and notes for projects and major projects. (1) The board authority may by resolution issue negotiable notes and bonds in a principal amount as the board authority determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board authority, establishment of reserves to secure the notes and bonds, including the reserve funds created under 17-5-1515, and all other expenditures of the board authority incident to and necessary or convenient to carry out this part.

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

(3) Except as otherwise expressly provided by resolution of the board authority, every issue of its bonds is an obligation of the board authority payable out of any revenue, assets, or money of the board authority, subject only to agreements with the holders of particular notes or bonds pledging particular revenues, assets, or money.

(4) The notes and bonds must be authorized by resolutions of the board authority, bear a date, and mature at the times the resolutions provide. A note may not mature more than 5 years from the date of its issue. A bond may not mature more than 40 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments, as term bonds, or as a combination thereof of serial and term bonds. The notes and bonds must bear interest at a stated rate or rates or at a rate or rate determination as stated, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment,

at places inside or outside the state, and be subject to terms of redemption as provided in resolutions. The notes and bonds of the board authority may be sold at public or private sale, at prices above or below par, as determined by the board authority, and in a manner such that interest on the bonds is either exempt from or subject to federal income tax.

(5) The bonds issued under this part are exempt from the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with the state securities commissioner for public inspection.

(6) The total amount of bonds secured under 17-5-1515 outstanding at any one time, except bonds as to which the board's authority's obligations have been satisfied and discharged by refunding or bonds for which reserves for payment or other means of payment have been provided, may not exceed \$75 million."

**Section 13.** Section 17-5-1507, MCA, is amended to read:

"17-5-1507. Bond anticipation notes -- issuance -- payment of principal and interest. (1) The board authority may, pending the issuance of bonds, issue temporary notes in anticipation of the proceeds to be derived from the sale of the bonds. The notes shall be designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes must be used only for the purpose for

1 which the proceeds of the bonds could be used, including  
 2 costs of issuance. If, prior to the issuance of the bonds,  
 3 it becomes necessary to redeem outstanding notes, additional  
 4 bond anticipation notes may be issued to redeem the  
 5 outstanding notes. No The renewal of any note may not be  
 6 issued after the sale of bonds in anticipation of which the  
 7 original notes were issued.

8 (2) Bond anticipation notes or other short-term  
 9 evidences of indebtedness maturing not more than 3 years  
 10 after the date of issue may be issued from time to time as  
 11 the proceeds thereof of the notes are needed. The notes must  
 12 be authorized by the board authority and must have such  
 13 terms and details as may be provided by resolution of the  
 14 board authority. However, each resolution of the board  
 15 authority authorizing notes must:

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

18 (b) specify the principal amount of the notes or  
 19 maximum principal amount of the notes which may be  
 20 outstanding at any one time, the rate or rates of interest  
 21 or maximum rate of interest or interest rate formula (to be  
 22 determined in the manner specified in the resolution  
 23 authorizing the notes to be incurred through the issuance of  
 24 such the notes), and the maturity date or maximum maturity  
 25 date of the notes.

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

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

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

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

(d) such other terms and conditions as that the board authority considers appropriate.

(4) In connection with the issuance and sale of notes as provided in this section, the board authority 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 the lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing such terms and conditions as that the board authority may authorize in the resolution approving the same notes."

**Section 14.** Section 17-5-1508, MCA, is amended to read:

"17-5-1508. Provisions of bond resolutions. A resolution authorizing notes or bonds or any issue thereof of notes or bonds may contain provisions, which must be a part of the contract or contracts with the holders thereof of the notes or bonds, as to:

(1) pledging all or any part of the revenue or property of the board authority to secure the payment of the notes or bonds or of any issue thereof of notes or bonds, subject to existing agreements with noteholders or bondholders;

(2) pledging all or any part of the assets of the board authority, including lease agreements, loan agreements, mortgages, and obligations securing them, to secure the

payment of the notes or bonds or of any issue thereof of notes or bonds, subject to existing agreements with noteholders or bondholders;

(3) the use and disposition of the gross income from lease agreements, loan agreements, and mortgages owned by the board authority, and the payment of the principal of mortgages owned by the board authority;

(4) the setting aside of reserves for debt service funds in the hands of trustees, paying agents, and other depositories and the regulation and disposition thereof of reserves;

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

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

(7) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which shall consent thereto to the amendment or abrogation, and the manner in which such consent may be given;

(8) a commitment to employ adequate and competent

1 personnel at reasonable compensation; to set salaries, fees,  
2 and charges as may be determined by the board authority in  
3 conjunction with the department; and to maintain suitable  
4 facilities and services for the purpose of carrying out its  
5 programs;

6 (9) vesting in a trustee such property, rights, powers,  
7 and duties in trust as the authority determines to be  
8 necessary;

9 (10) defining the acts or omissions that shall  
10 constitute a default in the obligations and duties of the  
11 board authority to the holders of the notes or bonds and  
12 providing for the rights and remedies of the holders of the  
13 notes or bonds in the event of such default, including as a  
14 matter of right the appointment of a receiver; and

15 (11) any other matters of like or different character  
16 that in any way affect the security or protection of the  
17 holders of the notes or bonds."

18 **Section 15.** Section 17-5-1509, MCA, is amended to read:

19 "17-5-1509. **Personal liability.** The board authority and  
20 employees of the department are not personally liable or  
21 accountable by reason of the issuance of or on any bond or  
22 note issued by the board authority."

23 **Section 16.** Section 17-5-1510, MCA, is amended to read:

24 "17-5-1510. **Purchase of notes and bonds --**  
25 **cancellation.** The board authority may, subject to existing

1 agreements with noteholders or bondholders and out of any  
2 funds available for that purpose, purchase notes or bonds of  
3 the board authority, which shall then be canceled, at a  
4 price not exceeding:

5 (1) the current redemption price plus accrued interest  
6 to the next interest payment if the notes or bonds are then  
7 redeemable; or

8 (2) the redemption price applicable on the first date  
9 after the purchase on which the notes or bonds become  
10 subject to redemption, plus accrued interest to that date,  
11 if the notes or bonds are not then redeemable."

12 **Section 17.** Section 17-5-1511, MCA, is amended to read:

13 "17-5-1511. **Trust indenture.** (1) In the discretion of  
14 the board authority, the bonds may be secured by a trust  
15 indenture between the board authority and a corporate  
16 trustee, which may be a trust company or bank having the  
17 power of a trust company, either inside or outside the  
18 state. A trust indenture may contain provisions for  
19 protecting and enforcing bondholders' rights and remedies  
20 that are reasonable, proper, and not in violation of law,  
21 including covenants setting forth the duties of the  
22 authority in relation to the exercise of its powers and the  
23 custody, safeguarding, and application of all money. The  
24 authority may provide by a trust indenture for the payment  
25 of the proceeds of the bonds and revenues to the trustee

under the trust indenture of another depository and for the method of disbursement, with the safeguards and restrictions it considers necessary.

(2) All expenditures incurred in carrying out a trust indenture may be treated as part of the operating expenses of the board authority."

**Section 18.** Section 17-5-1512, MCA, is amended to read:

"17-5-1512. Negotiability of bonds. Notes and bonds issued by the board authority are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of notes and bonds."

**Section 19.** Section 17-5-1513, MCA, is amended to read:

"17-5-1513. Signatures of board members. If board authority members whose signatures appear on notes, bonds, or coupons cease to be members before the delivery of the notes or bonds, their signatures ~~shall nevertheless be~~ are valid and sufficient for all purposes ~~the same~~ as if the members had remained in office until delivery."

**Section 20.** Section 17-5-1514, MCA, is amended to read:

"17-5-1514. Accounts. The board authority may create funds and accounts necessary to implement this part. The funds and accounts may include:

- (1) a fund into which bond proceeds are deposited;
- (2) a common bond fund consisting of:
  - (a) a common debt service account;

(b) a capital reserve account as provided in 17-5-1515; and

(c) an operating account for defraying the operational costs of the board authority; and

(3) other funds or accounts."

**Section 21.** Section 17-5-1515, MCA, is amended to read:

"17-5-1515. Reserve funds and appropriations. (1) The board authority may establish a capital reserve account and pay into it any:

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

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

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

(2) All funds held in the capital reserve account must be used solely for the payment of the principal of or interest on the bonds secured in whole or in part by the account or the debt service fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account may not be

1 withdrawn at any time in an amount that reduces the account  
 2 to an amount less than the sum of minimum capital reserve  
 3 requirements established in the resolutions or indentures of  
 4 the board authority for the account except, with respect to  
 5 bonds secured in whole or in part by the account, for the  
 6 purpose of making payment, when due, of principal, interest,  
 7 redemption premiums, and debt service fund payments for the  
 8 payment of which other money pledged is not available. Any  
 9 income or interest earned by or incremental to the capital  
 10 reserve account due to its investment may be transferred to  
 11 other accounts of the board authority to an extent that does  
 12 not reduce the amount of the capital reserve account below  
 13 the sum of minimum capital reserve requirements for the  
 14 account."

15 **Section 22.** Section 17-5-1516, MCA, is amended to read:

16 "17-5-1516. Maintenance of capital reserve account. (1)  
 17 In order to assure the maintenance of the capital reserve  
 18 account, the chairman presiding officer of the board  
 19 authority shall, on or before September 1 in each year  
 20 preceding the convening of the legislature, deliver to the  
 21 governor a certificate stating the sum, if any, required to  
 22 restore the capital reserve account to the minimum capital  
 23 reserve requirement. The governor shall include in the  
 24 executive budget submitted to the legislature the sum  
 25 required to restore the capital reserve account to the sum

1 of minimum capital reserve requirement. All sums  
 2 appropriated by the legislature ~~shall~~ must be deposited in  
 3 the capital reserve account.

4 (2) All amounts appropriated to the board authority  
 5 under this section constitute advances to the board  
 6 authority and, subject to the rights of the holders of any  
 7 bonds or notes of the board authority, must be repaid to the  
 8 state general fund without interest from available operating  
 9 revenues of the board authority in excess of amounts  
 10 required for the payment of bonds, notes, or other  
 11 obligations of the board authority, for maintenance of the  
 12 capital reserve account, and for operating expenses."

13 **Section 23.** Section 17-5-1517, MCA, is amended to read:

14 "17-5-1517. Refunding obligations. The board authority  
 15 may provide for the issuance of refunding obligations for  
 16 refunding any obligations then outstanding that have been  
 17 issued under this part, including the payment of any  
 18 redemption of the obligations. The issuance of obligations,  
 19 the maturities and other details, the rights of the holders,  
 20 and the rights, duties, and obligations of the authority are  
 21 governed by the appropriate provisions of this part that  
 22 relate to the issuance of obligations. The proceeds of  
 23 refunding obligations may be applied to the purchase,  
 24 redemption, or payment of outstanding obligations. Pending  
 25 the application of the proceeds of refunding obligations and



other available funds to the payment of principal, accrued interests, 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 in such securities as the board authority considers appropriate."

**Section 24.** Section 17-5-1518, MCA, is amended to read:

"17-5-1518. **Tax exemption of bonds.** Bonds, notes, or other obligations issued by the board authority under this part and their transfer and income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, except for inheritance, estate, and gift taxes. The board authority is not required to pay recording or transfer fees or taxes on instruments recorded by it."

**Section 25.** Section 17-5-1521, MCA, is amended to read:

"17-5-1521. **Adoption of rules.** (1) The board authority shall adopt rules to establish:

(a) procedures for soliciting and evaluating applications and for notifying the local government of the application for purposes of complying with 17-5-1526 and 17-5-1527; and

(b) a system for evaluating applications, considering

the following criteria:

(i) the applicant's net worth;

(ii) the applicant's training and experience in the industry involved in the proposed project;

(iii) the applicant's prospects for succeeding in the proposed project;

(iv) the degree to which the new or increased business resulting from the loan will meet the objectives of 17-5-1502; and

(v) any other factors the board authority may prescribe.

(2) The board authority shall adopt rules for the:

(a) organization, approval, standards, and regulation of project applicants;

(b) approval, standards, and regulation of financial institutions under this part;

(c) assessment, collection, and payment of all fees and charges in connection with making, purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and guaranty programs; and

(d) such other matters as the board authority considers necessary or desirable."

**Section 26.** Section 17-5-1522, MCA, is amended to read:

"17-5-1522. **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 board authority and the holders of notes and bonds issued by the board authority, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose."

**Section 27.** Section 17-5-1523, MCA, is amended to read:

"17-5-1523. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a debt, liability, obligation, or pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board authority. An obligation issued under this part must contain on the face thereof of the obligation a statement to the effect that the state of Montana is not liable on the obligation, the obligation is not a debt of the state, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal or interest on the obligation."

**Section 28.** Section 17-5-1524, MCA, is amended to read:

"17-5-1524. Taxation of projects. (1) Notwithstanding the fact that title to a project may be in the board authority, such the projects are subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar

circumstances if such the projects are leased to or held by private interests on both the assessment date and the date the levy is made in that year. Such The projects are not subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in that year.

(2) When personal property owned by the board authority is taxed under this section and such personal property taxes are delinquent, levy by warrant for distraint for collection of such the delinquent taxes may be made only on personal property against which such the taxes were levied."

**Section 29.** Section 17-5-1525, MCA, is amended to read:

"17-5-1525. Bonds as legal investment. (1) Bonds issued by the board authority under the provisions of this part are securities in which all funds may be legally and properly invested, including capital in the control of or belonging to:

(a) public officers and public bodies of the state and its political subdivisions;

(b) insurance companies;

(c) credit unions, building and loan associations, investment companies, savings banks, banking associations, and trust companies;

(d) executors, administrators, trustees, and other fiduciaries; and

(e) pension, profit-sharing, and retirement funds.

(2) Bonds issued under 17-5-1505 through 17-5-1518 and 17-5-1521 through 17-5-1529 are securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or municipality of the state for any purpose for which the deposit of bonds or obligations of the state ~~is--now-or-may-hereafter-be~~ are authorized by law."

**Section 30.** Section 17-5-1526, MCA, is amended to read:

"17-5-1526. Procedure prior to financing projects. (1) The board authority may finance projects, other than major projects, under this part only when it finds that:

(a) the financing is in the public interest and is consistent with the legislative purposes and findings set forth in 17-5-1502;

(b) the financing to be provided by the board authority for a project does not exceed either \$800,000 or 90% of the cost or appraised value of the project, whichever is less;

(c) a financial institution will participate in financing the project, either directly or through a letter of credit, to the extent of at least 10% of the financing to be provided by the board authority;

(d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental insurer or guarantor;

(e) an applicant has submitted a statement indicating any contracts to construct the projects will require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents; "substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons; and

(f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a project or projects being financed to provide for payment of debt service on bonds of the board authority issued to finance the project or projects, to create and maintain reserves therefor for the bonds, and to meet all costs and expenses of issuing and servicing the bonds.

(2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified; and the city and county shall, within 14 days after receipt of the notice, notify the board

1 authority if it elects to conduct the hearing; or  
 2 (b) if no a request for a local hearing is not  
 3 received, the board authority may hold the hearing at a time  
 4 and place it prescribes.  
 5 (3) If the hearing required by subsection (2) is  
 6 conducted by a local government, the governing body of the  
 7 local government shall notify the board authority of its  
 8 determination of whether the project is in the public  
 9 interest within 14 days of the completion of the public  
 10 hearing.  
 11 (4) When a hearing is required either locally or at the  
 12 state level, notice must be given, at least once a week for  
 13 2 weeks prior to the date set for the hearing, by  
 14 publication in a newspaper of general circulation in the  
 15 city or county where the hearing will be held. The notice  
 16 must include the time and place of the hearing; the general  
 17 nature of the project; the name of the lessee, borrower, or  
 18 user of the project; and the estimated cost of the project.  
 19 (5) The requirements of subsections (1)(b) through  
 20 (1)(d) do not apply to bonds that are not secured by the  
 21 capital reserve account authorized by 17-5-1515.  
 22 (6) The hearing requirements of subsections (2) through  
 23 (4) do not apply to projects financed with bonds the  
 24 interest on which is subject to federal income taxes."  
 25 **Section 31.** Section 17-5-1527, MCA, is amended to read:

1 "17-5-1527. Procedure prior to financing major  
 2 projects. (1) The board authority may finance major projects  
 3 under this part only when it finds that:  
 4 (a) the financing is in the public interest and is  
 5 consistent with legislative purposes and findings;  
 6 (b) the financing to be provided by the board authority  
 7 for a project does not exceed either \$10 million or 90% of  
 8 the cost or appraised value of the project, whichever is  
 9 less;  
 10 (c) a financial institution will participate in  
 11 financing the project if the cost or appraised value is less  
 12 than \$1 million, either directly or through a letter of  
 13 credit, to the extent of at least 10% of the financing to be  
 14 provided by the board authority, provided, however, that  
 15 participation by a financial institution in projects of over  
 16 \$1 million is at the discretion of the board authority;  
 17 (d) the financing for the project is insured or  
 18 guaranteed in whole or in part by a private or governmental  
 19 insurer or guarantor;  
 20 (e) any contracts to construct the projects require all  
 21 contractors to give preference to the employment of bona  
 22 fide Montana residents, as defined in 18-2-401, in the  
 23 performance of the work on the projects if their  
 24 qualifications are substantially equal to those of  
 25 nonresidents; "substantially equal qualifications" means the

1 qualifications of two or more persons among whom the  
 2 employer cannot make a reasonable determination that the  
 3 qualifications held by one person are significantly better  
 4 suited for the position than the qualifications held by the  
 5 other persons; and

6 (f) adequate provision is made in the loan agreement,  
 7 lease, or other credit arrangement regarding a project or  
 8 projects being financed to provide for payment of debt  
 9 service on bonds of the board authority issued to finance  
 10 the project or projects, to create and maintain reserves  
 11 therefor for the bonds, and to meet all costs and expenses  
 12 of issuing and servicing the bonds.

13 (2) In order to make the findings as described in  
 14 subsection (1)(a), a hearing must be conducted in the  
 15 following manner:

16 (a) the city or county in which the project will be  
 17 located must be notified, and within 14 days shall advise  
 18 the board authority if it elects to conduct the hearing; or

19 (b) if no a request for a local hearing is not  
 20 received, the board authority may hold the hearing at a time  
 21 and place it prescribes.

22 (3) If the hearing required by subsection (2) is  
 23 conducted by a local government, the governing body of the  
 24 local government shall notify the board authority of its  
 25 determination of whether the project is in the public

1 interest within 14 days of the completion of the public  
 2 hearing.

3 (4) When a hearing is required either locally or at the  
 4 state level, notice must be given, at least once a week for  
 5 2 weeks prior to the date set for the hearing, by  
 6 publication in a newspaper of general circulation in the  
 7 city or county where the hearing will be held. The notice  
 8 must include the time and place of the hearing; the general  
 9 nature of the project; the name of the lessee, borrower, or  
 10 user of the project; and the estimated cost of the project.

11 (5) The requirements of subsections (1)(b) through  
 12 (1)(d) do not apply to bonds that are not secured by the  
 13 capital reserve account authorized by 17-5-1515.

14 (6) The hearing requirements of subsections (2) through  
 15 (4) do not apply to major projects financed with bonds the  
 16 interest on which is subject to federal income taxes."

17 **Section 32.** Section 17-5-1528, MCA, is amended to read:

18 "17-5-1528. **Validity of pledge.** Any pledge made by the  
 19 board authority is valid and binding from the time the  
 20 pledge is made. Revenue, money, or property pledged and  
 21 received by the board authority is immediately subject to  
 22 the lien of the pledge without any physical delivery or  
 23 further act. The lien of any pledge is valid and binding  
 24 against all parties having claims of any kind, whether in  
 25 tort, contract, or otherwise, against the board authority,

irrespective of whether such the parties have notice thereof of the lien. Neither the resolution nor any other instrument by which a pledge is created is required to be recorded."

**Section 33.** Section 17-5-1529, MCA, is amended to read:

"17-5-1529. Annual audits. (1) At least once each year, the bank examiners of the department shall examine loans and investments of the board authority. The actual cost of this examination must be paid from the board's authority's funds.

(2) The board's authority's books and records must be audited at least once each fiscal year by or at the direction of the legislative auditor. The actual costs of the audit ~~shall~~ must be paid from the board's authority's funds."

**Section 34.** Section 17-5-1604, MCA, is amended to read:

"17-5-1604. Definitions. As used in this part, the following definitions apply:

(1) "Board" "Authority" means the ~~board-of--investments~~ created state revenue bond authority provided for in 2-15-1800 [section 3].

(2) "Department" means the department of commerce created in 2-15-1801.

(3) "Local government unit" means any municipal corporation or political subdivision of the state, including without limitation any city, town, county, school district, other special taxing district, or the board of regents of

the Montana university system.

(4) "Reserve fund" means the municipal finance consolidation act reserve fund created in 17-5-1630."

**Section 35.** Section 17-5-1605, MCA, is amended to read:

"17-5-1605. ~~Board----~~of----investments Authority to ~~implement~~. The ~~board-of-investments~~ authority may make and enforce orders, rules, and bylaws that are necessary or desirable for the implementation of this part."

**Section 36.** Section 17-5-1606, MCA, is amended to read:

"17-5-1606. Bonds, bond anticipation notes, and notes of the--~~board~~ authority. (1) The board authority may by resolution, from time to time, issue negotiable notes and bonds to finance loans or refinance its loans to local government units and its purchases of their bonds, registered warrants, and tax or revenue anticipation notes and other notes, to establish or replenish reserves securing the payment of its bonds and notes, and to finance all other expenditures of the board authority incident to and necessary or convenient to carry out this part.

(2) The board authority may by resolution, from time to time:

(a) issue notes to renew notes and bonds to pay notes, including interest;

(b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether or not the

bonds to be refunded have ~~or-have-not~~ matured; and

(c) issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) The board authority may by resolution, from time to time, in anticipation of the sale of its securities under this part, issue temporary notes and renewal notes.

(4) Except as otherwise expressly provided by resolution of the board authority, every issue of its notes and bonds ~~shall-be~~ is an obligation of the board authority payable out of any revenues, assets, or money of the board authority, subject only to agreements with the holders of particular notes or bonds pledging particular revenues, assets, or money.

(5) The notes and bonds must be authorized by resolutions of the board authority, ~~shall must~~ bear a date, and ~~shall must~~ mature at times as the resolutions provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination ~~thereof of~~ serial or term bonds. The notes and bonds ~~shall must~~ bear interest at a rate or rates; be in denominations; be in a form, either coupon or registered; carry registration privileges; be executed in a manner; be payable in a medium of payment, at places inside or outside the state; and be subject to terms of redemption as provided in resolutions of the board authority. The notes and bonds of the board

authority may be sold at public or private sale at such prices, which may be above or below par, as are determined by the board authority."

**Section 37.** Section 17-5-1607, MCA, is amended to read:

"17-5-1607. **Participation voluntary.** Use of the financing mechanism created by this part is entirely voluntary, and no a local government unit may not be required to sell its bonds, bond anticipation notes, or notes to the board authority."

**Section 38.** Section 17-5-1608, MCA, is amended to read:

"17-5-1608. **Limitations on amounts.** The board authority may not issue any bonds or notes that cause the total outstanding indebtedness of the board authority under this part (except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101) to exceed \$50 million."

**Section 39.** Section 17-5-1609, MCA, is amended to read:

"17-5-1609. **Purchase of anticipation notes.** Notwithstanding any other provision of law, a local government unit may issue and the board authority may purchase notes in anticipation of an otherwise authorized sale of municipal securities. In connection with any purchase of anticipation notes, the board authority may by agreement with the local government unit impose terms,

conditions, and limitations that in the board's authority's opinion are proper under the circumstances and for the purposes and security of the board authority and the holders of its bonds or notes."

**Section 40.** Section 17-5-1610, MCA, is amended to read:

"17-5-1610. Refunding obligations. (1) The board authority may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption premium and any interest accrued to or to accrue to the date of redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the board authority are governed by the appropriate provisions of this part that relate to the issuance of obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under this part. The proceeds of refunding obligations may be applied to the purchase, redemption, or payment of 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 of refunding obligations may be invested as provided in Title 17, chapter 6."

**Section 41.** Section 17-5-1611, MCA, is amended to read:

"17-5-1611. Additional powers of the board authority. In addition to all other powers conferred on the board authority by this part or any other law, the board authority has the power:

(1) to purchase or hold municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner the board authority considers advisable;

(2) to sell municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes acquired or held by it at prices without relation to cost and in a manner the board authority considers advisable;

(3) to invest funds or money acquired by the board authority as provided in 17-5-1641;

(4) to prescribe the form of application or procedure required of a local government unit for a loan or purchase of its municipal bonds, bond anticipation notes, registered



warrants, tax or revenue anticipation notes, or other notes;  
 fix the terms and conditions of the loan or purchase; and  
 enter into agreements with local government units with  
 respect to loans or purchases;

(5) to render services to local government units in  
 connection with public or private sales of their municipal  
 bonds, bond anticipation notes, registered warrants, tax or  
 revenue anticipation notes, or other notes that are eligible  
 for purchase by the board authority under this part,  
 including advisory and other services, and charge the local  
 government units for such the services;

(6) to charge for its costs and services in reviewing  
 or acting upon a proposed loan to a local government unit or  
 a proposed purchase by the board authority of municipal  
 bonds, bond anticipation notes, registered warrants, tax or  
 revenue anticipation notes, or other notes of the local  
 government unit, whether or not the loan is made or the  
 municipal bonds, bond anticipation notes, registered  
 warrants, tax or revenue anticipation notes, or other notes  
 are purchased;

(7) to fix and establish terms, interest rates, and  
 provisions with respect to a purchase of municipal bonds,  
 bond anticipation notes, registered warrants, tax or revenue  
 anticipation notes, or other notes by the board authority,  
 including:

(a) the date and maturities of the bonds, bond  
 anticipation notes, registered warrants, tax or revenue  
 anticipation notes, or other notes;

(b) provisions as to redemption or payment before  
 maturity; and

(c) any other matters judged by the board authority to  
 be necessary, desirable, or advisable for the purchase or  
 loan;

(8) in connection with any loan to a local government  
 unit or purchase of municipal bonds, bond anticipation  
 notes, registered warrants, tax or revenue anticipation  
 notes, or other notes of a local government unit, to  
 consider:

(a) the lawfulness and validity of the purpose to be  
 served by the loan or purchase;

(b) the ability of the local government unit to secure  
 borrowed money from other sources and the costs thereof of  
borrowing;

(c) the ability of the local government unit to repay  
 the loan, notes, or bonds;

(d) the priority of need for the particular public  
 improvement or purpose to be financed; and

(e) varying the terms and conditions of its loans or  
 purchases as between various local government units in  
 accordance with their respective priorities and credit

1 worthiness;

2 (9) to conduct examinations and hearings and to hear  
3 testimony and take proof, under oath or affirmation, at  
4 public or private hearings, on any matter material to its  
5 information and necessary to carry out this part;

6 (10) to issue subpoenas requiring the attendance of  
7 witnesses and the production of books and papers pertinent  
8 to any hearing before the board authority;

9 (11) to appoint, employ, or contract for the services of  
10 officers, employees, agents, financial or professional  
11 advisers, and attorneys and to pay such compensation for  
12 their services as the board authority may determine;

13 (12) to procure insurance against any losses in  
14 connection with its property, operations, or assets in such  
15 amounts and from such insurers as it considers desirable;

16 (13) to the extent permitted under its contracts with  
17 the holders of bonds or notes of the board authority, to  
18 consent to modification of the rate of interest, the time  
19 for payment of any installment of principal or interest, or  
20 the security for any other term of a bond, bond anticipation  
21 note, note, contract, or agreement of any kind to which the  
22 board authority is a party; and

23 (14) to do all acts and things necessary, convenient, or  
24 desirable to carry out the powers expressly granted or  
25 necessarily implied in this part."

1 **Section 42.** Section 17-5-1621, MCA, is amended to read:

2 "17-5-1621. Provisions of bond resolutions. A  
3 resolution authorizing notes or bonds or any issue thereof  
4 of notes or bonds may contain provisions that must be a part  
5 of the contract or contracts with the holders thereof of  
6 notes or bonds as to:

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

11 (2) the setting aside of reserves for debt service  
12 funds in the possession of trustees, paying agents, and  
13 other depositories and the regulation and disposition  
14 thereof of reserves;

15 (3) limitations on the purpose for which the proceeds  
16 of the sale of notes or bonds may be applied and the pledge  
17 of the proceeds to secure the payment of the notes or bonds  
18 or of any issue thereof of notes or bonds;

19 (4) limitations on the issuance of additional notes or  
20 bonds, the terms upon which additional notes or bonds may be  
21 issued and secured, and the refunding of outstanding notes  
22 or bonds;

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

holders ~~of which must~~ are required to consent thereto to the amendment or abrogation, and the manner in which such consent may be given;

(6) a commitment to employ adequate and competent personnel at reasonable compensation, salaries, fees, and charges as may be determined by the board authority in conjunction with the department and to maintain suitable facilities and services for the purpose of carrying out its programs;

(7) vesting in a trustee such the property, rights, powers, and duties in trust as the board authority determines; and

(8) defining the acts or omissions that constitute a default in the obligations and duties of the board authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver. Rights and remedies may not be inconsistent with the laws of this state and the other provisions of this part."

**Section 43.** Section 17-5-1622, MCA, is amended to read:

"17-5-1622. **Validity of pledge.** A pledge by the board authority is valid and binding from the time the pledge is made. The revenues, money, or property pledged and thereafter received by the board authority is immediately

subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board authority, irrespective of whether such the parties have notice thereof of the lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded."

**Section 44.** Section 17-5-1623, MCA, is amended to read:

"17-5-1623. **Nonimpairment** by 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 board authority and a local government unit or between the board authority and the holders of notes and bonds issued by the board authority, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose."

**Section 45.** Section 17-5-1624, MCA, is amended to read:

"17-5-1624. **Trust indenture.** (1) In the discretion of the board authority, the bonds or notes of the board authority may be secured by a trust indenture between the board authority and a corporate trustee, which may be a trust company or bank having the power of a trust company

inside or outside the state. A trust indenture may contain provisions for protecting and enforcing bondholders' rights and remedies that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board authority in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board authority may provide by a trust indenture for the payment of the proceeds of the bonds or notes and the revenues to the trustee under the trust indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers necessary.

(2) All expenditures incurred in carrying out a trust indenture may be treated as part of the general overhead cost of the board authority."

**Section 46.** Section 17-5-1625, MCA, is amended to read:

"17-5-1625. Presumption of validity. After issuance, all bonds or notes of the board authority are conclusively presumed to be fully authorized by and issued under all the laws of this state and any person or governmental unit is estopped from questioning their proper authorization, sale, issuance, execution, or delivery by the board authority."

**Section 47.** Section 17-5-1626, MCA, is amended to read:

"17-5-1626. Signatures of-board-members. If any of the board authority members whose signatures appear on notes or

bonds or coupons cease to be members before the delivery of the notes or bonds, their signatures ~~shall-nevertheless-be~~ are valid and sufficient for all purposes as if the members had remained in office until delivery."

**Section 48.** Section 17-5-1629, MCA, is amended to read:

"17-5-1629. Tax exemption of bonds. Bonds, notes, or other obligations issued by the board authority under this part, their transfer, and their income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance, estate, and gift taxes. The board authority is not required to pay recording or transfer fees or taxes on instruments recorded by it."

**Section 49.** Section 17-5-1630, MCA, is amended to read:

"17-5-1630. Reserve fund. (1) The board authority shall establish and maintain a municipal finance consolidation act reserve fund, to which there ~~shall--be~~ is deposited or transferred:

(a) all money appropriated by the legislature for the purposes of the fund in accordance with the provisions of subsection (4);

(b) all proceeds of bonds required to be deposited in the fund by terms of a contract between the board authority and its bondholders or a resolution of the board authority with respect to the proceeds of bonds;

(c) the proceeds of any bond issue of the state that is authorized for such the purpose of the fund;

(d) all other money appropriated by the legislature to the reserve fund; and

(e) any other money or funds of the board authority that it decides to deposit in the fund.

(2) All money held in the reserve fund ~~shall~~ must be used solely for the payment of the principal of or interest on the bonds or notes secured in whole or in part by the fund or the debt service fund payments with respect to the bonds or notes, the purchase or redemption of the bonds or notes, the payment of interest on the bonds or notes, or the payment of any redemption premium required to be paid when the bonds or notes are redeemed prior to maturity. Money in the reserve fund may not be withdrawn at any time in an amount that reduces the fund to an amount less than the sum of minimum reserve requirements established in the resolutions or indentures of the board authority for the fund except, with respect to bonds or notes secured in whole or in part by the fund, for the purpose of making payment when due of principal, interest, redemption premiums, and debt service fund payments for the payment of which other money pledged is not available.

(3) Money in the reserve fund in excess of the required reserve may be withdrawn at any time by the board authority

and transferred to another fund or account of the board authority established for purposes of this part, but not to any other fund or account.

(4) ~~Nothing--in--this~~ This section creates does not create a debt or liability of the state.

(5) Notwithstanding any provision of Title 17, chapter 6, the board authority may lend money for deposit to the reserve fund in an amount equal to any deficiency in the required debt service reserve. The loans ~~shall~~ must be made on such reasonable terms and conditions as the board authority considers proper, including without limitation terms and conditions providing that the loans need not be repaid until the obligations of the board authority secured and to be secured by the reserve fund are no longer outstanding."

**Section 50.** Section 17-5-1631, MCA, is amended to read:

"17-5-1631. **Additional funds and accounts.** The board authority may in its discretion establish additional reserves or other funds or accounts necessary, desirable, or convenient to further the accomplishment of the purposes of this part or to comply with the provisions of any of its agreements or resolutions."

**Section 51.** Section 17-5-1641, MCA, is amended to read:

"17-5-1641. **Investment.** (1) Unless otherwise required by a resolution or agreement of the board authority, the

1 board authority may invest funds coming under its control  
2 pursuant to this part in the same manner as permitted for  
3 investment of funds belonging to the state or held by the  
4 state treasurer.

5 (2) Funds from several or all accounts may be combined  
6 for investment, and any interest earned ~~shall~~ must be  
7 prorated and credited to the various contributing accounts  
8 on the basis of the amounts ~~thereof~~ invested, calculated  
9 according to an average periodic balance or other generally  
10 accepted accounting principle. ~~Such~~ The proration must be  
11 calculated at least once a year or upon a specific request  
12 made to the board authority.

13 (3) All securities purchased by the board authority as  
14 an investment remain in the custody of the state treasurer  
15 until the same are sold, exchanged, retired, or mature and  
16 are paid."

17 **Section 52.** Section 17-5-1642, MCA, is amended to read:

18 "17-5-1642. Credit of state not pledged. Obligations  
19 issued under the provisions of this part do not constitute a  
20 liability or obligation or a pledge of the faith and credit  
21 of the state but are payable solely from revenues or funds  
22 of the board authority generated or received for purposes of  
23 this part. An obligation issued under this part must contain  
24 on the face thereof of the obligation a statement to the  
25 effect that the state of Montana is not liable on the

1 obligation and the obligation is not a debt of the state and  
2 neither the faith and credit nor the taxing power of the  
3 state is pledged to the payment of the principal of or the  
4 interest on the obligation."

5 **Section 53.** Section 17-5-1643, MCA, is amended to read:

6 "17-5-1643. Sale or exchange of municipal securities.  
7 (1) Notwithstanding any law applicable to or constituting  
8 any limitation on the maximum rate of interest per year  
9 payable on bonds or notes or to annual interest cost to  
10 maturity of money borrowed or received upon issuance of  
11 bonds or notes, every local government unit is authorized to  
12 contract to pay interest on or an interest cost per year for  
13 money borrowed from the board authority and evidenced by its  
14 municipal securities purchased by the board authority  
15 without regard to any statutory limitations as to rate of  
16 interest per year payable or as to annual interest cost to  
17 maturity of money borrowed by the local government unit.  
18 Every local government unit is authorized to contract with  
19 the board authority with respect to the loan or purchase,  
20 and the contract must contain the terms and conditions of  
21 ~~such the~~ loan or purchase. Every local government unit is  
22 authorized to pay fees and charges required to be paid to  
23 the board authority for its services.

24 (2) Notwithstanding any law applicable to or  
25 constituting any limitation on the sale of bonds or notes

1 except the limitation on amount of bonded indebtedness, any  
 2 local government unit may sell bonds or notes to the board  
 3 authority by private negotiated sale, without limitation as  
 4 to denomination. The bonds or notes may be fully registered  
 5 or registerable as to principal only or in bearer form or  
 6 may bear interest at the rate or rates, all in accordance  
 7 with this section. The bonds or notes may be evidenced in  
 8 the manner and may contain other provisions not inconsistent  
 9 with this part and may be sold to the board authority  
 10 without advertisement at the price or prices as may be  
 11 determined, all as provided in the proceedings of the  
 12 governing body of the local government unit pursuant to  
 13 which the bonds or notes are authorized to be issued. The  
 14 governing body of the local government unit may provide for  
 15 the exchange of coupon bonds for fully registered bonds and  
 16 of fully registered bonds for coupon bonds and for the  
 17 exchange of any such bonds after issuance for bonds of  
 18 larger or smaller denominations, all in the manner provided  
 19 in the proceedings authorizing their issuance. The bonds in  
 20 changed form or denominations must be exchanged for the  
 21 surrendered bonds in the same aggregate principal amounts  
 22 and in such a manner that no overlapping interest is paid  
 23 and the bonds in changed form or denominations bear interest  
 24 at the same rate or rates and mature on the same date or  
 25 dates as the bonds for which they are exchanged. If any

1 exchange is made under this subsection, the bonds  
 2 surrendered by the holders at the time of the exchange must  
 3 be canceled. The exchange may be made only at the request of  
 4 the holders of the bonds to be surrendered. The local  
 5 government unit may require all expenses incurred in  
 6 connection with the exchange to be paid by the holders."

7 **Section 54.** Section 17-5-1644, MCA, is amended to read:  
 8 "17-5-1644. Care and custody of bonds purchased by the  
 9 board authority. The board authority may:

10 (1) enter into agreements or contracts with a bank,  
 11 trust company, or financial institution, inside or outside  
 12 the state, as may be necessary, desirable, or convenient, in  
 13 the opinion of the board authority, for rendering services  
 14 in connection with:

15 (a) the care, custody, or safekeeping of municipal  
 16 bonds or other investments held or owned by the board  
 17 authority pursuant to this part;

18 (b) the payment or collection of amounts payable as to  
 19 principal or interest; and

20 (c) the delivery to the board authority of municipal  
 21 bonds or other investments purchased by it or sold by it  
 22 pursuant to this part;

23 (2) pay the cost of those services; and

24 (3) also, in connection with any of the services to be  
 25 rendered by a bank, trust company, or financial institution

as to the custody and safekeeping of its municipal bonds or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such a form and amount as, in the opinion of the board authority, is necessary or desirable."

**Section 55.** Section 17-5-1645, MCA, is amended to read:

"17-5-1645. Insurance or guaranty. The board authority may obtain, from a department or agency of the United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal on bonds or notes issued by the board authority or on municipal bonds, bond anticipation notes, or notes of local government units purchased or held by the board authority."

**Section 56.** Section 17-5-1646, MCA, is amended to read:

"17-5-1646. Default in payment. If the board authority or local government unit defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the board authority or local government unit fails or refuses to comply with this part or defaults in an agreement made with the holders of an issue of notes or bonds, the holders of 25% of the aggregate principal amount of the outstanding notes or bonds of that issue have the right, upon proper

application to a court of competent jurisdiction, to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in this part."

**Section 57.** Section 17-5-1647, MCA, is amended to read:

"17-5-1647. Powers and duties of trustee on default.

(1) A trustee appointed under 17-5-1646 may:

(a) by civil action enforce all rights of the noteholders or bondholders, including the right to require the board authority or local government unit to collect rates, charges, and other fees and to collect interest and amortization payments on bonds and notes held by them adequate to carry out a pledge of or an agreement as to the rates, charges, and other fees and of the interest and amortization payments, and to require the board authority or local government unit to carry out any other agreements with the holders of the notes or bonds and to perform their duties under this part;

(b) bring a civil action upon the notes or bonds;

(c) by civil action require the board authority or local government unit to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(d) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds;

(e) declare all the notes or bonds due and payable and,



if all defaults are made good, then, with the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(2) The trustee, in addition to the powers stated in subsection (1), has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(3) Before declaring the principal of notes or bonds due and payable, the trustee must shall give 30 days' notice in writing to the governor, the attorney general, and the board authority or local government unit defaulting."

**Section 58.** Section 17-5-1648, MCA, is amended to read:

"17-5-1648. **Exemption from execution and sale.** All property of the board authority, other than its revenues or funds received pursuant to this part, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against such the property. A judgment against the board authority constitutes a charge or lien upon such the property."

**Section 59.** Section 17-5-1649, MCA, is amended to read:

"17-5-1649. **Annual audit.** The board's authority's books and records must be audited at least once each fiscal year by or at the direction of the legislative auditor. The actual costs of the audit ~~shall~~ must be paid from the

board's authority's funds."

**Section 60.** Section 17-5-1650, MCA, is amended to read:

"17-5-1650. **Annual report.** By December 31 of each year, the board authority shall publish a financial report for distribution to the governor, the legislature as provided in 5-11-210, and the public. The report must include a statement of the board's authority's current financial position with respect to its activities under this part, a summary of its activities pursuant to this part during the previous year (including a listing of the local governmental securities purchased by the board authority, a listing of the bonds and notes sold by the board authority, and a summary of the performance of any other investments of the board's authority's funds received under this part), an estimate of the levels of such the activities for the next year, and a comparison of such the activities during the previous year with the estimates of those activities that were made in the previous annual report."

**Section 61.** Section 17-5-1651, MCA, is amended to read:

"17-5-1651. **Limitations on board's power.** Under this part, the board authority may not:

(1) make loans of money to any person, firm, or corporation other than a local government unit or purchase securities issued by any person, firm, or corporation other than a local government unit as provided in this part;

(2) emit bills of credit, accept deposits of money for time or demand deposit, engage in any form or manner in the conduct of any private or commercial banking business, or act as a savings bank or savings and loan association;

(3) be or constitute a bank or trust company within the jurisdiction or under the control of the state banking board, the department of commerce, or the comptroller of the currency of the United States department of the treasury;

(4) be or constitute a bank, banker, or dealer in securities within the meaning of or subject to the provisions of any securities, securities exchange, or securities dealers law of the United States or of this state or of any other state."

**Section 62.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory

appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-107; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through  
 2 17-2-107, as determined by the state treasurer, an amount  
 3 sufficient to pay the principal and interest as due on the  
 4 bonds or notes have statutory appropriation authority for  
 5 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
 6 567, L. 1991, the inclusion of 19-6-709 terminates upon  
 7 death of last recipient eligible for supplemental benefit;  
 8 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
 9 22-3-811 terminates June 30, 1993.)"

10 **Section 63.** Section 90-6-103, MCA, is amended to read:

11 **"90-6-103. Definitions.** As used in this part, unless  
 12 the context requires otherwise, the following definitions  
 13 apply:

14 (1) **"Board"** **"Authority"** means the board--of-housing  
 15 state revenue bond authority created in 2-15-1814 [section  
 16 3].

17 (2) **"Bond"** means any bonds, notes, debentures, interim  
 18 certificates, or other evidences of financial indebtedness  
 19 issued by the board authority pursuant to this part,  
 20 including those on which interest payments are taxable and  
 21 those on which interest payments are tax exempt.

22 (3) **"Capital reserve account"** means the capital reserve  
 23 account provided for in 90-6-107.

24 (4) **"Department"** means the department of commerce  
 25 provided for in Title 2, chapter 15, part 18.

1 (5) **"Federally insured mortgage"** means a mortgage loan  
 2 for land development or residential housing insured or  
 3 guaranteed by the United States or a governmental agency or  
 4 instrumentality thereof of the United States or a commitment  
 5 by the United States or a governmental agency or  
 6 instrumentalities thereof of the United States to insure  
 7 such a mortgage.

8 (6) **"Federally insured security"** means an evidence of  
 9 indebtedness insured or guaranteed as to repayment of  
 10 principal and interest by the United States or an  
 11 instrumentality thereof of the United States.

12 (7) **"Governmental agency"** means any department,  
 13 division, public corporation, public agency, political  
 14 subdivision, or other public instrumentality of the state,  
 15 the federal government, any other state or public agency, or  
 16 any two or more thereof of the entities.

17 (8) **"Housing development"** means single-family homes,  
 18 multifamily projects, housing for the elderly projects,  
 19 nursing home projects, personal care projects, and any work  
 20 or undertaking financed in whole or in part under this part  
 21 for the primary purpose of acquiring, constructing, or  
 22 rehabilitating such accommodations for persons or families  
 23 of lower income in need of housing. An undertaking may  
 24 include any buildings, land, equipment, facilities, or other  
 25 real or personal properties which that are necessary,

convenient, or desirable in connection therewith with an undertaking, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities as the board authority determines to be necessary, convenient, or desirable.

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

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

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

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

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

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

(f) cost of construction, rehabilitation,

reconstruction, fixtures, furnishings, equipment, machinery, apparatus, and similar facilities related to the real property;

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

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

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

(j) an allowance established by the board authority for working capital and contingency reserves and reserves for any anticipated operating deficits during construction and initial occupancy;

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

(10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts, firms, associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit corporations, or

1 other legal entities or any combination thereof of entities  
2 that are:

3 (a) approved by the board authority;

4 (b) qualified either to own, construct, acquire,  
5 rehabilitate, operate, manage, or maintain a housing  
6 development;

7 (c) subject to the rules of the board authority and  
8 other terms and conditions set forth in this part.

9 (11) "Lending institution" means any public or private  
10 entity or governmental agency approved by the board  
11 authority maintaining an office in this state and authorized  
12 by law to make or participate in making residential  
13 mortgages in the state.

14 (12) "Limited-profit housing sponsor" means a  
15 corporation, trust, partnership, association, other entity,  
16 or an individual restricted as to distribution of income and  
17 regulated as to rents, charges, rate of return, and methods  
18 of operation as the board authority determines necessary to  
19 carry out this part.

20 (13) "Mortgage" means a mortgage deed, deed of trust, or  
21 other instrument ~~which shall constitute~~ that constitutes a  
22 valid lien on real property in fee simple or on a leasehold  
23 under a lease having a remaining term at the time the  
24 mortgage is acquired, which does not expire for at least  
25 that number of years beyond the maturity date of the

1 obligation secured by the mortgage established by the board  
2 authority as necessary to protect its interest as mortgagee.

3 (14) "Mortgage loan" means an interest-bearing  
4 obligation secured by a mortgage on land and improvements in  
5 the state.

6 (15) "Nonprofit housing sponsor" means a housing  
7 cooperative formed under Title 35, chapter 15, or a  
8 nonprofit corporation formed under Title 35, chapter 2,  
9 restricted as to distribution of income and regulated as to  
10 rents, charges, rate of return, and methods of operation as  
11 the board authority determines necessary, and whose articles  
12 of incorporation provide in addition that:

13 (a) the organization has been organized exclusively to  
14 provide housing developments for persons and families of  
15 lower income;

16 (b) all the income and earnings of the organization  
17 ~~shall~~ must be used exclusively for housing development  
18 purposes and ~~no a~~ part of the net income or net earnings of  
19 the organization ~~shall~~ may not inure to the benefit or  
20 profit of any private individual, firm, corporation,  
21 partnership, or association;

22 (c) the organization is ~~in-no-manner~~ not controlled or  
23 under the direction or acting in the substantial interest of  
24 any private individual, firm, partnership, or association  
25 seeking to derive profit or gain therefrom from the

organization or seeking to eliminate or minimize losses in any transactions therewith with the organization, except that the limitations shall apply to members of a cooperative only to the extent provided by rules of the board authority;

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

(16) "Persons and families of lower income" means persons and families with insufficient personal or family income or other financial resources who require assistance under this part, as determined by the board authority, taking into consideration:

(a) the amount of the total personal and family income, assets, and other financial resources available for housing needs;

(b) the size of the family;

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

(d) the ability of persons and families to compete successfully in the normal housing market and to pay the

amount at which private enterprise is providing decent, safe, and sanitary housing;

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

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

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

**Section 64.** Section 90-6-104, MCA, is amended to read:

**"90-6-104. General powers of the board authority.** The board authority may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this part, including rules concerning its mortgage, construction, and temporary lending programs;

(4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under this part;

(5) enter into agreements or other transactions with any federal, state, or local governmental agency, any

1 persons, and any domestic or foreign partnership,  
2 corporation, association, or organization in carrying out  
3 this part;

4 (6) enter into agreements under its rules with  
5 sponsors, mortgagors, or lending institutions for the  
6 purpose of regulating the analysis, planning, development,  
7 and management of housing developments financed in whole or  
8 in part by the proceeds of its loans or securities and  
9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,  
11 and accept grants and the cooperation of, any governmental  
12 agency in furtherance of this part, including but not  
13 limited to the development, leasing, maintenance, operation,  
14 and financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,  
16 bequests, and devise and utilize or dispose of them in  
17 carrying out this part;

18 (9) acquire real or personal property or any right,  
19 interest, or easement therein in property by gift, purchase,  
20 transfer, foreclosure, lease, or otherwise; hold, sell,  
21 assign, lease, encumber, mortgage, or otherwise dispose  
22 thereof of property; hold, sell, assign, or otherwise  
23 dispose of any mortgage or loan owned by it or in its  
24 control or custody; release or relinquish any right, title,  
25 claim, interest, easement, or demand, however acquired,

1 including any equity or right of redemption; do any of the  
2 foregoing by public or private sale, with or without public  
3 bidding; commence any action to protect or enforce any right  
4 conferred upon it by any law, mortgage, contract, or other  
5 agreement; bid for and purchase property at any foreclosure  
6 or other sale or acquire or take possession of it in lieu of  
7 foreclosure; and operate, manage, lease, dispose of, and  
8 otherwise deal with such the property in any manner  
9 necessary or desirable to protect its interests and the  
10 holders of its bonds or notes and consistent with any  
11 agreement with such the holders;

12 (10) service and contract and pay for the servicing of  
13 loans;

14 (11) provide general technical services in the analysis,  
15 planning, design, processing, construction, rehabilitation,  
16 and management of housing developments for persons and  
17 families of lower income where these services are not  
18 otherwise available;

19 (12) provide general consultative services to housing  
20 developments for persons and families of lower income and  
21 the residents thereof of housing developments with respect  
22 to counseling and training in management, home ownership,  
23 and maintenance where these services are not otherwise  
24 available;

25 (13) invest any funds not required for immediate use,

1 subject to any agreements with its bondholders and  
2 noteholders, as provided in Title 17, chapter 6, except all  
3 investment income from funds of the board authority less the  
4 cost for investment as prescribed by law must be deposited  
5 in the housing authority enterprise fund;

6 (14) sell its loans or securities to the federal  
7 national mortgage association or any other agency or  
8 instrumentality of the United States and invest in the  
9 capital stock issued by the association or other agency or  
10 instrumentality to the extent, if any, required as a  
11 condition of the sale;

12 (15) consent, whenever it considers it necessary or  
13 desirable in fulfilling its purposes, to the modification of  
14 the rate of interest, time, and payment of any installment  
15 of principal or interest, security, or any other term of any  
16 contract, mortgage, mortgage loan, mortgage loan commitment,  
17 construction loan, advance contract, or agreement of any  
18 kind, subject to any agreement with bondholders and  
19 noteholders;

20 (16) collect reasonable interest, fees, and charges in  
21 connection with making and servicing its loans, notes,  
22 bonds, commitments, and other evidences of indebtedness and  
23 in connection with providing technical, consultative, and  
24 project assistance services. Interest fees and charges are  
25 limited to the amounts required to pay the costs of the

1 board authority, including operating and administrative  
2 expenses and reasonable allowances for losses that may be  
3 incurred.

4 (17) procure insurance against any loss in connection  
5 with its mortgages and mortgage loans and other assets or  
6 property in amounts and from insurers as the board authority  
7 considers desirable or necessary;

8 (18) act as agent for governmental agencies concerning  
9 acquisition, construction, leasing, operation, or management  
10 of a housing development;

11 (19) issue notes and bonds and replace lost, destroyed,  
12 or mutilated notes and bonds; and

13 (20) develop special programs for housing developments  
14 for veterans of the armed forces of the United States who  
15 are unable to acquire safe and sanitary housing through  
16 lending institutions by conventional means."

17 **Section 65.** Section 90-6-105, MCA, is amended to read:

18 "90-6-105. Meetings and acts of the board authority.

19 (1) All meetings of the board authority are open to the  
20 public.

21 (2) All official acts of the board-~~shall~~ authority must  
22 be in a regular or special meeting and by a majority of the  
23 board authority.

24 (3) All rules adopted by the board-~~shall~~ authority must  
25 be in accordance with the Montana Administrative Procedure



1 Act."

2 **Section 66.** Section 90-6-106, MCA, is amended to read:

3 "90-6-106. Adoption of rules. (1) The board authority  
4 shall adopt rules respecting the regulation of borrowers,  
5 the admission of occupants in housing developments, the  
6 construction of ancillary facilities, and requirements or  
7 restrictions necessary to implement this part.

8 (2) The board authority shall adopt rules for the:

9 (a) organization, approval, standards, and regulation  
10 of housing sponsors and eligible recipients;

11 (b) approval, standards, and regulation of lending  
12 institutions under this part;

13 (c) assessment, collection, and payment of all fees and  
14 charges in connection with making, purchasing, and servicing  
15 of its bonds and notes, mortgage lending, construction  
16 lending, temporary lending, and security purchase programs;

17 (d) assessment and collection of fees and charges in  
18 connection with its technical, consultative, and project  
19 assistance activities;

20 (e) determination and regulation of mortgagor and  
21 lending institution and their use of funds under this part,  
22 sponsor and mortgagor equity definitions and limitations,  
23 and housing development costs;

24 (f) percentage of housing units or housing developments  
25 assisted under this part that are reserved for lower income

1 persons and families and which allows for an economic  
2 mixture of residents."

3 **Section 67.** Section 90-6-107, MCA, is amended to read:

4 "90-6-107. Deposit and expenditure of funds. (1) There  
5 is a housing authority enterprise fund in the proprietary  
6 fund type as provided for in 17-2-102(1)(b). All funds from  
7 the proceeds of bonds issued under this part, fees, and  
8 other moneys money received by the board authority, moneys  
9 money appropriated by the legislature for the use of the  
10 board authority in carrying out this part, and moneys money  
11 made available from any other source for the use of the  
12 board--~~shall~~ authority must be deposited in the housing  
13 authority enterprise fund except where otherwise provided by  
14 law. All funds deposited in the housing authority enterprise  
15 fund, except funds appropriated by the legislature for use  
16 of the board authority in payment of expenses incurred in  
17 carrying out this part, are continuously statutorily  
18 appropriated, as provided in 17-7-502, to and may be  
19 expended by the board authority for the purposes authorized  
20 in this part.

21 (2) There is a capital reserve account in the housing  
22 authority enterprise fund provided for in subsection (1).  
23 The capital reserve account consists of the aggregate of  
24 moneys money retained by the board authority under existing  
25 agreements with bondholders as the minimum capital reserve

1 requirement described in 90-6-119 for each bond issue sold  
2 by the board authority.

3 (3) Funds appropriated by the legislature for use of  
4 the board authority in payment of expenses incurred in  
5 carrying out this part ~~shall~~ must be deposited in the  
6 housing authority enterprise fund. Funds expended by the  
7 board authority under this subsection ~~shall~~ must be repaid  
8 by the board authority from the fees and charges collected  
9 under this part and from any other moneys money available  
10 for such repayment in accordance with this part."

11 **Section 68.** Section 90-6-108, MCA, is amended to read:

12 "90-6-108. **Financing programs of the board authority.**  
13 The board authority may:

14 (1) make loans to lending institutions under terms and  
15 conditions adopted by the board authority requiring the  
16 proceeds to be used by the lending institution for the  
17 making of mortgage loans for housing developments in the  
18 state for persons and families of lower income;

19 (2) invest in, purchase or make commitments to  
20 purchase, and take assignments from lending institutions of  
21 notes, mortgages, and other securities evidencing loans for  
22 the construction, rehabilitation, purchase, leasing, or  
23 refinancing of housing developments for persons and families  
24 of lower income in this state, under terms and conditions  
25 adopted by the board authority;

1 (3) make, undertake commitments to make, and  
2 participate in the making of mortgage loans, including  
3 federally insured mortgage loans, and make temporary loans  
4 and advances in anticipation of permanent mortgage loans to  
5 housing sponsors to finance the construction or  
6 rehabilitation of housing developments designed and planned  
7 for occupancy by persons and families of lower income in  
8 this state, under terms and conditions adopted by the board  
9 authority;

10 (4) make, undertake commitments to make, and  
11 participate in the making of loans to persons and families  
12 of lower income for housing development under terms and  
13 conditions adopted by the board authority, including without  
14 limitation persons and families of lower income who are  
15 eligible or potentially eligible for federally insured  
16 loans, federal mortgages, or other federal housing  
17 assistance, when the board authority determines that  
18 mortgage loans are not otherwise available, wholly or in  
19 part, from private lenders upon reasonably equivalent terms  
20 and conditions;

21 (5) require that loans made to or securities issued by  
22 lending institutions ~~shall be~~ are additionally secured as to  
23 payment of principal and interest by a pledge of and a lien  
24 upon collateral security in amounts and consisting of  
25 obligations and securities as the board authority determines

necessary to assure prompt payment of loans and interest. Collateral may be required to be lodged with a bank or trust company designated by the board authority as custodian, or the board authority may enter into an agreement with the lending institution requiring it to identify and maintain and service the collateral and the income therefrom--~~solely from the collateral~~ in accordance with the agreement. A copy of each agreement and any revisions or supplements thereto ~~shall to the agreement must~~ be filed with the secretary of state, and ~~no a~~ further filing or other action under the Uniform Commercial Code or any other law ~~shall--be~~ is not required to perfect the security interest of the board authority in the collateral or in any additions or substitutions. The lien and trust is binding from the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the lending institution."

**Section 69.** Section 90-6-109, MCA, is amended to read:

"90-6-109. Procedure prior to financing of housing developments. (1) The board authority may finance housing developments under this part only when the board authority finds that:

(a) there exists a shortage of decent, safe, and sanitary housing at rentals or prices which persons and families of lower income can afford within the general

housing market area to be served by the proposed housing development;

(b) private enterprise has not provided an adequate supply of decent, safe, and sanitary housing in the housing market area at rentals or prices which persons or families of lower income can afford or provided sufficient mortgage financing for housing developments for occupancy by persons or families of lower income;

(c) the housing sponsor undertaking the proposed housing development in this state will supply well planned, well designed housing, and such the sponsors are financially responsible;

(d) the housing development to be assisted under this part will be of public use and will provide a public benefit, taking into account the existence of local government comprehensive plans, housing and land use plans and regulations, areawide plans, and other public desires;

(e) the housing development does not involve the construction of second homes (for purposes of this paragraph subsection (e), "second home" means a home which would not qualify as the primary residence of the taxpayer for federal income tax purposes relating to capital gains on the sale or exchange of residential property); and

(f) as to direct loans it is necessary to qualify for federal funds.

(2) The findings required under subsection (1) must be made after a public hearing whenever the financing of housing relates to a development for rental units owned by a for-profit housing sponsor. The board authority shall conduct the hearing unless it directs the governing body of the local government in which the proposed housing development is to be located to conduct the hearing."

**Section 70.** Section 90-6-110, MCA, is amended to read:

"90-6-110. Supervision of housing sponsors. (1) The board authority may supervise housing sponsors of housing developments financed under this part as follows:

(a) prescribe uniform systems of accounts and records for housing sponsors and require them to make reports and give answers to specific questions on forms and at times specified by the board authority;

(b) enter upon and inspect the housing development and examine all books and records of the housing sponsor with respect to capitalization, income, and other matters as specified by the board authority;

(c) supervise the operation and maintenance of any housing development and order repairs necessary to protect the public and the board's authority's interest or the health, welfare, or safety of the occupants;

(d) determine standards for and control resident selection by a housing sponsor;

(e) require any housing sponsor to pay to the board authority fees as it prescribes in connection with the examination, inspection, supervision, auditing, or other regulation of the housing sponsor;

(f) order any housing sponsor to do or to refrain from doing things necessary to comply with the provisions of law, the rules of the board authority, and the terms of any contract or agreement to which the housing sponsor is a party;

(g) regulate the retirement of any capital investment or the redemption of stock ~~where--any--such~~ in which the retirement or redemption when added to any dividend or other distribution ~~shall~~ would exceed in any one 1 fiscal year 10% or a lesser amount of the original face amount of any investment or equity of any housing sponsor, as determined by the board authority; and

(h) adopt rules specifying the categories of cost ~~which shall---be~~ that are allowable in the construction or rehabilitation of a housing development.

(2) The board authority shall require any housing sponsor to certify the actual housing development costs prior to periodic payments or upon completion of the housing development, subject to audit and determination by the board authority. The board authority may accept, in lieu of any certification of housing development costs, other assurances

of the housing development costs, in any form or manner whatsoever, as will enable the board authority to determine with reasonable accuracy the amount of housing development costs."

**Section 71.** Section 90-6-111, MCA, is amended to read:

"90-6-111. Bonds and notes. (1) The board authority may by resolution, from time to time, issue negotiable notes and bonds in a principal amount as the board authority determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119, and all other expenditures of the board authority incident to and necessary or convenient to carry out this part.

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

(3) Except as otherwise expressly provided by resolution of the board authority, every issue of its notes and bonds ~~shall-be-obligations~~ is an obligation of the board

authority payable out of any revenues revenue, assets, or moneys money of the board authority, subject only to agreements with the holders of particular notes or bonds pledging particular revenues revenue, assets, or moneys money.

(4) The notes and bonds ~~shall~~ must be authorized by resolutions of the board authority, ~~shall~~ must bear a date, and ~~shall~~ must mature at times as the resolutions provide. A note ~~shall~~ may not mature more than 10 years and a bond ~~shall~~ may not mature more than 50 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof of serial and term bonds. The notes and bonds ~~shall~~ must bear interest at a rate or rates, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places within or without outside the state, and be subject to terms of redemption as provided in resolutions. The board authority shall designate whether interest payments on the bonds are taxable or tax exempt. The notes and bonds of the board authority may be sold at public or private sale at such prices, which may be above or below par, as are determined by the board authority.

(5) The total amount of notes and bonds outstanding at any time, except notes or bonds as to which the board's

1 authority's obligation has been satisfied and discharged by  
 2 refunding or for which reserve for payment or other means of  
 3 payment have been otherwise provided, may not exceed \$975  
 4 million. The issue price of bonds sold at a discount, not  
 5 the face amount of the bonds, counts against this statutory  
 6 ceiling."

7 **Section 72.** Section 90-6-112, MCA, is amended to read:

8 "90-6-112. **Provision of bond resolutions.** A resolution  
 9 authorizing any notes or bonds, or any issue thereof of  
 10 notes or bonds, may contain provisions, which ~~shall~~ must be  
 11 a part of the contract or contracts with the holders  
 12 thereof, as to:

13 (1) pledging all or any part of the revenues or  
 14 property of the board authority to secure the payment of the  
 15 notes or bonds or of any issue thereof of notes or bonds,  
 16 subject to existing agreements with noteholders or  
 17 bondholders;

18 (2) pledging all or any part of the assets of the board  
 19 authority, including mortgages and obligations securing  
 20 them, to secure the payment of the notes or bonds or of any  
 21 issue thereof of notes or bonds, subject to existing  
 22 agreements with noteholders or bondholders;

23 (3) the use and disposition of the gross income from  
 24 mortgages owned by the board authority and payment of  
 25 principal of mortgages owned by the board authority;

1 (4) the setting aside of reserves of sinking funds in  
 2 the hands of trustees, paying agents, and other depositories  
 3 and the regulation and disposition thereof of the reserves;

4 (5) limitations on the purpose to which the proceeds of  
 5 sale of notes or bonds may be applied and the pledge of the  
 6 proceeds to secure the payment of the notes or bonds or of  
 7 any issue thereof of notes or bonds;

8 (6) limitations on the issuance of additional notes or  
 9 bonds, the terms upon which additional notes or bonds may be  
 10 issued and secured, and the refunding of outstanding notes  
 11 or bonds;

12 (7) the procedure, if any, by which the terms of any  
 13 contract with noteholders or bondholders may be amended or  
 14 abrogated, the amount of notes or bonds the holders of which  
 15 must consent ~~thereto~~ to the amendment or abrogation, and the  
 16 manner in which such consent may be given;

17 (8) a commitment to employ adequate and competent  
 18 personnel at such reasonable compensation, salaries, fees,  
 19 and charges as may be determined by the board authority in  
 20 conjunction with the department of commerce and to maintain  
 21 suitable facilities and services for the purpose of carrying  
 22 out its programs;

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

25 (10) defining the acts or omissions to act ~~which--shall~~

1 that constitute a default in the obligations and duties of  
 2 the board authority to the holders of the notes or bonds and  
 3 providing for the rights and remedies of the holders of the  
 4 notes or bonds in the event of such default, including as a  
 5 matter of right the appointment of a receiver. Rights and  
 6 remedies ~~shall~~ may not be inconsistent with the laws of the  
 7 state and the other provisions of this part; and

8 (11) any other matters of like or different character  
 9 which in any way affect the security or protection of the  
 10 holders of the notes or bonds."

11 **Section 73.** Section 90-6-113, MCA, is amended to read:

12 "90-6-113. **Validity of pledge.** Any pledge made by the  
 13 ~~board--shall-be~~ authority is valid and binding from the time  
 14 the pledge is made. The revenues revenue, moneys money, or  
 15 property pledged and thereafter received by the ~~board--shall~~  
 16 authority is immediately be subject to the lien of the  
 17 pledge without any physical delivery thereof or further act.  
 18 The lien of any pledge ~~shall-be~~ is valid and binding against  
 19 all parties having claims of any kind in tort, contract, or  
 20 otherwise against the board authority, irrespective of  
 21 whether ~~such~~ the parties have notice thereof of the lien.  
 22 Neither the resolution nor any other instrument by which a  
 23 pledge is created need be recorded."

24 **Section 74.** Section 90-6-114, MCA, is amended to read:

25 "90-6-114. **Personal liability.** The board authority

1 members and employees of the department are not personally  
 2 liable or accountable by reason of the issuance of or on any  
 3 bond or note issued by the board authority."

4 **Section 75.** Section 90-6-115, MCA, is amended to read:

5 "90-6-115. **Purchase of notes and bonds -- cancellation.**

6 The board authority, subject to existing agreements with  
 7 noteholders or bondholders, may, out of any funds available  
 8 for that reason, purchase notes or bonds of the board  
 9 authority, which ~~shall--thereupon~~ must be cancelled, at a  
 10 price not exceeding:

11 (1) the current redemption price plus accrued interest  
 12 to the next interest payment thereon on the notes or bonds,  
 13 if the notes or bonds are then redeemable; or

14 (2) the redemption price applicable on the first date  
 15 after the purchase upon which the notes or bonds become  
 16 subject to redemption plus accrued interest to that date, if  
 17 the notes or bonds are not then redeemable."

18 **Section 76.** Section 90-6-116, MCA, is amended to read:

19 "90-6-116. **Trust indenture.** (1) In the discretion of  
 20 the board authority, the bonds may be secured by a trust  
 21 indenture between the board authority and a corporate  
 22 trustee, which may be a trust company or bank having the  
 23 power of a trust company within or without outside the  
 24 state. A trust indenture may contain provisions for  
 25 protecting and enforcing the rights and remedies of the

bondholders which that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board authority in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board authority may provide by a trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers necessary.

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

**Section 77.** Section 90-6-117, MCA, is amended to read:

"90-6-117. Negotiability of bonds. Notes and bonds issued by the board authority are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of notes and bonds."

**Section 78.** Section 90-6-118, MCA, is amended to read:

"90-6-118. Signatures of board members. In case any of the board authority members whose signatures appear on notes or bonds or coupons cease to be members before the delivery of the notes or bonds, their signatures ~~shall, nevertheless,~~ be ~~are~~ valid and sufficient for all purposes, ~~the same~~ as if the members had remained in office until delivery."

**Section 79.** Section 90-6-119, MCA, is amended to read:

"90-6-119. Reserve funds and appropriations. (1) The board authority shall pay into the capital reserve account:

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

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

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

(2) All funds held in the capital reserve account ~~shall~~ must be used solely for the payment of the principal of bonds secured in whole or in part by the account or of the debt service payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account ~~shall~~ may not be withdrawn at any time in an amount which reduces the amount of the account to less than the sum of minimum capital reserve requirements established for the account, except, with respect to bonds secured in whole or in part by the account, for the purpose of making payment, when due, of principal, interest, redemption premiums, and debt service payments for the payment of which other moneys pledged are not available.



Any income or interest earned by or incremental to the capital reserve account due to its investment may be transferred to other accounts of the board authority to the extent it does not reduce the amount of the capital reserve account below the sum of minimum capital reserve requirements for the account.

(3) The board authority may not issue bonds secured in whole or in part by the capital reserve account unless the board authority deposits in the account from the proceeds of the bonds issued or from any other sources an amount not less than the minimum capital reserve requirement for these bonds. For the purposes of this section, the term "minimum capital reserve requirement" means, as of any particular date of computation, an amount of money, as provided in the resolution or indenture of the board authority authorizing the bonds or notes, equal to not more than the greatest of the respective amounts for the current or any future fiscal year of the board authority of annual debt service on the bonds of the board authority secured in whole or in part by the account. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all interest and principal payable on the bonds during the fiscal year, calculated on the assumption that all the bonds are paid at maturity. If any amount of the bonds is required to be redeemed on an earlier date by the operation of a debt

service fund, then that amount is considered payable on those bonds during the year they are to be redeemed for the purposes of this calculation.

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

**Section 80.** Section 90-6-120, MCA, is amended to read:

"90-6-120. Maintenance of capital reserve account. (1)

In order to assure the maintenance of the capital reserve account, the chairman presiding officer of the board authority shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the minimum capital reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the sum of minimum capital reserve requirements. All sums appropriated by the legislature ~~shall~~ must be deposited in the capital reserve account.

(2) All amounts appropriated to the board authority by the legislature under this section constitute advances to the board authority and, subject to the rights of the

holders of any bonds or notes of the board authority, shall ~~must~~ be repaid to the state's general fund without interest from available operating revenues of the board authority in excess of amounts required for the payment of bonds, notes, or other obligations of the board authority, for maintenance of the capital reserve account, and for operating expenses."

**Section 81.** Section 90-6-121, MCA, is amended to read:

"90-6-121. Refunding obligations -- issuance. The board authority may provide for the issuance of refunding obligations for refunding any obligations then outstanding which that have been issued under this part, 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 obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the board authority are governed by the appropriate provisions of this part which relate to the issuance of obligations."

**Section 82.** Section 90-6-123, MCA, is amended to read:

"90-6-123. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a debt or liability or obligation or a pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board authority. An obligation issued under this part shall ~~must~~ contain on the face thereof of the

obligation a statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the obligation."

**Section 83.** Section 90-6-124, MCA, is amended to read:

"90-6-124. Annual audit. (1) There shall ~~must~~ be an audit of the board's authority's books and records at least once each fiscal year.

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

**Section 84.** Section 90-6-125, MCA, is amended to read:

"90-6-125. Tax exemption of bonds. Bonds, notes, or other obligations issued by the board authority under this part or by local housing authorities under Title 7, chapter 15, parts 21, 44, and 45, their transfer, and their income (including any profits made on their sale) shall ~~be~~ are free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance, estate, and gift taxes. The board authority is not required to pay recording or transfer fees or taxes on instruments recorded by it."

**Section 85.** Section 90-6-126, MCA, is amended to read:

"90-6-126. 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 board authority and the holders of notes and bonds issued by the board authority, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose."

**Section 86.** Section 90-6-127, MCA, is amended to read:

"90-6-127. Allocation of state limit. (1) All of the aggregate amount of qualified mortgage bonds that may be issued during any calendar year in accordance with Section 103A(g) of the Internal Revenue Code of 1954, as amended is allocated to the board-of-housing authority.

(2) The board-of-housing authority may adopt standards for determining and may designate areas of chronic economic distress within the meaning of Section 103A(g) of the Internal Revenue Code of 1954, as amended."

**Section 87.** Section 90-7-102, MCA, is amended to read:

"90-7-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana-health-facility state revenue bond authority created in 2-15-1915 [section 3].

(2) "Capital reserve account" means the account established in 90-7-317.

(3) "Costs" means costs allowed under 90-7-103.

(4) "Health facility" means any facility provided for in 90-7-104.

(5) "Health institution" means any public or private nonprofit hospital, corporation, or other organization authorized to provide or operate a health facility in this state.

(6) "Participating health institution" means a health institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to the provisions of this chapter.

(7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of such the facilities."

**Section 88.** Section 90-7-201, MCA, is amended to read:

"90-7-201. Authority -- quorum---- mode of action -- expenses. ~~{1}-Four-members-of--the--authority--constitute--a quorum-for-the-purpose-of-conducting-business--Action-may-be taken-by-the-authority-upon-the-affirmative-vote-of-at-least four--of--its--members--No-vacancy-in-the-membership-of-the authority-impairs-the-right-of-a-quorum-to-exercise-all--the rights-and-perform-all-the-duties-of-the-authority-~~

~~{2}--Each--meeting-of-the-authority-for-any-purpose-must~~

be open to the public; Notice of meetings must be as provided in the bylaws of the authority; Resolutions need not be published or posted;

(3) Each member is entitled to be paid \$50 for each day he is actually and necessarily engaged in the performance of board duties plus cost of travel, lodging, and meals as provided in 2-18-501 through 2-18-503. The provisions of 90-6-105 apply to the authority when acting pursuant to this chapter."

**Section 89.** Section 90-7-202, MCA, is amended to read:

"90-7-202. Powers of authority. The Pursuant to this chapter, the authority may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this chapter;

(4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or refunding bonds;

(5) invest any funds obtained from the issuance of bonds and notes which are not required for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except that all investment income from funds invested by the authority, less the cost for investment, must be deposited in an

enterprise fund to the credit of the authority;

(6) contract in its own name for the investment of funds, borrowing of funds, or any other purposes it considers appropriate to carry out the purposes of this chapter;

(7) participate with any financial institution in the purchase or guarantee of any loan or obligation;

(8) issue bond anticipation notes or any other anticipatory financial obligations to secure funding of eligible facilities;

(9) enter into agreements or make advance commitments to insure repayments required by loan agreements made by a lender. Such The agreements are subject to terms and conditions established by the authority.

(10) sell, purchase, or insure loans to finance the costs of eligible facilities;

(11) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state, a municipality, or any other source;

(12) enter into contracts or other transactions with a federal agency, an agency or instrumentality of the state, a municipality, a private organization, or any other entity consistent with the exercise of any power under this chapter;

(13) with regard to property:

1 (a) acquire real or personal property or any right,  
2 interest, or easement therein in the property by gift,  
3 purchase, transfer, foreclosure, lease, or otherwise;

4 (b) hold, sell, assign, lease, encumber, mortgage, or  
5 otherwise dispose thereof of property;

6 (c) hold, sell, assign, or otherwise dispose of any  
7 mortgage or loan owned by it or in its control or custody;

8 (d) release or relinquish any right, title, claim,  
9 interest, easement, or demand, however acquired, including  
10 any equity or right of redemption;

11 (e) make any disposition by public or private sale,  
12 with or without public bidding;

13 (f) commence any action to protect or enforce any right  
14 conferred upon it by any law, mortgage, contract, or other  
15 agreement;

16 (g) bid for and purchase property at any foreclosure or  
17 other sale or acquire or take possession of it in lieu of  
18 foreclosure; and

19 (h) operate, manage, lease, dispose of, and otherwise  
20 deal with such the property in any manner necessary or  
21 desirable to protect its interests or the holders of its  
22 bonds or notes if such the action is consistent with any  
23 agreement with such the holders;

24 (14) service, contract, and pay for the servicing of  
25 loans;

1 (15) provide general technical services in the analysis,  
2 planning, design, processing, construction, rehabilitation,  
3 and management of eligible health facilities whenever  
4 considered appropriate;

5 (16) consent, whenever it considers necessary or  
6 desirable in fulfilling its purposes, to the modification of  
7 the rate of interest, time, or payment of any installment of  
8 principal, interest, or security or any other term of any  
9 contract, lease agreement, loan agreement, mortgage,  
10 mortgage loan, mortgage loan commitment, construction loan,  
11 advance contract, or agreement of any kind, subject to any  
12 agreement with bondholders and noteholders;

13 (17) collect reasonable interest, fees, and charges from  
14 participating institutions in connection with making and  
15 servicing its lease agreements, loan agreements, mortgage  
16 loans, notes, bonds, commitments, and other evidences of  
17 indebtedness. The interest, fees, and charges ~~shall~~ must be  
18 deposited to an enterprise fund to the credit of the  
19 authority. Interest, fees, and charges are limited to the  
20 amounts required to pay the costs of the authority,  
21 including operating and administrative expenses and  
22 reasonable allowances for losses that may be incurred.

23 (18) perform any other acts necessary and convenient to  
24 carry out the purposes of this chapter."

25 **Section 90.** Section 90-7-220, MCA, is amended to read:

1       "90-7-220. Montana developmental center loan. (1) The  
 2 department of corrections and human services may enter into  
 3 a loan agreement with the Montana-health-facility authority  
 4 for the purpose of financing the costs of acquiring,  
 5 constructing, and equipping facilities for the  
 6 developmentally disabled at the Montana developmental center  
 7 in Boulder, including the establishment of reserves and the  
 8 payment of costs of the financing. The maximum principal  
 9 amount of the loan may not exceed \$8,665,000 for  
 10 construction and related costs, plus the necessary amounts  
 11 for capitalized interest, debt service reserves, and  
 12 financing costs, and the loan must be payable over a term of  
 13 not to exceed 30 years and must bear interest and contain  
 14 other terms and provisions with respect to prepayment or  
 15 otherwise as are not inconsistent with this section and as  
 16 the department approves.

17       (2) The loan may be secured by a mortgage on the  
 18 Montana developmental center facility, including the land on  
 19 which it is located. The loan constitutes a special limited  
 20 obligation of the department, and the principal and interest  
 21 payments required by that agreement are payable solely from  
 22 the facility revenues obtained by the department from the  
 23 ownership and operation of and the provision of services at  
 24 the Montana developmental center, including payments or  
 25 reimbursements from private users, insurers, and the federal

1 government. All facility revenues obtained from services  
 2 provided by the Montana developmental center must be  
 3 deposited in a special revenue fund and must be applied to  
 4 the payment of the principal and interest payments as due  
 5 under the loan agreement. Principal and interest payments  
 6 constitute a statutory appropriation within the meaning of  
 7 17-7-502. Whenever the foregoing facility revenues exceed  
 8 the amount and terms specified and required to repay the  
 9 loan and maintain required reserves, the excess must be  
 10 deposited to the general fund. As long as the loan remains  
 11 outstanding and the department provides services for the  
 12 developmentally disabled, the department shall use the  
 13 Montana developmental center for those purposes or for other  
 14 purposes as permitted by the loan agreement and state law,  
 15 except when foreclosure occurs under the agreement or the  
 16 mortgage. Notwithstanding 77-2-302(1) and upon foreclosure  
 17 of a mortgage given to secure the loan agreement, there must  
 18 be paid to the board of land commissioners as a first and  
 19 prior claim against the mortgaged land an amount equal to  
 20 the full market value of the land as determined by the board  
 21 prior to the execution of the mortgage and after appraisal  
 22 by a qualified land appraiser. The loan agreement may  
 23 contain other provisions or agreements that the department  
 24 determines are necessary and that are not inconsistent with  
 25 the provisions of Title 90, chapter 7.

(3) The obligations of the department under the agreement are special limited obligations payable solely from the facility revenues and do not constitute a debt of the state or obligate the state to appropriate or apply any funds or revenues of the state, except the facility revenues as provided in this section."

**Section 91.** Section 90-7-317, MCA, is amended to read:

"90-7-317. Capital reserve account. (1) There is a capital reserve account in the enterprise fund provided--for in-90-7-202(17).

(2) The authority shall deposit into the capital reserve account:

(a) funds from state appropriations received for deposit into the account, as provided in 90-7-319, for bonds issued to finance capital projects for community health facilities that contract with the state to provide health care services;

(b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures of the authority authorizing their issuance;

(c) revenues from fees and charges imposed by the authority;

(d) income from the investment of funds belonging to the authority; and

(e) any other funds that may be available to the

authority for the purpose of the account from any other source, including loans authorized under 90-7-320."

**NEW SECTION. Section 92.** Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**NEW SECTION. Section 93.** Repealer. Sections 2-15-1815 and 90-7-203, MCA, are repealed.

**NEW SECTION. Section 94.** Codification instruction. [Section 3] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 3].

**NEW SECTION. Section 95.** Effective date. [This act] is effective July 1, 1993.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0425, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** An act merging the functions of the Board of Housing and the health facility authority in the state revenue bond authority; providing new duties for a revised Board of Housing; assigning certain revenue bond functions of the Board of Investments to the state revenue bond functions of the Board of Investments to the state revenue bond authority; clarifying the statutory appropriation of funds and providing an effective date.

**ASSUMPTIONS:**

1. The revenue bond authority would consolidate staff of the current Boards of Housing, Investments and Health Facility Authority.
2. A 20% reduction of staff would be possible with the combination based on the experience of merging the support staff of Board of Investments and Health Facility Authority in 1989. This would yield one bond finance position savings (current 3 BoI, 1 HFA, and 1 housing staff). The merger of the accounting staff of housing and investments would allow reduction of one additional position (10 BoI and 4 BoH).
3. The Revenue Bond Authority would be able to gain economics of scale by issuing all revenue bonds for the Board of Investments, Board of Housing, and Health Facility Authority.
4. The Board of Investments and Board of Housing will continue to use the same mortgage accounting software and will have reduced license and maintenance costs for software and hardware.
5. Space is available in the Board of Investments building at no added cost over current Board of Housing space.

**FISCAL IMPACT:**

	FY '94			FY '95		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	1,741,175	1,681,175	(60,000)	1,745,364	1,685,364	(60,000)
Operating Expenses	1,872,414	1,852,414	(20,000)	1,743,036	1,723,036	(20,000)
Total	3,613,589	3,533,589	(80,000)	3,488,400	3,408,400	(80,000)

*David Lewis* 2-6-93

DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

*Mike Kadas* 2-8-93  
MIKE KADAS, PRIMARY SPONSOR DATE

Fiscal Note for HB0425, as introduced

HB 425



APPROVED BY COMMITTEE  
ON APPROPRIATIONS

HOUSE BILL NO. 425

INTRODUCED BY KADAS, BARDANOUE, ZOOK, R. JOHNSON, PECK,  
T. NELSON, COBB, PAVLOVICH, JACOBSON, GRINDE, JERGESON  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
AND THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT MERGING THE FUNCTIONS  
OF THE BOARD OF HOUSING AND THE HEALTH FACILITY AUTHORITY IN  
THE STATE REVENUE BOND AUTHORITY; PROVIDING-NEW-DUTIES-FOR-A  
REVISED--BOARD--OF--HOUSING;--ASSIGNING-CERTAIN-REVENUE-BOND  
FUNCTIONS-OF-THE-BOARD-OF-INVESTMENTS-TO-THE--STATE--REVENUE  
BOND--AUTHORITY; CLARIFYING THE STATUTORY APPROPRIATION OF  
FUNDS; AMENDING SECTIONS 2-15-1808, 2-15-1814, 17-5-1302,  
17-5-1312, 17-5-1325,---17-5-1502,---17-5-1503,---17-5-1504,  
17-5-1505,---17-5-1506,---17-5-1507,---17-5-1508,---17-5-1509,  
17-5-1510,---17-5-1511,---17-5-1512,---17-5-1513,---17-5-1514,  
17-5-1515,---17-5-1516,---17-5-1517,---17-5-1518,---17-5-1521,  
17-5-1522,---17-5-1523,---17-5-1524,---17-5-1525,---17-5-1526,  
17-5-1527,---17-5-1528,---17-5-1529,---17-5-1604,---17-5-1605,  
17-5-1606,---17-5-1607,---17-5-1608,---17-5-1609,---17-5-1610,  
17-5-1611,---17-5-1621,---17-5-1622,---17-5-1623,---17-5-1624,  
17-5-1625,---17-5-1626,---17-5-1629,---17-5-1630,---17-5-1631,  
17-5-1641,---17-5-1642,---17-5-1643,---17-5-1644,---17-5-1645,  
17-5-1646,---17-5-1647,---17-5-1648,---17-5-1649,---17-5-1650,  
17-5-1651, 17-6-211, 17-7-502, 90-6-103, 90-6-104, 90-6-105,

90-6-106, 90-6-107, 90-6-108, 90-6-109, 90-6-110, 90-6-111,  
90-6-112, 90-6-113, 90-6-114, 90-6-115, 90-6-116, 90-6-117,  
90-6-118, 90-6-119, 90-6-120, 90-6-121, 90-6-123, 90-6-124,  
90-6-125, 90-6-126, 90-6-127, 90-7-102, 90-7-201, 90-7-202,  
90-7-220, AND 90-7-317, MCA; REPEALING SECTIONS 2-15-1814,  
2-15-1815, AND 90-7-203, MCA; AND PROVIDING AN EFFECTIVE  
DATE."

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

**Section 1.** Section 2-15-1808, MCA, is amended to read:

"2-15-1808. Board of investments -- allocation --  
composition -- quasi-judicial. (1) There is a board of  
investments within the department of commerce.

(2) Except as otherwise provided in this subsection,  
the board is allocated to the department for administrative  
purposes as prescribed in 2-15-121. The board-may-employ--an  
investment--officer,--an--assistant--investment--officer,--and  
department--shall--hire BOARD MAY EMPLOY AN INVESTMENT  
OFFICER, AN ASSISTANT INVESTMENT OFFICER, AND an executive  
director who have has HAVE general responsibility for  
selection and management of the board's staff and for direct  
investment, state-revenue-bond, and economic development  
activities. The--investment--officer,--assistant--investment  
officer, and executive director serve at the pleasure of the  
board. The board shall prescribe the duties and annual

~~salaries--of--the--investment--officer, assistant investment officer, executive director, and three professional staff positions. THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER, AND EXECUTIVE DIRECTOR SERVE AT THE PLEASURE OF THE BOARD. THE BOARD SHALL PRESCRIBE THE DUTIES AND ANNUAL SALARIES OF THE INVESTMENT OFFICER, ASSISTANT INVESTMENT OFFICER, EXECUTIVE DIRECTOR, AND THREE PROFESSIONAL STAFF POSITIONS.~~

(3) The board is composed of nine members appointed by the governor as prescribed in 2-15-124. The members are:

(a) one member from the public employees' retirement board provided for in 2-15-1009 and one member from the teachers' retirement board provided for in 2-15-1010. If either member ceases to be a member of the retirement board, the position of that member on the board of investments is vacant, and the governor shall fill the vacancy in accordance with 2-15-124.

(b) seven members who will provide a balance of professional expertise and public interest and accountability and who are informed and experienced in the subject of investments and who are representative of:

- (i) the financial community;
- (ii) small business;
- (iii) agriculture; and
- (iv) labor.

(4) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

~~(5) The department shall consult with the board and the state revenue bond authority in the selection of an executive director. The executive director serves at the pleasure of the department. The executive director, in consultation with the board, shall prescribe the duties and annual salaries of the investment officer, assistant investment officer, and three professional staff positions. The administrative and accounting support staff of the board shall also serve the state revenue bond authority."~~

~~Section 2. Section 2-15-1814, MCA, is amended to read:~~

~~"2-15-1814. Board of housing allocation composition--- quasi-judicial duties. (1) There is a board of housing:~~

~~(2) The board consists of seven members appointed by the governor as provided in 2-15-124. The members shall must be informed and experienced in housing, economics, or finance:~~

~~(3) The board shall elect a chairman presiding officer and other necessary officers. The executive director of the state revenue bond authority shall serve as the executive secretary to the board.~~

~~(4) The board is designated a quasi-judicial board for purposes of 2-15-124.~~

1       ~~{5}--The--board--is--allocated--to--the--department---of~~  
 2       ~~commerce--for--administrative--purposes--only-as-provided-in~~  
 3       ~~2-15-121.~~

4       ~~{6}{5} In-compliance-with-the-state-pay-plan, the~~  
 5       ~~department-shall-provide-all-staff-and-services-to-the-board~~  
 6       ~~as--are--determined--by--the--board--in-conjunction-with-the~~  
 7       ~~department-to-be-necessary-for-the-purposes-of-carrying--out~~  
 8       ~~the--board's-programs. The-department-shall-assess-the-board~~  
 9       ~~for-reasonable-costs.~~

10       ~~{7}--A-member-of-the-board-shall-not-be-deemed-to-have-a~~  
 11       ~~conflict-of-interest-under-the-provisions-of-2-2-201--merely~~  
 12       ~~because-the-member-is-a-stockholder, officer, or employee-of~~  
 13       ~~a--lending--institution--who--may-participate-in-the-board's~~  
 14       ~~programs. The-board-shall--assess--housing--availability--and~~  
 15       ~~needs-in-the-state, counties, cities, and towns.~~

16       ~~{6}--The--board--shall--identify--and-review-all-federal~~  
 17       ~~housing-programs-and-make-recommendations-to-the--department~~  
 18       ~~of--commerce, the-state-revenue-bond-authority, the-board-of~~  
 19       ~~investments, and-the--governor--concerning--housing--program~~  
 20       ~~coordination, planning, and operations.~~

21       **NEW SECTION. Section 2. State revenue bond authority**  
 22       **-- allocation -- composition -- quasi-judicial. (1) There is**  
 23       **a state revenue bond authority.**

24       (2) The authority consists of nine SEVEN members  
 25       appointed by the governor as provided in 2-15-124. The FIVE

1       OF THE members must be informed and experienced in ON THE  
 2       SUBJECT OF BOND ISSUANCE AND MUST REPRESENT THE FINANCIAL  
 3       COMMUNITY, HEALTH CARE ADMINISTRATION, HEALTH CARE  
 4       PROVIDERS, ECONOMIC DEVELOPMENT, AND housing, health  
 5       institutions, economics, or finance. ONE MEMBER MUST BE  
 6       AFFILIATED WITH A LOW-INCOME ORGANIZATION. THE MEMBERS MUST  
 7       PROVIDE A BALANCE OF PROFESSIONAL EXPERTISE, PUBLIC  
 8       INTEREST, AND ACCOUNTABILITY.

9       (3) The authority shall elect a presiding officer and  
 10       other necessary officers.

11       (4) The authority is designated a quasi-judicial board  
 12       for purposes of 2-15-124.

13       (5) The authority is allocated to the department of  
 14       commerce for administrative purposes only as provided in  
 15       2-15-121. THE DEPARTMENT SHALL CONSULT WITH THE AUTHORITY IN  
 16       THE SELECTION OF REVENUE BOND OFFICERS FOR THE HEALTH  
 17       FACILITY AND HOUSING PROGRAMS OF THE AUTHORITY. THE BOND  
 18       OFFICERS SHALL ADMINISTER SEPARATE BOND PROGRAMS FOR THE  
 19       AUTHORITY.

20       (6) In compliance with the state pay plan and  
 21       2-15-1808, the department shall provide all staff and  
 22       services to the authority as are determined by the  
 23       authority, in conjunction with the department, to be  
 24       necessary for the purposes of carrying out the authority's  
 25       programs. The department shall assess the authority for

reasonable costs.

(7) A member of the authority is not considered to have a conflict of interest under the provisions of 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution that may participate in the authority's programs.

(8) THE AUTHORITY SHALL ASSESS HOUSING AVAILABILITY AND NEEDS IN THE STATE, COUNTIES, CITIES, AND TOWNS. THE AUTHORITY SHALL IDENTIFY AND REVIEW ALL FEDERAL HOUSING PROGRAMS AND MAKE RECOMMENDATIONS TO THE DEPARTMENT OF COMMERCE, THE BOARD OF INVESTMENTS, AND THE GOVERNOR CONCERNING HOUSING PROGRAM COORDINATION, PLANNING, AND OPERATIONS.

**Section 3.** Section 17-5-1302, MCA, is amended to read:

"17-5-1302. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Allocation" means an allocation of a part of the volume cap to an issuer pursuant to this part.

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the volume cap is required to be allocated pursuant to the tax

act.

(5) "Department" means the department of administration.

(6) "Economic development" means projects for which bonds may be issued pursuant to Title 17, chapter 5, part 15.

~~(6)~~(7) "Governmental bonds" means bonds other than private activity bonds.

(8) "Health facility" means a health facility project for which bonds may be issued pursuant to Title 90, chapter 7.

(9) "Housing" means housing projects for which bonds may be issued pursuant to Title 90, chapter 6, part 1.

~~(7)~~(10) "Issuer" means a state issuer or local issuer.

~~(8)~~(11) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

~~(9)~~(12) "Local portion" means that portion of the volume cap reserved for local issuers.

~~(10) "Montana-board-of-housing" (MBH) means the board created in 2-15-1814.~~

~~(11) "Montana-board-of-investments" (MBI) means the board provided for in 2-15-1808.~~

~~(12) "Montana-health-facility-authority" (MHFA) means the authority provided for in 2-15-1815.~~

(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit corporation established under Title 20, chapter 26, part 11.

(14) "Private activity bonds" (PABs) has the meaning prescribed under section 1301 of the tax act.

(15) "State issuer" means the state and any agency thereof of the state authorized to issue private activity bonds. For this part only, the Montana higher education student assistance corporation is considered an agency of the state.

(16) "State portion" means that portion of the volume cap reserved for state issuers.

(17) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(18) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act."

**Section 4.** Section 17-5-1312, MCA, is amended to read:

"17-5-1312. Allocation to state issuers. (1) Except as provided in subsection (5), the state portion must be allocated to state issuers pursuant to 17-5-1316.

(2) As a condition of receiving an allocation, each state issuer, upon issuance of the bonds, shall pay 30 cents per thousand of bonds to be deposited in the state general

fund for the purpose of funding a portion of the comprehensive annual financial report audit.

(3) The following set-asides must be made in each calendar year for the following state issuers:

<u>State Issuer</u>	<u>Percentage</u>	<u>Allocation Amount</u>
Board	4	\$4,200,000
MBH <u>Housing</u>	41	43,050,000
MBH <u>Economic</u>		
<u>development</u>	25	26,250,000
MHESAC	26	27,300,000
MHPA <u>Health</u>		
<u>facility</u>	4	4,200,000
Total	100%	\$105,000,000

(4) Each set-aside expires on the first Monday in September.

(5) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to 17-5-1316 and no a state issuer is not entitled to an allocation except from its set-aside unless otherwise provided by the governor.

(6) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to 17-5-1316 without preference or priority."

~~Section 6. Section 17-5-1325, MCA, is amended to read:--~~

1 "17-5-1325--Reassignment--of--bonding--authority--for  
 2 agricultural--purposes-----contingency--if--at--some--time--in  
 3 the--future--federal--taxation--laws--allow--the--use--of  
 4 tax-exempt--bonds--to--provide--loans--for--the--acquisition--of  
 5 farm--or--ranch--land--a--downpayment--on--the--acquisition--of--farm  
 6 or--ranch--land--or--the--acquisition--or--construction--of  
 7 depreciable--property--used--in--the--operation--of--a--farm--or  
 8 ranch--the--allocation--of--bonding--authority--originally  
 9 assigned--to--the--Montana--agricultural--loan--authority--must--be  
 10 reassigned--to--the--Montana--board--of--investments state revenue  
 11 bond--authority--to--provide--those--loans."

12 **Section 5.** Section 17-6-211, MCA, is amended to read:

13 "17-6-211. Preference to in-state investment firms --  
 14 commitment agreement with board--of--housing STATE REVENUE  
 15 BOND AUTHORITY. (1) The board of investments shall endeavor  
 16 to direct its portion of the state's investment business to  
 17 those investment firms and/or or financial institutions  
 18 which that maintain offices in the state and thereby make  
 19 contributions to the state economy. Further,---due  
 20 consideration---shall Consideration must be given to  
 21 investments which that will benefit the smaller communities  
 22 in the state. The state's investment business will may be  
 23 directed to out-of-state firms only when there is a distinct  
 24 economic advantage to the state of Montana.

25 (2) The board may enter into a commitment agreement

1 with the board--of--housing state revenue bond authority at  
 2 the time of an issue of bonds or notes by the board--of  
 3 housing authority providing for the purchase at a specified  
 4 future date, not to exceed 15 years from the date of the  
 5 issue, of all or any portion of the amount of mortgage loans  
 6 purchased with the proceeds of the issue. The board of  
 7 investments may charge reasonable fees for any commitment  
 8 and may agree to purchase the mortgage loans on terms that  
 9 in the judgment of the board of investments provide a fair  
 10 market rate of return to the purchasers."

11 **Section 8.** Section 17-5-1502, MCA, is amended to read:--

12 "17-5-1502--Legislative--declaration--(1)--it--is--the  
 13 policy--of--the--state--of--Montana--in--the--interest--of--promoting  
 14 the--healthy--safety--and--general--welfare--of--all--the--people--of  
 15 the--state--to--increase--job--opportunities--and--to--retain  
 16 existing--jobs--by--making--available--through--the--board--of  
 17 investments state---revenue---bond--authority--funds--for  
 18 industrial--commercial--manufacturing--natural--resources  
 19 agricultural--livestock--recreational--tourist--and--health  
 20 care--development;

21 (2)--The--legislature--finds--that:

22 (a)--a--vigorous--diversified--and--growing--economy--is--the  
 23 basic--source--of--job--opportunities;

24 (b)--protection--against--unemployment--and--its--economic  
 25 burdens--and--the--spread--of--economic--stagnation--can--best--be

provided---by---promoting,---attracting,---stimulating,--and  
 revitalizing-a-diversified-economy-with--contributions--from  
 industry,---manufacturing,---commerce,---natural---resource  
 development,agriculture,--livestock,--recreation,--tourism,  
 and-health-care-facilities,--and

{c}--the--state--of-Montana-has-a-responsibility-to-help  
 create--a--favorable--climate--for--new--and--improved---job  
 opportunities-and-a-stable,--growing,--and-healthy-economy-for  
 its-citizens-by-encouraging-the-development-of-business."

**Section 9.**--Section 17-5-1503, MCA, is amended to read:--

"17-5-1503. Definitions. As used in this part, unless  
 the context requires otherwise, the following definitions  
 apply:

{1}--"Board" "Authority" means the board of investments  
 created state--revenue--bond--authority--provided--for--in  
2-15-1888 {section 3};

{2}--"Bond" means any bond, note, debenture, interim  
 certificate or other evidence of financial indebtedness  
 issued by the board authority pursuant to this part;

{3}--"Department" means the department of commerce  
 provided for in 2-15-1801;

{4}--"Finance" means to supply capital and, in the case  
 of agricultural enterprises, to refinance a project and  
 project costs;

{5}--"Financial institution" means any bank, savings and

loan--association,--credit--union,--development--credit  
 corporation, insurance company, investment company, trust  
 company, savings institution or other financial institution  
 approved by the board authority;

{6}--"Local government" means the city in which the  
 project is located, if the project is located within an  
 incorporated municipality, or the county if the project is  
 located within the county but outside the boundaries of an  
 incorporated municipality;

{7}--"Major project" means a project whose cost or  
 appraised value exceeds \$800,000;

{8}--"Project" means a project as defined in 90-5-101;

{9}--"Project costs" means the costs of acquiring or  
 improving any project, including the following:

{a}--the actual cost of acquiring or improving real  
 estate for any project;

{b}--the actual cost of construction of all or any part  
 of a project, including architects' and engineers' fees;

{c}--all expenses in connection with the authorization,  
 sale and issuance of the bonds to finance such the  
 acquisition or improvement;

{d}--bond reserves and premiums for insurance or  
 guaranty of loan payments or lease rentals pledged to pay  
 the bonds;

{e}--the interest on such bonds for a reasonable time

1 prior---to---construction,---during---construction,---and---not  
 2 exceeding-6-months-after-completion-of-construction; and  
 3 (f)---working---capital---for---agricultural---enterprise  
 4 projects-for-a-period-not-to-exceed-1-year;"

5 **Section 10.** Section 17-5-1504, MCA, is amended to read:--

6 "17-5-1504. Powers of the board authority.--The--board  
 7 authority may:

8 (1)---sue-and-be-sued;

9 (2)---have-a-seal;

10 (3)---adopt---all---procedural---and---substantive---rules  
 11 necessary-for-the-administration-of-this-part;

12 (4)---make-contracts, agreements, and--other--instruments  
 13 necessary-or-convenient-for-the-exercise-of-its-powers-under  
 14 this-part;

15 (5)---invest-any-funds-not-required-for-immediate-use, as  
 16 the--board authority--considers-appropriate, subject-to-any  
 17 agreements-with-its-bondholders-and-noteholders;

18 (6)---arrange-for-lines-of-credit--from--and--enter--into  
 19 participation-agreements-with-any-financial-institution;

20 (7)---issue--bonds--for-the-purpose-of-defraying-the-cost  
 21 of-acquiring--or--improving--any--project--or--projects--and  
 22 securing-the-payment-of-the-bonds-as-provided-in-this-part;

23 (8)---enter--into--agreements--or-other-transactions-with  
 24 and-accept-grants-and-the-cooperation-of-any-governmental  
 25 agency-in-furtherance-of-this-part;

1 (9)---sell,---purchase,---or---insure--loans--to-finance-the  
 2 costs-of-projects;

3 (10)---accept--services,---appropriations,---gifts,---grants,  
 4 bequests,---and-devises-and-utilize--or--dispose--of--them--in  
 5 carrying-out-this-part;

6 (11)---enter--into-agreements-or-other-transactions-with-a  
 7 federal-agency,---an-agency-or-instrumentality-of-the-state,---a  
 8 municipality,---a-private-organization,---or-any-other-entity-or  
 9 organization-in-carrying-out-this-part;

10 (12)---with-regard-to-property:

11 (a)---acquire-real-or-personal--property--or--any--right,  
 12 interest,---or-easement--therein in-property---by-gift,---purchase,  
 13 transfer,---foreclosure,---lease,---or--otherwise;

14 (b)---hold,---sell,---assign,---lease,---encumber,---mortgage,---or  
 15 otherwise-dispose-of-such-property;

16 (c)---hold,---sell,---assign,---or--otherwise--dispose--of--any  
 17 lease,---mortgage,---or--loan-owned-by-it-or-in-its-control-or  
 18 custody;

19 (d)---release-or--relinquish--any--right,---title,---claim,  
 20 interest,---easement,---or-demand,---however-acquired,---including  
 21 any-equity-or-right-of-redemption;

22 (e)---make-any-disposition-by--public--or--private--sale,  
 23 with-or-without-public-bidding;

24 (f)---commence-any-action-to-protect-or-enforce-any-right  
 25 conferred--upon--it-by-any-law, mortgage, contract, or other



1 agreement;

2 {g}--bid-for-and-purchase-property-at-any-foreclosure-or

3 other-sale-or-acquire-or-take-possession-of-it--in-lieu-of

4 foreclosure;

5 {h}--operate,--manage,--lease,--dispose-of,--and-otherwise

6 deal-with-such-property-in-any-manner-necessary-or-desirable

7 to-protect-its-interests-or-the-holders--of-its--bonds--or

8 notes,--provided--such the--action--is--consistent-with-any

9 agreement-with-such the--holders;

10 {i3}--service,--contract,--and-pay--for--the--servicing--of

11 loans;

12 {i4}--provide-financial-analysis-and-technical-assistance

13 where-considered-appropriate;

14 {i5}--consent,--whenever---it---considers--necessary--or

15 desirable-in-fulfilling-its-purposes,--to-the-modification-of

16 the-rate-of-interest,--time,--and-payment-of--any--installment

17 of--principal,--interest,--security,--or-any-other-term-of-any

18 contract,--lease--agreement,---loan---agreement,---mortgage,

19 mortgage--loan,--mortgage-loan-commitment,--construction-loan,

20 advance-contract,--or-agreement-of-any-kind,--subject--to--any

21 agreement-with-bondholders-and-noteholders;

22 {i6}--collect--reasonable--interest,--fees,--and-charges-in

23 connection-with-making-and-servicing-its--lease--agreements,

24 loan--agreements,--mortgage-loans,--notes,--bonds,--commitments,

25 and-other-evidences-of--indebtedness,--interest,--fees,--and

1 charges-are-limited-to-the-amounts-required-to-pay-the-costs

2 of---the---board authority,---including---operating---and

3 administrative-expenses-and-reasonable-allowances-for-losses

4 that-may-be-incurred;

5 {i7}--procure-insurance-or-guaranties-in-amounts--and--in

6 the---form---the--board authority--considers--desirable--or

7 necessary,--from-any-party,--including-a-governmental--agency,

8 against--any--loss--in-connection-with-its-lease-agreements,

9 loan--agreements,--mortgage--loans,--and--other--assets---or

10 property,--and

11 {i8}--perform--any-other-acts-necessary-and-convenient-to

12 carry-out-the-purposes--of--the--board authority--and--this

13 part."

14 **Section 11.** Section 17-5-1505, MCA, is amended to read:--

15 "17-5-1505. Financing--programs-of-the-board authority,

16 {i1}--The-board authority may:

17 {a)--invest--in,--purchase--or--make---commitments---to

18 purchase,--and-take-assignment-from-financial-institutions-of

19 notes,--mortgages,--loan--agreements,--and--other-securities

20 evidencing--loans---for---the---acquisition,---construction,

21 reconstruction,--or--improvement--of-projects-located-in-the

22 state,--under-terms-and-conditions-determined--by--the--board

23 authority;

24 {b)--acquire,--by--construction,--purchase,--devise,--gift,

25 lease,--or--any--combination--of--methods,--from---financial

institutions;--projects--located-in-the-state-and-lease-such  
the-projects-to-others-for-such the-rentals--and--upon--such  
terms-and-conditions-as-determined-by-the-board authority;

{c}--make--loans--to-financial-institutions;--under-terms  
and-conditions-determined-by-the-board authority;--requiring  
the-proceeds-to-be-used-by-the-financial-institution-for-the  
purpose---of---financing---the---acquisition;--construction;  
reconstruction;--or-improvement-of-projects--located--in--the  
state;--or

{d}--finance--projects--located--in--the-state-upon-such  
terms-and-conditions-as-determined-by-the-board authority;

{2}--The-board authority may-not-operate-any-project-as  
a--business--or--in--any--other--manner-except-as-the-lessor  
thereof-or-as--may--be--necessary--for--a--temporary--period  
through--the--enforcement--of-its-rights-under-a-lease;--loan  
agreement;--or-other-security-agreement.;"

**Section 12.**--Section 17-5-1506, MCA, is amended to read:--

"17-5-1506.--Bonds-and-notes-for-projects--and--major  
projects;--{1}--The--board authority may-by-resolution-issue  
negotiable-notes-and-bonds-in--a--principal--amount--as--the  
board authority--determines-necessary-to-provide-sufficient  
funds-for-achieving--any--of--its--purposes;--including--the  
payment--of--interest--on--notes--and--bonds--of--the--board  
authority;--establishment-of-reserves-to-secure-the-notes-and  
bonds;--including-the-reserve-funds-created-under-17-5-1515;

and-all-other-expenditures-of-the-board authority--incident  
to-and-necessary-or-convenient-to-carry-out-this-part;

{2}--The-board authority may-by-resolution;--from-time-to  
time;--issue-notes-to-renew-notes-and-bonds-or-to-pay-notes;  
including-interest;--and--when-ever--it--considers--refunding  
expedient;--refund--any--bonds-by-the-issuance-of-new-bonds;  
whether-or-not-the-bonds-to-be--refunded--have--matured;--or  
issue--bonds--partly--to-refund-bonds-outstanding-and-partly  
for-any-of-its-other-purposes;

{3}--Except---as---otherwise---expressly---provided---by  
resolution-of-the-board authority;--every-issue-of-its--bonds  
is--an--obligation-of-the-board authority payable-out-of-any  
revenue;--assets;--or-money-of-the--board authority;--subject  
only--to--agreements-with-the-holders-of-particular-notes-or  
bonds-pledging-particular-revenues;--assets;--or-money;

{4}--The--notes--and--bonds--must---be---authorized---by  
resolutions--of-the-board authority;--bear-a-date;--and-mature  
at-the-times-the-resolutions-provide-A-note-may-not-mature  
more-than-5-years-from-the-date-of-its-issue-A-bond-may-not  
mature--more--than--40-years-from-the-date-of-its-issue-The  
bonds-may-be--issued--as--serial--bonds--payable--in--annual  
installments;--as-term-bonds;--or-as-a-combination-thereof of  
serial-and-term-bonds;--The--notes--and--bonds--must--bear  
interest--at--a--stated--rate--or-rates-or-at-a-rate-or-rate  
determination-as-stated;--be-in-denominations;--be-in-a--form;

either--coupon-or-registered, carry registration privileges,  
be-executed-in-a-manner, be-payable-in-a-medium-of--payment,  
at--places--inside--or--outside-the-state, and-be-subject-to  
terms-of-redemption-as-provided-in--resolutions,--The--notes  
and--bonds--of--the-board authority may-be-sold-at-public-or  
private-sale, at-prices-above-or-below-par, as-determined-by  
the-board authority, and-in-a-manner-such-that--interest--on  
the-bonds-is-either-exempt-from-or-subject-to-federal-income  
tax,

{5}--The--bonds--issued--under-this-part-are-exempt-from  
the-Montana-Securities-Act, but-copies-of-all-prospectus-and  
disclosure--documents--must--be--deposited--with--the--state  
securities-commissioner-for-public-inspection,

{6}--The-total-amount-of-bonds-secured--under--17-5-1515  
outstanding--at--any--one-time, except-bonds-as-to-which-the  
board's authority's--obligations--have--been--satisfied--and  
discharged--by--refunding--or--bonds--for-which-reserves-for  
payment-or-other-means-of-payment-have--been--provided,--may  
not-exceed-\$75-million."

**Section 13.**--Section 17-5-1507, MCA, is amended to read:--

"17-5-1507.--Bond--anticipation--notes-----issuance-----  
payment--of--principal-and-interest.--{1}--The-board authority  
may, pending-the-issuance-of-bonds, issue-temporary-notes-in  
anticipation-of-the-proceeds-to-be-derived-from-the-sale-of  
the--bonds,--The--notes--shall-be--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-to-redeem-outstanding-notes, additional  
bond--anticipation--notes--may--be--issued--to--redeem--the  
outstanding--notes.--No The--renewal-of-any-note-may not-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 of-the-notes-are-needed. The-notes-must  
be-authorized-by-the-board authority--and--must--have--such  
terms--and--details--as-may-be-provided-by-resolution-of-the  
board authority.--However,--each--resolution--of--the--board  
authority-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  
or-maximum-rate-of-interest-or-interest-rate-formula--{to--be  
determined--in--the--manner--specified--in--the--resolution  
authorizing-the-notes-to-be-incurred-through-the-issuance-of

1 such the notes}; and the maturity date or maximum maturity  
2 date of the notes;

3 {3}--Subject---to--the--limitations--contained--in--this  
4 section and the standards and limitations prescribed in the  
5 authorizing--resolution,--the--board authority--in--its  
6 discretion may provide for the notes described in subsection  
7 {2} to be issued and sold, in whole or in part, from time to  
8 time. The board authority may delegate to the administrator  
9 executive director of the board authority the power to  
10 determine the time or times of sale, the manner of sale, the  
11 amounts, the maturities, the rate or rates of interest, and  
12 such other terms and details of the notes as considered  
13 appropriate by the board authority or the administrator  
14 executive director in the event of such a delegation. The  
15 board authority in its discretion but subject to the  
16 limitations contained in this section may also provide in  
17 the resolution authorizing the issuance of notes for:

18 {a}--the--employment--of--one--or--more--persons--or--firms--to  
19 assist the board authority in the sale of the notes;

20 {b}--the--appointment--of--one--or--more--banks--or--trust  
21 companies, either inside or outside the state of Montana, as  
22 depository for safekeeping and as agent for the delivery and  
23 payment of the notes;

24 {c}--the--refunding--of--the--notes--from--time--to--time,  
25 without further action by the board authority, unless and

1 until the board authority revokes such the authority to  
2 refund, and

3 {d}--such other terms and conditions as that--the--board  
4 authority considers appropriate;

5 {4}--In--connection--with--the--issuance--and--sale--of--notes  
6 as provided in this section, the board authority may arrange  
7 for lines of credit with any bank, firm, or person for the  
8 purpose of providing an additional source of repayment for  
9 notes issued pursuant to this section. Amounts drawn on such  
10 the lines of credit may be evidenced by negotiable or  
11 nonnegotiable notes or other evidences of indebtedness,  
12 containing such terms and conditions as that--the--board  
13 authority may authorize in the resolution approving the same  
14 notes."

15 **Section 14.** Section 17-5-1508, MCA, is amended to read:--

16 "17-5-1508. Provisions---of---bond---resolutions,---A  
17 resolution authorizing notes or bonds or any issue thereof  
18 of notes or bonds may contain provisions, which must be a  
19 part of the contract or contracts with the holders thereof  
20 of the notes or bonds, as to:

21 {1}--pledging all or any part of the revenue or property  
22 of the board authority to secure the payment of the notes or  
23 bonds or of any issue thereof of notes or bonds, subject to  
24 existing agreements with noteholders or bondholders;

25 {2}--pledging all or any part of the assets of the board

1 ~~authority, including lease agreements, loan agreements,~~  
 2 ~~mortgages, and obligations securing them, to secure the~~  
 3 ~~payment of the notes or bonds or of any issue thereof of~~  
 4 ~~notes or bonds, subject to existing agreements with~~  
 5 ~~noteholders or bondholders;~~

6 {3}--the use and disposition of the gross income from  
 7 lease agreements, loan agreements, and mortgages owned by  
 8 the board authority, and the payment of the principal of  
 9 mortgages owned by the board authority;

10 {4}--the setting aside of reserves for debt service  
 11 funds in the hands of trustees, paying agents, and other  
 12 depositories and the regulation and disposition thereof of  
 13 reserves;

14 {5}--limitations on the purpose for which the proceeds  
 15 of the sale of notes or bonds may be applied and the pledge  
 16 of the proceeds to secure the payment of the bonds or of any  
 17 issue thereof of notes or bonds;

18 {6}--limitations on the issuance of additional notes or  
 19 bonds, the terms upon which additional notes or bonds may be  
 20 issued and secured, and the refunding of outstanding notes  
 21 or bonds;

22 {7}--the procedure, if any, by which the terms of any  
 23 contract with noteholders or bondholders may be amended or  
 24 abrogated, the amount of notes or bonds the holders of which  
 25 shall consent thereto to the amendment or abrogation, and

1 the manner in which such consent may be given;

2 {8}--a commitment to employ adequate and competent  
 3 personnel at reasonable compensation, to set salaries, fees,  
 4 and charges as may be determined by the board authority in  
 5 conjunction with the department, and to maintain suitable  
 6 facilities and services for the purpose of carrying out its  
 7 programs;

8 {9}--vesting in a trustee such property, rights, powers,  
 9 and duties in trust as the authority determines to be  
 10 necessary;

11 {10}--defining the acts or omissions that shall  
 12 constitute a default in the obligations and duties of the  
 13 board authority to the holders of the notes or bonds and  
 14 providing for the rights and remedies of the holders of the  
 15 notes or bonds in the event of such default, including as a  
 16 matter of right the appointment of a receiver, and

17 {11}--any other matters of like or different character  
 18 that in any way affect the security or protection of the  
 19 holders of the notes or bonds."

20 **Section 15.** Section 17-5-1509, MCA, is amended to read:--

21 "17-5-1509. --Personal liability. The board authority and  
 22 employees of the department are not personally liable or  
 23 accountable by reason of the issuance of or on any bond or  
 24 note issued by the board authority."

25 **Section 16.** Section 17-5-1510, MCA, is amended to read:--

1       "17-5-1510--Purchase---of---notes---and---bonds-----  
2       cancellation--The-board authority may, subject--to--existing  
3       agreements--with--noteholders--or--bondholders-and-out-of-any  
4       funds-available-for-that-purpose, purchase notes or bonds of  
5       the-board authority, which shall--then--be--canceled,--at--a  
6       price-not-exceeding:

7       (1)--the--current-redemption-price-plus-accrued-interest  
8       to-the-next-interest-payment-if-the-notes-or-bonds-are--then  
9       redeemable, or

10       (2)--the--redemption--price-applicable-on-the-first-date  
11       after-the-purchase--on--which--the--notes--or--bonds--become  
12       subject--to--redemption, plus-accrued-interest-to-that-date,  
13       if-the-notes-or-bonds-are-not-then-redeemable."

14       **Section 17.**--Section 17-5-1511, MCA, is amended to read:--

15       "17-5-1511--Trust-indenture--(1)--In-the--discretion--of  
16       the--board authority,--the--bonds-may-be-secured-by-a-trust  
17       indenture--between--the--board authority--and--a--corporate  
18       trustee, which-may-be-a-trust-company--or--bank--having--the  
19       power--of--a--trust--company,--either--inside-or-outside-the  
20       state.--A--trust--indenture--may--contain---provisions---for  
21       protecting--and--enforcing--bondholders'-rights-and-remedies  
22       that-are-reasonable, proper, and-not-in--violation--of--law,  
23       including---covenants---setting--forth--the--duties--of--the  
24       authority-in-relation-to-the-exercise-of-its-powers-and--the  
25       custody,--safeguarding,--and--application--of--all-money,--The

1       authority-may-provide-by-a-trust-indenture-for--the--payment  
2       of--the--proceeds--of--the-bonds-and-revenues-to-the-trustee  
3       under-the-trust-indenture-of-another-depository-and-for--the  
4       method-of-disbursement, with-the-safeguards-and-restrictions  
5       it-considers-necessary;

6       (2)--All--expenditures--incurred-in-carrying-out-a-trust  
7       indenture-may-be-treated-as-part-of-the--operating--expenses  
8       of-the-board authority."

9       **Section 18.**--Section 17-5-1512, MCA, is amended to read:--

10       "17-5-1512--Negotiability--of--bonds,--Notes--and-bonds  
11       issued-by-the-board authority--are--negotiable--instruments  
12       under--the--Uniform--Commercial--Code,--subject--only-to-the  
13       provisions-for-registration-of-notes-and-bonds."

14       **Section 19.**--Section 17-5-1513, MCA, is amended to read:--

15       "17-5-1513--Signatures--of--board--members,--If--board  
16       authority--members--whose-signatures-appear-on-notes, bonds,  
17       or-coupons-cease-to-be-members-before-the--delivery--of--the  
18       notes--or--bonds, their-signatures-shall-nevertheless-be are  
19       valid-and-sufficient-for-all-purposes-the--same--as--if--the  
20       members-had-remained-in-office-until-delivery."

21       **Section 20.**--Section 17-5-1514, MCA, is amended to read:--

22       "17-5-1514--Accounts,--The--board authority may-create  
23       funds-and-accounts-necessary-to--implement--this--part,--The  
24       funds-and-accounts-may-include:

25       (1)--a-fund-into-which-bond-proceeds-are-deposited;

1 {2}--a common bond fund consisting of:  
 2 {a}--a common debt service account;  
 3 {b}--a capital reserve account as provided in 17-5-1515;  
 4 and  
 5 {c}--an operating account for defraying the operational  
 6 costs of the board authority; and  
 7 {3}--other funds or accounts."

8 **Section 21.**--Section 17-5-1515, MCA, is amended to read:--  
 9 "17-5-1515. Reserve funds and appropriations. (1) The  
 10 board authority may establish a capital reserve account and  
 11 pay into it any:  
 12 {a}--funds appropriated and made available by the state  
 13 for the purpose of the account;  
 14 {b}--proceeds of the sale of notes or bonds to the  
 15 extent provided in the resolutions or indentures of the  
 16 board authority authorizing their issuance; and  
 17 {c}--other funds which may be available to the board  
 18 authority from any other source for the purpose of the  
 19 account.  
 20 {2}--All funds held in the capital reserve account must  
 21 be used solely for the payment of the principal of or  
 22 interest on the bonds secured in whole or in part by the  
 23 account or the debt service fund payments with respect to  
 24 the bonds, the purchase or redemption of the bonds, the  
 25 payment of interest on the bonds, or the payment of any

1 redemption premium required to be paid when the bonds are  
 2 redeemed prior to maturity. Funds in the account may not be  
 3 withdrawn at any time in an amount that reduces the account  
 4 to an amount less than the sum of minimum capital reserve  
 5 requirements established in the resolutions or indentures of  
 6 the board authority for the account except, with respect to  
 7 bonds secured in whole or in part by the account, for the  
 8 purpose of making payment when due, of principal interest,  
 9 redemption premiums, and debt service fund payments for the  
 10 payment of which other money pledged is not available. Any  
 11 income or interest earned by or incremental to the capital  
 12 reserve account due to its investment may be transferred to  
 13 other accounts of the board authority to an extent that does  
 14 not reduce the amount of the capital reserve account below  
 15 the sum of minimum capital reserve requirements for the  
 16 account."

17 **Section 22.**--Section 17-5-1516, MCA, is amended to read:--  
 18 "17-5-1516. Maintenance of capital reserve account. (1)  
 19 In order to assure the maintenance of the capital reserve  
 20 account, the chairman presiding officer of the board  
 21 authority shall on or before September 1 in each year  
 22 preceding the convening of the legislature, deliver to the  
 23 governor a certificate stating the sum, if any, required to  
 24 restore the capital reserve account to the minimum capital  
 25 reserve requirement. The governor shall include in the

executive--budget--submitted--to--the--legislature--the--sum  
required-to-restore-the-capital-reserve-account-to--the--sum  
of--minimum--capital--reserve--requirement. All--sums  
appropriated--by--the--legislature--shall must--be-deposited-in  
the-capital-reserve-account.

(2)--All-amounts-appropriated--to--the--board authority  
under--this--section--constitute--advances--to--the--board  
authority and, subject-to-the-rights-of-the-holders--of--any  
bonds-or-notes-of-the-board authority, must-be-repaid-to-the  
state-general-fund-without-interest-from-available-operating  
revenues--of--the--board authority--in-excess--of--amounts  
required--for--the--payment--of--bonds,--notes,--or--other  
obligations-of-the-board authority, for-maintenance--of--the  
capital-reserve-account, and-for-operating-expenses."

**Section 23.**--Section 17-5-1517, MCA, is amended to read:--

"17-5-1517. Refunding--obligations. The-board authority  
may-provide-for-the-issuance-of--refunding--obligations--for  
refunding--any--obligations--then-outstanding-that-have-been  
issued--under--this--part,--including--the--payment--of--any  
redemption-of-the-obligations. The-issuance-of--obligations,  
the-maturities-and-other-details, the-rights-of-the-holders,  
and-the-rights, duties, and-obligations-of-the-authority-are  
governed--by--the--appropriate-provisions-of-this-part-that  
relate-to-the--issuance--of--obligations. The-proceeds--of  
refunding--obligations--may--be--applied--to--the--purchase,

redemption,--or--payment-of-outstanding-obligations. Pending  
the-application-of-the-proceeds-of-refunding-obligations-and  
other-available-funds-to-the-payment-of--principal,--accrued  
interests,--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--in--such  
securities-as-the-board authority considers-appropriate."

**Section 24.**--Section 17-5-1518, MCA, is amended to read:--

"17-5-1518. Tax-exemption-of-bonds. Bonds,--notes,--or  
other--obligations--issued-by-the-board authority under-this  
part-and-their-transfer-and-income--(including--any--profits  
made--on--their-sale)--are-free-from-taxation-by-the-state-or  
any-political-subdivision-or-other--instrumentality--of--the  
state,--except--for-inheritance, estate, and-gift-taxes. The  
board authority is-not-required-to-pay-recording-or-transfer  
fees-or-taxes-on-instruments-recorded-by-it."

**Section 25.**--Section 17-5-1521, MCA, is amended to read:--

"17-5-1521. Adoption-of-rules. (1) The-board authority  
shall-adopt-rules-to-establish:

(a)--procedures--for--soliciting--and--evaluating  
applications-and-for-notifying-the-local-government--of--the  
application--for--purposes--of--complying-with-17-5-1526-and



17-5-1522, and

(b) a system for evaluating applications, considering the following criteria:

(i) the applicant's net worth;

(ii) the applicant's training and experience in the industry involved in the proposed project;

(iii) the applicant's prospects for succeeding in the proposed project;

(iv) the degree to which the new or increased business resulting from the loan will meet the objectives of 17-5-1502; and

(v) any other factors the board authority may prescribe.

(2) The board authority shall adopt rules for the:

(a) organization, approval, standards, and regulation of project applicants;

(b) approval, standards, and regulation of financial institutions under this part;

(c) assessment, collection, and payment of all fees and charges in connection with making, purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and guaranty programs; and

(d) such other matters as the board authority considers necessary or desirable."

**Section 26.** Section 17-5-1522, MCA, is amended to read:

"17-5-1522. 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 board authority and the holders of notes and bonds issued by the board authority, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose."

**Section 27.** Section 17-5-1523, MCA, is amended to read:

"17-5-1523. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a debt, liability, obligation, or pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board authority. An obligation issued under this part must contain on the face thereof of the obligation a statement to the effect that the state of Montana is not liable on the obligation, the obligation is not a debt of the state, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal or interest on the obligation."

**Section 28.** Section 17-5-1524, MCA, is amended to read:

"17-5-1524. Taxation of projects. (1) Notwithstanding the fact that title to a project may be in the board authority, such the projects are subject to taxation to the

same--extent,--in--the--same--manner,--and--under--the--same  
procedures--as--privately--owned--property--in--similar  
circumstances--if--such the projects--are--leased--to--or--held--by  
private--interests--on--both--the--assessment--date--and--the--date  
the--levy--is--made--in--that--year. Such The projects--are--not  
subject--to--taxation--in--any--year--if--they--are--not--leased--to--or  
held--by--private--interests--on--both--the--assessment--date--and  
the--date--the--levy--is--made--in--that--year.

{2}--When--personal--property--owned--by--the--board authority  
is--taxed--under--this--section--and--such--personal--property--taxes  
are--delinquent,--levy--by--warrant--for--distrain--for--collection  
of--such the delinquent--taxes--may--be--made--only--on--personal  
property--against--which--such the taxes--were--levied."

**Section 29.**--Section 17-5-1525, MCA, is amended to read:--

"17-5-1525. Bonds as legal investment. (1) Bonds issued  
by--the--board authority under--the--provisions--of--this--part--are  
securities--in--which--all--funds--may--be--legally--and--properly  
invested,--including--capital--in--the--control--of--or--belonging  
to:

{a}--public--officers--and--public--bodies--of--the--state--and  
its--political--subdivisions;

{b}--insurance--companies;

{c}--credit--unions,--building--and--loan--associations,  
investment--companies,--savings--banks,--banking--associations,  
and--trust--companies;

{d}--executors,--administrators,--trustees,--and--other  
fiduciaries;--and

{e}--pension,--profit--sharing,--and--retirement--funds;

{2}--Bonds--issued--under--17-5-1505--through--17-5-1510--and  
17-5-1521--through--17-5-1529--are--securities--that--may--properly  
and--legally--be--deposited--with--and--received--by--any--state--or  
municipal--officer--or--any--agency--or--municipality--of--the--state  
for--any--purpose--for--which--the--deposit--of--bonds--or  
obligations--of--the--state--is--now--or--may--hereafter--be are  
authorized--by--law."

**Section 30.**--Section 17-5-1526, MCA, is amended to read:--

"17-5-1526. Procedure prior to financing projects. (1)  
The--board authority may--finance--projects,--other--than--major  
projects,--under--this--part--only--when--it--finds--that:

{a}--the--financing--is--in--the--public--interest--and--is  
consistent--with--the--legislative--purposes--and--findings--set  
forth--in--17-5-1502;

{b}--the--financing--to--be--provided--by--the--board authority  
for--a--project--does--not--exceed--either--\$800,000--or--90%--of--the  
cost--or--appraised--value--of--the--project,--whichever--is--less;

{c}--a--financial--institution--will--participate--in  
financing--the--project,--either--directly--or--through--a--letter  
of--credit,--to--the--extent--of--at--least--10%--of--the--financing--to  
be--provided--by--the--board authority;

{d}--the--financing--for--the--project--is--insured--or

guaranteed-in-whole-or-in-part-by-a-private-or-governmental insurer-or-guarantor;

(e)--an-applicant--has-submitted-a-statement-indicating any-contracts-to-construct-the-projects--will--require--all contractors--to--give--preference--to-the-employment-of-bona fide-Montana-residents--as--defined--in--18-2-401--in--the performance--of--the--work--on--the--projects--if--their qualifications--are--substantially--equal--to--those--of nonresidents--"substantially-equal-qualifications"--means-the qualifications--of--two--or--more--persons--among--whom--the employer--cannot--make--a--reasonable-determination-that-the qualifications-held-by-one-person-are--significantly--better suited--for--the-position-than-the-qualifications-held-by-the other-persons--and

(f)--adequate-provision-is-made-in-the-loan-agreement, lease--or--other--credit-arrangement-regarding-a-project-or projects-being-financed--to--provide--for--payment--of--debt service--on--bonds--of-the-board authority-issued-to-finance the-project-or-projects--to--create--and--maintain--reserves therefor for-the-bonds--and-to-meet-all-costs-and-expenses of-issuing-and-servicing-the-bonds;

(2)--in-order-to--make--the--findings--as--described--in subsection--(1)(a)--a--hearing--must--be--conducted--in--the following-manner:

(a)--the-city-or-county-in-which--the--project--will--be

located--must--be--notified--and-the-city-and-county-shall, within-14-days-after-receipt-of-the-notice--notify-the-board authority-if-it-elects-to-conduct-the-hearing--or

(b)--if--no a--request--for--a--local--hearing--is--not received--the-board authority-may--hold--the-hearing--at--a-time and-place-it-prescribes;

(3)--if--the--hearing--required--by--subsection--(2)--is conducted-by-a-local-government--the-governing-body--of--the local-government--shall--notify--the-board authority-of-its determination-of--whether--the--project--is--in--the--public interest--within--14--days--of--the-completion-of--the-public hearing;

(4)--When-a-hearing-is-required-either-locally-or-at-the state-level--notice-must-be-given--at-least-once-a-week--for 2--weeks--prior--to--the--date--set--for--the--hearing--by publication-in-a-newspaper-of-general-circulation--in--the city--or--county--where-the-hearing-will-be-held--The-notice must-include-the-time-and-place-of-the-hearing--the-general nature--of--the-project--the-name-of-the-lessee--borrower--or user-of-the-project--and-the-estimated-cost-of-the-project;

(5)--The-requirements--of--subsections--(1)(b)--through (1)(d)--do-not-apply-to-bonds-that-are--not--secured--by--the capital-reserve-account-authorized-by-17-5-1515;

(6)--The-hearing-requirements-of-subsections--(2)--through (4)--do-not-apply-to-projects--financed--with--bonds-the

interest-on-which-is-subject-to-federal-income-taxes;"

**Section 31.** Section 17-5-1527, MCA, is amended to read:--

"17-5-1527. Procedure prior to financing major projects--(1) The board authority may finance major projects under this part only when it finds that:

(a) the financing is in the public interest and is consistent with legislative purposes and findings;

(b) the financing to be provided by the board authority for a project does not exceed either \$10 million or 90% of the cost or appraised value of the project, whichever is less;

(c) a financial institution will participate in financing the project if the cost or appraised value is less than \$1 million, either directly or through a letter of credit, to the extent of at least 10% of the financing to be provided by the board authority, provided, however, that participation by a financial institution in projects of over \$1 million is at the discretion of the board authority;

(d) the financing for the project is insured or guaranteed in whole or in part by a private or governmental insurer or guarantor;

(e) any contracts to construct the projects require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if their

qualifications are substantially equal to those of nonresidents; "substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons; and

(f) adequate provision is made in the loan agreement, lease, or other credit arrangement regarding a project or projects being financed to provide for payment of debt service on bonds of the board authority issued to finance the project or projects, to create and maintain reserves therefor for the bonds, and to meet all costs and expenses of issuing and servicing the bonds;

(2) In order to make the findings as described in subsection (1)(a), a hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and within 14 days shall advise the board authority if it elects to conduct the hearing, or

(b) if no request for a local hearing is not received, the board authority may hold the hearing at a time and place it prescribes;

(3) if the hearing required by subsection (2) is conducted by a local government, the governing body of the

local government shall notify the board authority of its determination of whether the project is in the public interest within 14 days of the completion of the public hearing.

{4}--When a hearing is required either locally or at the state level, notice must be given, at least once a week for 2 weeks prior to the date set for the hearing, by publication in a newspaper of general circulation in the city or county where the hearing will be held. The notice must include the time and place of the hearing, the general nature of the project, the name of the lessee, borrower, or user of the project, and the estimated cost of the project.

{5}--The requirements of subsections {1}{b} through {1}{d} do not apply to bonds that are not secured by the capital reserve account authorized by 17-5-1515.

{6}--The hearing requirements of subsections {2} through {4} do not apply to major projects financed with bonds the interest on which is subject to federal income taxes."

**Section 32.**--Section 17-5-1528, MCA, is amended to read:--

"17-5-1528.--Validity of pledge.--Any pledge made by the board authority is valid and binding from the time the pledge is made. Revenue, money, or property pledged and received by the board authority is immediately subject to the lien of the pledge without any physical delivery or further act. The lien of any pledge is valid and binding

against all parties having claims of any kind, whether in tort, contract, or otherwise, against the board authority, irrespective of whether such the parties have notice thereof of the lien. Neither the resolution nor any other instrument by which a pledge is created is required to be recorded."

**Section 33.**--Section 17-5-1529, MCA, is amended to read:--

"17-5-1529.--Annual audits.--{1}--At least once each year, the bank examiners of the department shall examine loans and investments of the board authority. The actual cost of this examination must be paid from the board's authority's funds.

{2}--The board's authority's books and records must be audited at least once each fiscal year by or at the direction of the legislative auditor. The actual costs of the audit shall must be paid from the board's authority's funds."

**Section 34.**--Section 17-5-1604, MCA, is amended to read:--

"17-5-1604.--Definitions.--As used in this part, the following definitions apply:

{1}--"Board" "Authority" means the board of investments created state revenue bond authority provided for in 2-15-1800 {section 3}.

{2}--"Department" means the department of commerce created in 2-15-1801.

{3}--"Local government unit" means any municipal corporation or political subdivision of the state, including

without limitation any city, town, county, school district, other special taxing district, or the board of regents of the Montana university system.

(4) "Reserve fund" means the municipal finance consolidation act reserve fund created in 17-5-1630."

**Section 35.** Section 17-5-1605, MCA, is amended to read:

"17-5-1605. Board of investments Authority to implement. The board of investments authority may make and enforce orders, rules, and bylaws that are necessary or desirable for the implementation of this part."

**Section 36.** Section 17-5-1606, MCA, is amended to read:

"17-5-1606. Bonds, bond anticipation notes, and notes of the board authority. (1) The board authority may by resolution, from time to time, issue negotiable notes and bonds to finance loans or refinance its loans to local government units and its purchases of their bonds, registered warrants, and tax or revenue anticipation notes and other notes, to establish or replenish reserves securing the payment of its bonds and notes, and to finance all other expenditures of the board authority incident to and necessary or convenient to carry out this part.

(2) The board authority may by resolution, from time to time:

(a) issue notes to renew notes and bonds to pay notes, including interest;

(b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded have or have not matured; and

(c) issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) The board authority may by resolution, from time to time, in anticipation of the sale of its securities under this part, issue temporary notes and renewal notes.

(4) Except as otherwise expressly provided by resolution of the board authority, every issue of its notes and bonds shall be is an obligation of the board authority payable out of any revenues, assets, or money of the board authority, subject only to agreements with the holders of particular notes or bonds pledging particular revenues, assets, or money.

(5) The notes and bonds must be authorized by resolutions of the board authority, shall must bear a date, and shall must mature at times as the resolutions provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof of serial or term bonds. The notes and bonds shall must bear interest at a rate or rates, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places inside or outside the state, and be

subject to terms of redemption as provided in resolutions of the board authority. The notes and bonds of the board authority may be sold at public or private sale at such prices, which may be above or below par, as are determined by the board authority."

**Section 37.** Section 17-5-1607, MCA, is amended to read:

"17-5-1607. Participation--voluntary. Use of the financing mechanism created by this part is entirely voluntary, and no a local government unit may not be required to sell its bonds, bond anticipation notes, or notes to the board authority."

**Section 38.** Section 17-5-1608, MCA, is amended to read:

"17-5-1608. Limitations on amounts. The board authority may not issue any bonds or notes that cause the total outstanding indebtedness of the board authority under this part (except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101) to exceed \$50 million."

**Section 39.** Section 17-5-1609, MCA, is amended to read:

"17-5-1609. Purchase of anticipation notes. Notwithstanding any other provision of law, a local government unit may issue and the board authority may purchase notes in anticipation of an otherwise authorized sale of municipal securities in connection with any

purchase of anticipation notes, the board authority may by agreement with the local government unit impose terms, conditions, and limitations that in the board's authority's opinion are proper under the circumstances and for the purposes and security of the board authority and the holders of its bonds or notes."

**Section 40.** Section 17-5-1610, MCA, is amended to read:

"17-5-1610. Refunding obligations. (1) The board authority may provide for the issuance of refunding obligations for refunding any obligations then outstanding that have been issued under this part, including the payment of any redemption premium and any interest accrued to or to accrue to the date of redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the board authority are governed by the appropriate provisions of this part that relate to the issuance of obligations.

(2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding obligations issued under this part. The proceeds of refunding obligations may be applied to the purchase, redemption, or payment of 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---of---refunding obligations--may--be--invested--as--provided--in--Title--17,--chapter 6."A

**Section 41.**--Section 17-5-1611, MCA, is amended to read:--

"17-5-1611. Additional powers of the board authority. In addition to all other powers conferred on the board authority by this part or any other law, the board authority has the power:

(1) to purchase or hold municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner the board authority considers advisable;

(2) to sell municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes acquired or held by it at prices without relation to cost and in a manner the board authority considers advisable;

(3) to invest funds or money acquired by the board authority as provided in 17-5-1641;

(4) to prescribe the form of application or procedure

required of a local government unit for a loan or purchase of its municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes; fix the terms and conditions of the loan or purchase, and enter into agreements with local government units with respect to loans or purchases;

(5) to render services to local government units in connection with public or private sales of their municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes that are eligible for purchase by the board authority under this part, including advisory and other services, and charge the local government units for such the services;

(6) to charge for its costs and services in reviewing or acting upon a proposed loan to a local government unit or a proposed purchase by the board authority of municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes of the local government unit, whether or not the loan is made or the municipal bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes are purchased;

(7) to fix and establish terms, interest rates, and provisions with respect to a purchase of municipal bonds, bond anticipation notes, registered warrants, tax or revenue



anticipation notes, or other notes by the board authority,  
including:

(a) the date and maturities of the bonds, bond  
anticipation notes, registered warrants, tax or revenue  
anticipation notes, or other notes;

(b) provisions as to redemption or payment before  
maturity; and

(c) any other matters judged by the board authority to  
be necessary, desirable, or advisable for the purchase or  
loan;

(d) in connection with any loan to a local government  
unit or purchase of municipal bonds, bond anticipation  
notes, registered warrants, tax or revenue anticipation  
notes, or other notes of a local government unit, to  
consider:

(a) the lawfulness and validity of the purpose to be  
served by the loan or purchase;

(b) the ability of the local government unit to secure  
borrowed money from other sources and the costs thereof of  
borrowing;

(c) the ability of the local government unit to repay  
the loan, notes, or bonds;

(d) the priority of need for the particular public  
improvement or purpose to be financed; and

(e) varying the terms and conditions of its loans or

purchases as between various local government units in  
accordance with their respective priorities and credit  
worthiness;

(9) to conduct examinations and hearings and to hear  
testimony and take proof under oath or affirmation at  
public or private hearings on any matter material to its  
information and necessary to carry out this part;

(10) to issue subpoenas requiring the attendance of  
witnesses and the production of books and papers pertinent  
to any hearing before the board authority;

(11) to appoint, employ, or contract for the services of  
officers, employees, agents, financial or professional  
advisers, and attorneys and to pay such compensation for  
their services as the board authority may determine;

(12) to procure insurance against any losses in  
connection with its property, operations, or assets in such  
amounts and from such insurers as it considers desirable;

(13) to the extent permitted under its contracts with  
the holders of bonds or notes of the board authority, to  
consent to modification of the rate of interest, the time  
for payment of any installment of principal or interest, or  
the security for any other term of a bond, bond anticipation  
note, note contract, or agreement of any kind to which the  
board authority is a party; and

(14) to do all acts and things necessary, convenient, or

desirable to carry out the powers expressly granted or necessarily implied in this part."

**Section 42.** Section 17-5-1621, MEA, is amended to read:

"17-5-1621. Provisions of bond resolutions. A resolution authorizing notes or bonds or any issue thereof of notes or bonds may contain provisions that must be a part of the contract or contracts with the holders thereof of notes or bonds as to:

(1) pledging all or any part of the revenue or funds of the board authority to secure the payment of the notes or bonds or of any issue thereof of notes or bonds, subject to existing agreements with noteholders or bondholders;

(2) the setting aside of reserves for debt service funds in the possession of trustees, paying agents, and other depositories and the regulation and disposition thereof of reserves;

(3) limitations on the purpose for which the proceeds of the sale of notes or bonds may be applied and the pledge of the proceeds to secure the payment of the notes or bonds or of any issue thereof of notes or bonds;

(4) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding notes or bonds;

(5) the procedure, if any, by which the terms of any

contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds for which the holders of which must be required to consent thereto to the amendment or abrogation, and the manner in which such consent may be given;

(6) a commitment to employ adequate and competent personnel at reasonable compensation, salaries, fees, and charges as may be determined by the board authority in conjunction with the department and to maintain suitable facilities and services for the purpose of carrying out its programs;

(7) vesting in a trustee such the property, rights, powers, and duties in trust as the board authority determines; and

(8) defining the acts or omissions that constitute a default in the obligations and duties of the board authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver. Rights and remedies may not be inconsistent with the laws of this state and the other provisions of this part."

**Section 43.** Section 17-5-1622, MEA, is amended to read:

"17-5-1622. Validity of pledge. A pledge by the board authority is valid and binding from the time the pledge is

made--The--revenues,--money,--or---property---pledged---and  
 thereafter--received--by--the-board authority--is--immediately  
 subject--to--the--lien--of--the--pledge--without--any--physical  
 delivery--thereof--or--further--act--The--lien--of--any--pledge--is  
 valid--and--binding--against--all--parties--having--claims--of--any  
 kind--in--tort,--contract,--or--otherwise--against--the--board  
authority,--irrespective--of--whether--such the--parties--have  
 notice--thereof of--the--lien.--Neither--the--resolution--nor--any  
 other--instrument--by--which--a--pledge--is--created--need--be  
 recorded."

**Section 44.**--Section 17-5-1623, MCA, is amended to read:--

"17-5-1623--Nonimpairment--by--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--board  
authority--and--a--local--government--unit--or--between--the--board  
authority--and--the--holders--of--notes--and--bonds--issued--by--the  
 board authority--including--but--not--limited--to--an--agreement  
 to--administer--a--loan--program--financed--by--the--issuance--of  
 bonds--and--to--employ--a--staff--sufficient--and--competent--for  
 this--purpose."

**Section 45.**--Section 17-5-1624, MCA, is amended to read:--

"17-5-1624--Trust--indenture--(1)--In--the--discretion--of  
 the--board authority,--the--bonds--or--notes--of--the--board  
authority--may--be--secured--by--a--trust--indenture--between--the

board authority--and--a--corporate--trustee,--which--may--be--a  
 trust--company--or--bank--having--the--power--of--a--trust--company  
 inside--or--outside--the--state--A--trust--indenture--may--contain  
 provisions--for--protecting--and--enforcing--bondholders'--rights  
 and--remedies--that--are--reasonable--and--proper--and--not--in  
 violation--of--law,--including--covenants--setting--forth--the  
 duties--of--the--board authority--in--relation--to--the--exercise--of  
 its--powers--and--the--custody,--safeguarding,--and--application--of  
 all--money--The--board authority--may--provide--by--a--trust  
 indenture--for--the--payment--of--the--proceeds--of--the--bonds--or  
 notes--and--the--revenues--to--the--trustee--under--the--trust  
 indenture--of--another--depository--and--for--the--method--of  
 disbursement,--with--safeguards--and--restrictions--it--considers  
 necessary."

(2)--All--expenditures--incurred--in--carrying--out--a--trust  
 indenture--may--be--treated--as--part--of--the--general--overhead  
 cost--of--the--board authority."

**Section 46.**--Section 17-5-1625, MCA, is amended to read:--

"17-5-1625--Presumption--of--validity--After--issuance,  
 all--bonds--or--notes--of--the--board authority--are--conclusively  
 presumed--to--be--fully--authorized--by--and--issued--under--all--the  
 laws--of--this--state--and--any--person--or--governmental--unit--is  
 estopped--from--questioning--their--proper--authorization,--sale,  
 issuance,--execution,--or--delivery--by--the--board authority."

**Section 47.**--Section 17-5-1626, MCA, is amended to read:--

1       ~~"17-5-1626:--Signatures-of-board-members--if-any-of--the~~  
 2       ~~board authority-members-whose-signatures-appear-on-notes-or~~  
 3       ~~bonds-or-coupons-cease-to-be-members-before-the-delivery--of~~  
 4       ~~the--notes--or-bonds;--their-signatures-shall-nevertheless-be~~  
 5       ~~are-valid-and-sufficient-for-all-purposes-as-if-the--members~~  
 6       ~~had-remained-in-office-until-delivery."~~

7       ~~Section 48.--Section 17-5-1629, MCA, is amended to read:--~~

8       ~~"17-5-1629:--Tax-exemption--of--bonds;--Bonds;--notes;--or~~  
 9       ~~other-obligations-issued-by-the-board authority--under--this~~  
 10       ~~part;--their--transfer;--and--their--income--(including--any~~  
 11       ~~profits--made--on--their-sale)--are-free-from-taxation-by-the~~  
 12       ~~state-or-any-political-subdivision-or-other--instrumentality~~  
 13       ~~of-the-state;--excepting-inheritance;--estate;--and-gift-taxes;--~~  
 14       ~~The-board authority--is--not--required-to-pay-recording-or~~  
 15       ~~transfer-fees-or-taxes-on-instruments-recorded-by-it."~~

16       ~~Section 49.--Section 17-5-1630, MCA, is amended to read:--~~

17       ~~"17-5-1630:--Reserve-fund;--(1)-The-board authority shall~~  
 18       ~~establish-and-maintain-a-municipal-finance-consolidation-act~~  
 19       ~~reserve-fund;--to--which--there--shall--be is--deposited--or~~  
 20       ~~transferred;~~

21       ~~(a)--all--money--appropriated-by-the-legislature-for-the~~  
 22       ~~purposes-of-the-fund-in-accordance-with--the--provisions--of~~  
 23       ~~subsection-(4);~~

24       ~~(b)--all--proceeds--of-bonds-required-to-be-deposited-in~~  
 25       ~~the-fund-by-terms-of-a-contract-between-the-board authority~~

1       ~~and--its--bondholders-or-a-resolution-of-the-board authority~~  
 2       ~~with-respect-to-the-proceeds-of-bonds;~~

3       ~~(c)--the-proceeds-of-any-bond-issue-of-the-state-that-is~~  
 4       ~~authorized-for-such the-purpose-of-the-fund;~~

5       ~~(d)--all-other-money-appropriated-by-the-legislature--to~~  
 6       ~~the-reserve-fund;--and~~

7       ~~(e)--any--other--money--or--funds-of-the-board authority~~  
 8       ~~that-it-decides-to-deposit-in-the-fund;~~

9       ~~(2)--All-money-held-in-the-reserve-fund--shall must--be~~  
 10       ~~used--solely-for-the-payment-of-the-principal-of-or-interest~~  
 11       ~~on-the-bonds-or-notes-secured-in-whole-or--in--part--by--the~~  
 12       ~~fund--or--the-debt-service-fund-payments-with-respect-to-the~~  
 13       ~~bonds-or-notes;--the-purchase-or-redemption-of-the--bonds--or~~  
 14       ~~notes;--the-payment-of-interest-on-the-bonds-or-notes;--or-the~~  
 15       ~~payment--of--any-redemption-premium-required-to-be-paid-when~~  
 16       ~~the-bonds-or-notes-are-redeemed-prior-to-maturity;--Money--in~~  
 17       ~~the--reserve--fund--may--not--be-withdrawn-at-any-time-in-an~~  
 18       ~~amount-that-reduces-the-fund-to-an-amount-less-than-the--sum~~  
 19       ~~of--minimum--reserve--requirements--established--in--the~~  
 20       ~~resolutions-or-indentures-of-the--board authority--for--the~~  
 21       ~~fund-except;--with-respect-to-bonds-or-notes-secured-in-whole~~  
 22       ~~or--in--part--by-the-fund;--for-the-purpose-of-making-payment~~  
 23       ~~when-due-of-principal;--interest;--redemption-premiums;--and~~  
 24       ~~debt--service--fund--payments-for-the-payment-of-which-other~~  
 25       ~~money-pledged-is-not-available;~~

{3}--Money-in-the-reserve-fund-in-excess-of-the-required reserve-may-be-withdrawn-at-any-time-by-the-board authority and--transferred--to--another--fund--or-account-of-the-board authority established-for-purposes-of-this-part, but-not--to any-other-fund-or-account.

{4}--Nothing--in--this This--section--creates does-not create-a-debt-or-liability-of-the-state.

{5}--Notwithstanding-any-provision-of-Title-17--chapter 6,--the--board authority--may-lend-money-for-deposit-to-the reserve-fund-in-an-amount-equal-to--any--deficiency--in--the required-debt-service-reserve--The-loans-shall must--be-made on--such--reasonable--terms--and--conditions--as--the--board authority considers--proper,--including--without--limitation terms--and--conditions--providing-that-the-loans-need-not-be repaid-until-the-obligations-of-the-board authority--secured and--to--be--secured--by--the--reserve--fund--are--no-longer outstanding."

**Section-50.**--Section-17-5-1631,MEA, is-amended-to-read:--

"17-5-1631.--Additional-funds-and--accounts.--The--board authority--may--in--its--discretion--establish--additional reserves-or-other-funds-or-accounts-necessary,desirable,or convenient-to-further-the-accomplishment-of-the-purposes--of this--part--or--to--comply-with-the-provisions-of-any-of-its agreements-or-resolutions."

**Section-51.**--Section-17-5-1641,MEA, is-amended-to-read:--

"17-5-1641.--Investment.--{1}--Unless--otherwise--required by--a--resolution--or--agreement-of-the-board authority,the board authority may-invest-funds-coming--under--its--control pursuant--to--this--part-in-the-same-manner-as-permitted-for investment-of-funds-belonging-to-the-state-or--held--by--the state-treasurer.

{2}--Funds--from-several-or-all-accounts-may-be-combined for-investment,--and--any--interest--earned--shall must--be prorated--and--credited-to-the-various-contributing-accounts on-the-basis-of-the--amounts--thereof--invested,--calculated according--to--an-average-periodic-balance-or-other-generally accepted-accounting-principle--Such The--proration--must--be calculated--at--least-once-a-year-or-upon-a-specific-request made-to-the-board authority.

{3}--All-securities-purchased-by-the-board authority--as an--investment--remain-in-the-custody-of-the-state-treasurer until-the-same-are-sold,exchanged,retired,or--mature--and are-paid."

**Section-52.**--Section-17-5-1642,MEA, is-amended-to-read:--

"17-5-1642.--Credit--of--state--not-pledged.--Obligations issued-under-the-provisions-of-this-part-do-not-constitute-a liability-or-obligation-or-a-pledge-of-the-faith-and--credit of--the--state-but-are-payable-soley-from-revenues-or-funds of-the-board authority-generated-or-received-for-purposes-of this-part--An-obligation-issued-under-this-part-must-contain

on the face thereof of the obligation a statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the obligation."

**Section 53.** Section 17-5-1643, MCA, is amended to read:

"17-5-1643. Sale or exchange of municipal securities.  
(1) Notwithstanding any law applicable to or constituting any limitation on the maximum rate of interest per year payable on bonds or notes or to annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, every local government unit is authorized to contract to pay interest on or an interest cost per year for money borrowed from the board authority and evidenced by its municipal securities purchased by the board authority without regard to any statutory limitations as to rate of interest per year payable or as to annual interest cost to maturity of money borrowed by the local government unit. Every local government unit is authorized to contract with the board authority with respect to the loan or purchase, and the contract must contain the terms and conditions of such the loan or purchase. Every local government unit is authorized to pay fees and charges required to be paid to the board authority for its services.

(2) Notwithstanding any law applicable to or constituting any limitation on the sale of bonds or notes except the limitation on amount of bonded indebtedness, any local government unit may sell bonds or notes to the board authority by private negotiated sale, without limitation as to denomination. The bonds or notes may be fully registered or registerable as to principal only or in bearer form or may bear interest at the rate or rates, all in accordance with this section. The bonds or notes may be evidenced in the manner and may contain other provisions not inconsistent with this part and may be sold to the board authority without advertisement at the price or prices as may be determined, all as provided in the proceedings of the governing body of the local government unit pursuant to which the bonds or notes are authorized to be issued. The governing body of the local government unit may provide for the exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the manner provided in the proceedings authorizing their issuance. The bonds in changed form or denominations must be exchanged for the surrendered bonds in the same aggregate principal amounts and in such a manner that no overlapping interest is paid and the bonds in changed form or denominations bear interest

at the same rate or rates and mature on the same date or dates as the bonds for which they are exchanged; if any exchange is made under this subsection, the bonds surrendered by the holders at the time of the exchange must be canceled. The exchange may be made only at the request of the holders of the bonds to be surrendered. The local government unit may require all expenses incurred in connection with the exchange to be paid by the holders."

**Section 54.** Section 17-5-1644, MCA, is amended to read:

"17-5-1644. Care and custody of bonds purchased by the board authority. The board authority may:

(1) enter into agreements or contracts with a bank, trust company, or financial institution, inside or outside the state, as may be necessary, desirable, or convenient, in the opinion of the board authority, for rendering services in connection with:

(a) the care, custody, or safekeeping of municipal bonds or other investments held or owned by the board authority pursuant to this part;

(b) the payment or collection of amounts payable as to principal or interest; and

(c) the delivery to the board authority of municipal bonds or other investments purchased by it or sold by it pursuant to this part;

(2) pay the cost of those services; and

(3) also, in connection with any of the services to be rendered by a bank, trust company, or financial institution as to the custody and safekeeping of its municipal bonds or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such a form and amount as, in the opinion of the board authority, is necessary or desirable."

**Section 55.** Section 17-5-1645, MCA, is amended to read:

"17-5-1645. Insurance or guaranty. The board authority may obtain, from a department or agency of the United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest or principal or both, or any part of interest or principal on bonds or notes issued by the board authority or on municipal bonds, bond anticipation notes, or notes of local government units purchased or held by the board authority."

**Section 56.** Section 17-5-1646, MCA, is amended to read:

"17-5-1646. Default in payment. If the board authority or local government unit defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the board authority or local government unit fails or refuses to comply with this part or defaults in an agreement made with the holders of an issue of notes or bonds, the holders of

25% of the aggregate principal amount of the outstanding notes or bonds of that issue have the right, upon proper application to a court of competent jurisdiction, to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in this part."

**Section 57.** Section 17-5-1647, MCA, is amended to read:

"17-5-1647. Powers and duties of trustee on default:

(1) A trustee appointed under 17-5-1646 may:

(a) by civil action enforce all rights of the noteholders or bondholders, including the right to require the board authority or local government unit to collect rates, charges, and other fees and to collect interest and amortization payments on bonds and notes held by them adequate to carry out a pledge of or an agreement as to the rates, charges, and other fees and of the interest and amortization payments, and to require the board authority or local government unit to carry out any other agreements with the holders of the notes or bonds and to perform their duties under this part;

(b) bring a civil action upon the notes or bonds;

(c) by civil action require the board authority or local government unit to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(d) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the

notes or bonds;

(e) declare all the notes or bonds due and payable and, if all defaults are made good, then with the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences;

(2) The trustee, in addition to the powers stated in subsection (1), has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights;

(3) Before declaring the principal of notes or bonds due and payable, the trustee must shall give 30 days' notice in writing to the governor, the attorney general, and the board authority or local government unit defaulting."

**Section 58.** Section 17-5-1648, MCA, is amended to read:

"17-5-1648. Exemption from execution and sale. All property of the board authority, other than its revenues or funds received pursuant to this part, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against such the property. A judgment against the board authority constitutes a charge or lien upon such the property."

**Section 59.** Section 17-5-1649, MCA, is amended to read:

"17-5-1649. Annual audit. The board's authority's books and records must be audited at least once each fiscal year



by--or--at--the--direction--of--the--legislative-auditor--The  
actual-costs-of-the--audit--shall must--be--paid--from--the  
board's authority's-funds."

**Section 60.** Section 17-5-1650, MCA, is amended to read:--

"17-5-1650. Annual report. By December 31 of each year,  
the--board authority--shall--publish-a-financial-report-for  
distribution-to-the-governor, the-legislature-as-provided-in  
5-11-210,--and--the--public--The--report--must--include---a  
statement--of--the--board's authority's--current--financial  
position--with--respect-to-its-activities-under-this-part, a  
summary-of-its-activities-pursuant-to-this-part--during--the  
previous-year--(including-a-listing-of-the-local-governmental  
securities--purchased--by--the-board authority, a-listing-of  
the-bonds-and-notes-sold--by--the-board authority,--and--a  
summary--of--the-performance-of-any-other-investments-of-the  
board's authority's-funds--received--under--this--part),--an  
estimate--of--the-levels-of-such the-activities-for-the-next  
year, and-a-comparison-of-such the-activities--during--the  
previous--year--with--the-estimates-of-those-activities-that  
were-made-in-the-previous-annual-report."

**Section 61.** Section 17-5-1651, MCA, is amended to read:--

"17-5-1651. Limitations on board's power. Under this  
part 7 the-board authority may not:

(1)--make--loans--of--money--to--any--person, firm, or  
corporation--other--than-a-local-government-unit-or-purchase

securities-issued-by-any-person, firm, or corporation--other  
than-a-local-government-unit-as-provided-in-this-part;

(2)--emit--bills-of-credit, accept-deposits-of-money-for  
time-or-demand-deposit, engage-in-any-form-or-manner-in--the  
conduct--of--any--private-or-commercial-banking-business, or  
act-as-a-savings-bank-or-savings-and-loan-association;

(3)--be-or-constitute-a-bank-or-trust-company-within-the  
jurisdiction-or-under--the--control--of--the--state--banking  
board, the-department-of-commerce, or-the-comptroller-of-the  
currency-of-the-United-States-department-of-the-treasury;

(4)--be-or--constitute--a--bank, banker, or-dealer-in  
securities--within--the--meaning--of--or--subject---to---the  
provisions---of--any--securities, securities--exchange, or  
securities-dealers-law-of-the-United-States-or-of-this-state  
or-of-any-other-state."

**Section 6.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition --  
requisites for validity. (1) A statutory appropriation is an  
appropriation made by permanent law that authorizes spending  
by a state agency without the need for a biennial  
legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be  
effective, a statutory appropriation must comply with both  
of the following provisions:

(a) The law containing the statutory authority must be

1 listed in subsection (3).

2 (b) The law or portion of the law making a statutory  
3 appropriation must specifically state that a statutory  
4 appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing  
6 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
7 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
8 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;  
9 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
10 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;  
11 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;  
12 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
13 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;  
14 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811;  
15 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;  
16 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501;  
17 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206;  
18 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;  
19 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310;  
20 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215;  
21 90-6-107; 90-6-331; 90-7-220; and 90-9-306.

22 (4) There is a statutory appropriation to pay the  
23 principal, interest, premiums, and costs of issuing, paying,  
24 and securing all bonds, notes, or other obligations, as due,  
25 that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements  
2 authorized by the laws of Montana to pay the state  
3 treasurer, for deposit in accordance with 17-2-101 through  
4 17-2-107, as determined by the state treasurer, an amount  
5 sufficient to pay the principal and interest as due on the  
6 bonds or notes have statutory appropriation authority for  
7 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
8 567, L. 1991, the inclusion of 19-6-709 terminates upon  
9 death of last recipient eligible for supplemental benefit;  
10 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
11 22-3-811 terminates June 30, 1993.)"

12 **Section 7.** Section 90-6-103, MCA, is amended to read:

13 **"90-6-103. Definitions.** As used in this part, unless  
14 the context requires otherwise, the following definitions  
15 apply:

16 (1) "Board" "Authority" means the ~~board--of-housing~~  
17 state revenue bond authority created in 2-15-1814 [section 3  
18 2].

19 (2) "Bond" means any bonds, notes, debentures, interim  
20 certificates, or other evidences of financial indebtedness  
21 issued by the board authority pursuant to this part,  
22 including those on which interest payments are taxable and  
23 those on which interest payments are tax exempt.

24 (3) "Capital reserve account" means the capital reserve  
25 account provided for in 90-6-107.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(5) "Federally insured mortgage" means a mortgage loan for land development or residential housing insured or guaranteed by the United States or a governmental agency or instrumentality thereof of the United States or a commitment by the United States or a governmental agency or instrumentalities thereof of the United States to insure such a mortgage.

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

(7) "Governmental agency" means any department, division, public corporation, public agency, political subdivision, or other public instrumentality of the state, the federal government, any other state or public agency, or any two or more thereof of the entities.

(8) "Housing development" means single-family homes, multifamily projects, housing for the elderly projects, nursing home projects, personal care projects, and any work or undertaking financed in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating such accommodations for persons or families of lower income in need of housing. An undertaking may

include any buildings, land, equipment, facilities, or other real or personal properties which that are necessary, convenient, or desirable in connection therewith with an undertaking, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities as the board authority determines to be necessary, convenient, or desirable.

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

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

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

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

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

(e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during

1 construction;

2 (f) cost of construction, rehabilitation,  
3 reconstruction, fixtures, furnishings, equipment, machinery,  
4 apparatus, and similar facilities related to the real  
5 property;

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

9 (h) necessary expenses in connection with initial  
10 occupancy of the housing development;

11 (i) a reasonable profit and risk fee in addition to job  
12 overhead to the general contractor and, if applicable, a  
13 limited-profit housing sponsor;

14 (j) an allowance established by the board authority for  
15 working capital and contingency reserves and reserves for  
16 any anticipated operating deficits during construction and  
17 initial occupancy;

18 (k) costs of other items, including tenant relocation,  
19 as the board authority determines to be reasonable and  
20 necessary for the housing development, less any and all net  
21 rents and other net revenues received from the operation of  
22 the real and personal property on the development site  
23 during the construction.

24 (10) "Housing sponsor" means individuals, joint  
25 ventures, partnerships, limited partnerships, trusts, firms,

1 associations, corporations, governmental agencies,  
2 limited-profit housing sponsors, nonprofit corporations, or  
3 other legal entities or any combination thereof of entities  
4 that are:

5 (a) approved by the board authority;

6 (b) qualified either to own, construct, acquire,  
7 rehabilitate, operate, manage, or maintain a housing  
8 development;

9 (c) subject to the rules of the board authority and  
10 other terms and conditions set forth in this part.

11 (11) "Lending institution" means any public or private  
12 entity or governmental agency approved by the board  
13 authority maintaining an office in this state and authorized  
14 by law to make or participate in making residential  
15 mortgages in the state.

16 (12) "Limited-profit housing sponsor" means a  
17 corporation, trust, partnership, association, other entity,  
18 or an individual restricted as to distribution of income and  
19 regulated as to rents, charges, rate of return, and methods  
20 of operation as the board authority determines necessary to  
21 carry out this part.

22 (13) "Mortgage" means a mortgage deed, deed of trust, or  
23 other instrument ~~which shall constitute~~ that constitutes a  
24 valid lien on real property in fee simple or on a leasehold  
25 under a lease having a remaining term at the time the

1 mortgage is acquired, which does not expire for at least  
2 that number of years beyond the maturity date of the  
3 obligation secured by the mortgage established by the board  
4 authority as necessary to protect its interest as mortgagee.

5 (14) "Mortgage loan" means an interest-bearing  
6 obligation secured by a mortgage on land and improvements in  
7 the state.

8 (15) "Nonprofit housing sponsor" means a housing  
9 cooperative formed under Title 35, chapter 15, or a  
10 nonprofit corporation formed under Title 35, chapter 2,  
11 restricted as to distribution of income and regulated as to  
12 rents, charges, rate of return, and methods of operation as  
13 the board authority determines necessary, and whose articles  
14 of incorporation provide in addition that:

15 (a) the organization has been organized exclusively to  
16 provide housing developments for persons and families of  
17 lower income;

18 (b) all the income and earnings of the organization  
19 ~~shall~~ must be used exclusively for housing development  
20 purposes and ~~no a~~ part of the net income or net earnings of  
21 the organization ~~shall~~ may not inure to the benefit or  
22 profit of any private individual, firm, corporation,  
23 partnership, or association;

24 (c) the organization is ~~in-no-manner~~ not controlled or  
25 under the direction or acting in the substantial interest of

1 any private individual, firm, partnership, or association  
2 seeking to derive profit or gain ~~therefrom~~ from the  
3 organization or seeking to eliminate or minimize losses in  
4 any transactions ~~therewith~~ with the organization, except  
5 that the limitations ~~shall~~ apply to members of a cooperative  
6 only to the extent provided by rules of the board authority;

7 (d) the operations of the organization may be  
8 supervised by the board authority and the organization will  
9 enter into agreements with the board authority to regulate  
10 planning, development, and management of any housing  
11 development undertaken by the organization and the  
12 disposition of the property or other interests of the  
13 organization.

14 (16) "Persons and families of lower income" means  
15 persons and families with insufficient personal or family  
16 income or other financial resources who require assistance  
17 under this part, as determined by the board authority,  
18 taking into consideration:

19 (a) the amount of the total personal and family income,  
20 assets, and other financial resources available for housing  
21 needs;

22 (b) the size of the family;

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

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

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

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

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

**Section 8.** Section 90-6-104, MCA, is amended to read:

"90-6-104. General powers of the board authority. The board authority may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this part, including rules concerning its mortgage, construction, and temporary lending programs;

(4) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under this part;

(5) enter into agreements or other transactions with any federal, state, or local governmental agency, any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out this part;

(6) enter into agreements under its rules with sponsors, mortgagors, or lending institutions for the purpose of regulating the analysis, planning, development, and management of housing developments financed in whole or in part by the proceeds of its loans or securities and mortgage purchase programs;

(7) enter into agreements or other transactions with, and accept grants and the cooperation of, any governmental agency in furtherance of this part, including but not limited to the development, leasing, maintenance, operation, and financing of any housing development;

(8) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them in carrying out this part;

(9) acquire real or personal property or any right, interest, or easement therein in property by gift, purchase, transfer, foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose thereof of property; hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its

1 control or custody; release or relinquish any right, title,  
 2 claim, interest, easement, or demand, however acquired,  
 3 including any equity or right of redemption; do any of the  
 4 foregoing by public or private sale, with or without public  
 5 bidding; commence any action to protect or enforce any right  
 6 conferred upon it by any law, mortgage, contract, or other  
 7 agreement; bid for and purchase property at any foreclosure  
 8 or other sale or acquire or take possession of it in lieu of  
 9 foreclosure; and operate, manage, lease, dispose of, and  
 10 otherwise deal with such the property in any manner  
 11 necessary or desirable to protect its interests and the  
 12 holders of its bonds or notes and consistent with any  
 13 agreement with such the holders;

14 (10) service and contract and pay for the servicing of  
 15 loans;

16 (11) provide general technical services in the analysis,  
 17 planning, design, processing, construction, rehabilitation,  
 18 and management of housing developments for persons and  
 19 families of lower income where these services are not  
 20 otherwise available;

21 (12) provide general consultative services to housing  
 22 developments for persons and families of lower income and  
 23 the residents thereof of housing developments with respect  
 24 to counseling and training in management, home ownership,  
 25 and maintenance where these services are not otherwise

1 available;

2 (13) invest any funds not required for immediate use,  
 3 subject to any agreements with its bondholders and  
 4 noteholders, as provided in Title 17, chapter 6, except all  
 5 investment income from funds of the board authority less the  
 6 cost for investment as prescribed by law must be deposited  
 7 in the housing authority enterprise fund;

8 (14) sell its loans or securities to the federal  
 9 national mortgage association or any other agency or  
 10 instrumentality of the United States and invest in the  
 11 capital stock issued by the association or other agency or  
 12 instrumentality to the extent, if any, required as a  
 13 condition of the sale;

14 (15) consent, whenever it considers it necessary or  
 15 desirable in fulfilling its purposes, to the modification of  
 16 the rate of interest, time, and payment of any installment  
 17 of principal or interest, security, or any other term of any  
 18 contract, mortgage, mortgage loan, mortgage loan commitment,  
 19 construction loan, advance contract, or agreement of any  
 20 kind, subject to any agreement with bondholders and  
 21 noteholders;

22 (16) collect reasonable interest, fees, and charges in  
 23 connection with making and servicing its loans, notes,  
 24 bonds, commitments, and other evidences of indebtedness and  
 25 in connection with providing technical, consultative, and

project assistance services. Interest fees and charges are limited to the amounts required to pay the costs of the board authority, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(17) procure insurance against any loss in connection with its mortgages and mortgage loans and other assets or property in amounts and from insurers as the board authority considers desirable or necessary;

(18) act as agent for governmental agencies concerning acquisition, construction, leasing, operation, or management of a housing development;

(19) issue notes and bonds and replace lost, destroyed, or mutilated notes and bonds; and

(20) develop special programs for housing developments for veterans of the armed forces of the United States who are unable to acquire safe and sanitary housing through lending institutions by conventional means."

**Section 9.** Section 90-6-105, MCA, is amended to read:

"90-6-105. Meetings and acts of the board authority.

(1) All meetings of the board authority are open to the public.

(2) All official acts of the ~~board-shall~~ authority must be in a regular or special meeting and by a majority of the board authority.

(3) All rules adopted by the ~~board-shall~~ authority must be in accordance with the Montana Administrative Procedure Act."

**Section 10.** Section 90-6-106, MCA, is amended to read:

"90-6-106. Adoption of rules. (1) The board authority shall adopt rules respecting the regulation of borrowers, the admission of occupants in housing developments, the construction of ancillary facilities, and requirements or restrictions necessary to implement this part.

(2) The board authority shall adopt rules for the:

(a) organization, approval, standards, and regulation of housing sponsors and eligible recipients;

(b) approval, standards, and regulation of lending institutions under this part;

(c) assessment, collection, and payment of all fees and charges in connection with making, purchasing, and servicing of its bonds and notes, mortgage lending, construction lending, temporary lending, and security purchase programs;

(d) assessment and collection of fees and charges in connection with its technical, consultative, and project assistance activities;

(e) determination and regulation of mortgagor and lending institution and their use of funds under this part, sponsor and mortgagor equity definitions and limitations, and housing development costs;



(f) percentage of housing units or housing developments assisted under this part that are reserved for lower income persons and families and which allows for an economic mixture of residents."

**Section 11.** Section 90-6-107, MCA, is amended to read:

"90-6-107. Deposit and expenditure of funds. (1) There is a housing authority enterprise fund in the proprietary fund type as provided for in 17-2-102(1)(b). All funds from the proceeds of bonds issued under this part, fees, and other moneys money received by the board authority, moneys money appropriated by the legislature for the use of the board authority in carrying out this part, and moneys money made available from any other source for the use of the board ~~shall~~ authority must be deposited in the housing authority enterprise fund except where otherwise provided by law. All funds deposited in the housing authority enterprise fund, except funds appropriated by the legislature for use of the board authority in payment of expenses incurred in carrying out this part, are continuously statutorily appropriated, as provided in 17-7-502, to and may be expended by the board authority for the purposes authorized in this part.

(2) There is a capital reserve account in the housing authority enterprise fund provided for in subsection (1). The capital reserve account consists of the aggregate of

moneys money retained by the board authority under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119 for each bond issue sold by the board authority.

(3) Funds appropriated by the legislature for use of the board authority in payment of expenses incurred in carrying out this part ~~shall~~ must be deposited in the housing authority enterprise fund. Funds expended by the board authority under this subsection ~~shall~~ must be repaid by the board authority from the fees and charges collected under this part and from any other moneys money available for such repayment in accordance with this part."

**Section 12.** Section 90-6-108, MCA, is amended to read:

"90-6-108. Financing programs of the board authority.

The board authority may:

(1) make loans to lending institutions under terms and conditions adopted by the board authority requiring the proceeds to be used by the lending institution for the making of mortgage loans for housing developments in the state for persons and families of lower income;

(2) invest in, purchase or make commitments to purchase, and take assignments from lending institutions of notes, mortgages, and other securities evidencing loans for the construction, rehabilitation, purchase, leasing, or refinancing of housing developments for persons and families

1 of lower income in this state, under terms and conditions  
2 adopted by the board authority;

3 (3) make, undertake commitments to make, and  
4 participate in the making of mortgage loans, including  
5 federally insured mortgage loans, and make temporary loans  
6 and advances in anticipation of permanent mortgage loans to  
7 housing sponsors to finance the construction or  
8 rehabilitation of housing developments designed and planned  
9 for occupancy by persons and families of lower income in  
10 this state, under terms and conditions adopted by the board  
11 authority;

12 (4) make, undertake commitments to make, and  
13 participate in the making of loans to persons and families  
14 of lower income for housing development under terms and  
15 conditions adopted by the board authority, including without  
16 limitation persons and families of lower income who are  
17 eligible or potentially eligible for federally insured  
18 loans, federal mortgages, or other federal housing  
19 assistance, when the board authority determines that  
20 mortgage loans are not otherwise available, wholly or in  
21 part, from private lenders upon reasonably equivalent terms  
22 and conditions;

23 (5) require that loans made to or securities issued by  
24 lending institutions ~~shall-be~~ are additionally secured as to  
25 payment of principal and interest by a pledge of and a lien

1 upon collateral security in amounts and consisting of  
2 obligations and securities as the board authority determines  
3 necessary to assure prompt payment of loans and interest.  
4 Collateral may be required to be lodged with a bank or trust  
5 company designated by the board authority as custodian, or  
6 the board authority may enter into an agreement with the  
7 lending institution requiring it to identify and maintain  
8 and service the collateral and the income ~~therefrom~~ from the collateral  
9 in accordance with the agreement. A copy  
10 of each agreement and any revisions or supplements thereto  
11 ~~shall to the agreement must~~ be filed with the secretary of  
12 state, and no a further filing or other action under the  
13 Uniform Commercial Code or any other law ~~shall-be~~ is not  
14 required to perfect the security interest of the board  
15 authority in the collateral or in any additions or  
16 substitutions. The lien and trust is binding from the time  
17 it is made against all parties having claims of any kind in  
18 tort, contract, or otherwise against the lending  
19 institution."

20 **Section 13.** Section 90-6-109, MCA, is amended to read:

21 "90-6-109. Procedure prior to financing of housing  
22 developments. (1) The board authority may finance housing  
23 developments under this part only when the board authority  
24 finds that:

25 (a) there exists a shortage of decent, safe, and

1 sanitary housing at rentals or prices which persons and  
 2 families of lower income can afford within the general  
 3 housing market area to be served by the proposed housing  
 4 development;

5 (b) private enterprise has not provided an adequate  
 6 supply of decent, safe, and sanitary housing in the housing  
 7 market area at rentals or prices which persons or families  
 8 of lower income can afford or provided sufficient mortgage  
 9 financing for housing developments for occupancy by persons  
 10 or families of lower income;

11 (c) the housing sponsor undertaking the proposed  
 12 housing development in this state will supply well planned,  
 13 well designed housing, and such the sponsors are financially  
 14 responsible;

15 (d) the housing development to be assisted under this  
 16 part will be of public use and will provide a public  
 17 benefit, taking into account the existence of local  
 18 government comprehensive plans, housing and land use plans  
 19 and regulations, areawide plans, and other public desires;

20 (e) the housing development does not involve the  
 21 construction of second homes (for purposes of this paragraph  
 22 subsection (e), "second home" means a home which would not  
 23 qualify as the primary residence of the taxpayer for federal  
 24 income tax purposes relating to capital gains on the sale or  
 25 exchange of residential property); and

1 (f) as to direct loans it is necessary to qualify for  
 2 federal funds.

3 (2) The findings required under subsection (1) must be  
 4 made after a public hearing whenever the financing of  
 5 housing relates to a development for rental units owned by a  
 6 for-profit housing sponsor. The board authority shall  
 7 conduct the hearing unless it directs the governing body of  
 8 the local government in which the proposed housing  
 9 development is to be located to conduct the hearing."

10 **Section 14.** Section 90-6-110, MCA, is amended to read:

11 "90-6-110. Supervision of housing sponsors. (1) The  
 12 board authority may supervise housing sponsors of housing  
 13 developments financed under this part as follows:

14 (a) prescribe uniform systems of accounts and records  
 15 for housing sponsors and require them to make reports and  
 16 give answers to specific questions on forms and at times  
 17 specified by the board authority;

18 (b) enter upon and inspect the housing development and  
 19 examine all books and records of the housing sponsor with  
 20 respect to capitalization, income, and other matters as  
 21 specified by the board authority;

22 (c) supervise the operation and maintenance of any  
 23 housing development and order repairs necessary to protect  
 24 the public and the board's authority's interest or the  
 25 health, welfare, or safety of the occupants;

(d) determine standards for and control resident selection by a housing sponsor;

(e) require any housing sponsor to pay to the board authority fees as it prescribes in connection with the examination, inspection, supervision, auditing, or other regulation of the housing sponsor;

(f) order any housing sponsor to do or to refrain from doing things necessary to comply with the provisions of law, the rules of the board authority, and the terms of any contract or agreement to which the housing sponsor is a party;

(g) regulate the retirement of any capital investment or the redemption of stock where--any-such in which the retirement or redemption when added to any dividend or other distribution ~~shall~~ would exceed in any one 1 fiscal year 10% or a lesser amount of the original face amount of any investment or equity of any housing sponsor, as determined by the board authority; and

(h) adopt rules specifying the categories of cost which ~~shall--be~~ that are allowable in the construction or rehabilitation of a housing development.

(2) The board authority shall require any housing sponsor to certify the actual housing development costs prior to periodic payments or upon completion of the housing development, subject to audit and determination by the board

authority. The board authority may accept, in lieu of any certification of housing development costs, other assurances of the housing development costs, in any form or manner whatsoever, as will enable the board authority to determine with reasonable accuracy the amount of housing development costs."

**Section 15.** Section 90-6-111, MCA, is amended to read:

"90-6-111. Bonds and notes. (1) The board authority may by resolution, from time to time, issue negotiable notes and bonds in a principal amount as the board authority determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119, and all other expenditures of the board authority incident to and necessary or convenient to carry out this part.

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

(3) Except as otherwise expressly provided by

1 resolution of the board authority, every issue of its notes  
 2 and bonds ~~shall be obligations~~ is an obligation of the board  
 3 authority payable out of any revenues revenue, assets, or  
 4 moneys money of the board authority, subject only to  
 5 agreements with the holders of particular notes or bonds  
 6 pledging particular revenues revenue, assets, or moneys  
 7 money.

8 (4) The notes and bonds ~~shall~~ must be authorized by  
 9 resolutions of the board authority, ~~shall~~ must bear a date,  
 10 and ~~shall~~ must mature at times as the resolutions provide. A  
 11 note ~~shall~~ may not mature more than 10 years and a bond  
 12 ~~shall~~ may not mature more than 50 years from the date of its  
 13 issue. The bonds may be issued as serial bonds payable in  
 14 annual installments or as term bonds or as a combination  
 15 thereof of serial and term bonds. The notes and bonds ~~shall~~  
 16 must bear interest at a rate or rates, be in denominations,  
 17 be in a form, either coupon or registered, carry  
 18 registration privileges, be executed in a manner, be payable  
 19 in a medium of payment, at places within or without outside  
 20 the state, and be subject to terms of redemption as provided  
 21 in resolutions. The board authority shall designate whether  
 22 interest payments on the bonds are taxable or tax exempt.  
 23 The notes and bonds of the board authority may be sold at  
 24 public or private sale at such prices, which may be above or  
 25 below par, as are determined by the board authority.

1 (5) The total amount of notes and bonds outstanding at  
 2 any time, except notes or bonds as to which the board's  
 3 authority's obligation has been satisfied and discharged by  
 4 refunding or for which reserve for payment or other means of  
 5 payment have been otherwise provided, may not exceed \$975  
 6 million. The issue price of bonds sold at a discount, not  
 7 the face amount of the bonds, counts against this statutory  
 8 ceiling."

9 **Section 16.** Section 90-6-112, MCA, is amended to read:

10 "90-6-112. Provision of bond resolutions. A resolution  
 11 authorizing any notes or bonds, or any issue thereof of  
 12 notes or bonds, may contain provisions, which ~~shall~~ must be  
 13 a part of the contract or contracts with the holders  
 14 thereof, as to:

15 (1) pledging all or any part of the revenues or  
 16 property of the board authority to secure the payment of the  
 17 notes or bonds or of any issue thereof of notes or bonds,  
 18 subject to existing agreements with noteholders or  
 19 bondholders;

20 (2) pledging all or any part of the assets of the board  
 21 authority, including mortgages and obligations securing  
 22 them, to secure the payment of the notes or bonds or of any  
 23 issue thereof of notes or bonds, subject to existing  
 24 agreements with noteholders or bondholders;

25 (3) the use and disposition of the gross income from

1 mortgages owned by the board authority and payment of  
2 principal of mortgages owned by the board authority;

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

6 (5) limitations on the purpose to which the proceeds of  
7 sale of notes or bonds may be applied and the pledge of the  
8 proceeds to secure the payment of the notes or bonds or of  
9 any issue thereof of notes or bonds;

10 (6) limitations on the issuance of additional notes or  
11 bonds, the terms upon which additional notes or bonds may be  
12 issued and secured, and the refunding of outstanding notes  
13 or bonds;

14 (7) the procedure, if any, by which the terms of any  
15 contract with noteholders or bondholders may be amended or  
16 abrogated, the amount of notes or bonds the holders of which  
17 must consent thereto to the amendment or abrogation, and the  
18 manner in which such consent may be given;

19 (8) a commitment to employ adequate and competent  
20 personnel at such reasonable compensation, salaries, fees,  
21 and charges as may be determined by the board authority in  
22 conjunction with the department of commerce and to maintain  
23 suitable facilities and services for the purpose of carrying  
24 out its programs;

25 (9) vesting in a trustee property, rights, powers, and

1 duties in trust as the board authority determines;

2 (10) defining the acts or omissions to act ~~which-shall~~  
3 that constitute a default in the obligations and duties of  
4 the board authority to the holders of the notes or bonds and  
5 providing for the rights and remedies of the holders of the  
6 notes or bonds in the event of such default, including as a  
7 matter of right the appointment of a receiver. Rights and  
8 remedies ~~shall~~ may not be inconsistent with the laws of the  
9 state and the other provisions of this part; and

10 (11) any other matters of like or different character  
11 which in any way affect the security or protection of the  
12 holders of the notes or bonds."

13 **Section 17.** Section 90-6-113, MCA, is amended to read:

14 "90-6-113. Validity of pledge. Any pledge made by the  
15 ~~board-shall-be~~ authority is valid and binding from the time  
16 the pledge is made. The revenues ~~revenue~~, moneys ~~money~~, or  
17 property pledged and thereafter received by the board--~~shall~~  
18 authority is immediately be subject to the lien of the  
19 pledge without any physical delivery thereof or further act.  
20 The lien of any pledge ~~shall-be~~ is valid and binding against  
21 all parties having claims of any kind in tort, contract, or  
22 otherwise against the board authority, irrespective of  
23 whether such the parties have notice thereof of the lien.  
24 Neither the resolution nor any other instrument by which a  
25 pledge is created need be recorded."

**Section 18.** Section 90-6-114, MCA, is amended to read:

"90-6-114. **Personal liability.** The board authority members and employees of the department are not personally liable or accountable by reason of the issuance of or on any bond or note issued by the board authority."

**Section 19.** Section 90-6-115, MCA, is amended to read:

"90-6-115. **Purchase of notes and bonds -- cancellation.** The board authority, subject to existing agreements with noteholders or bondholders, may, out of any funds available for that reason, purchase notes or bonds of the board authority, which ~~shall thereupon must~~ be cancelled, at a price not exceeding:

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

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

**Section 20.** Section 90-6-116, MCA, is amended to read:

"90-6-116. **Trust indenture.** (1) In the discretion of the board authority, the bonds may be secured by a trust indenture between the board authority and a corporate trustee, which may be a trust company or bank having the power of a trust company within or ~~without~~ outside the

state. A trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders which that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board authority in relation to the exercise of its powers and the custody, safeguarding, and application of all money. The board authority may provide by a trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers necessary.

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

**Section 21.** Section 90-6-117, MCA, is amended to read:

"90-6-117. **Negotiability of bonds.** Notes and bonds issued by the board authority are negotiable instruments under the Uniform Commercial Code, subject only to the provisions for registration of notes and bonds."

**Section 22.** Section 90-6-118, MCA, is amended to read:

"90-6-118. **Signatures of board members.** In case any of the board authority members whose signatures appear on notes or bonds or coupons cease to be members before the delivery of the notes or bonds, their signatures ~~shall nevertheless~~ be ~~are~~ valid and sufficient for all purposes, ~~the same as if~~

the members had remained in office until delivery."

**Section 23.** Section 90-6-119, MCA, is amended to read:

"90-6-119. Reserve funds and appropriations. (1) The board authority shall pay into the capital reserve account:

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

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

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

(2) All funds held in the capital reserve account ~~shall~~ must be used solely for the payment of the principal of bonds secured in whole or in part by the account or of the debt service payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account ~~shall~~ may not be withdrawn at any time in an amount which reduces the amount of the account to less than the sum of minimum capital reserve requirements established for the account, except, with respect to bonds secured in whole or in part by the account, for the purpose of making payment, when due, of principal,

interest, redemption premiums, and debt service payments for the payment of which other moneys pledged are not available. Any income or interest earned by or incremental to the capital reserve account due to its investment may be transferred to other accounts of the board authority to the extent it does not reduce the amount of the capital reserve account below the sum of minimum capital reserve requirements for the account.

(3) The board authority may not issue bonds secured in whole or in part by the capital reserve account unless the board authority deposits in the account from the proceeds of the bonds issued or from any other sources an amount not less than the minimum capital reserve requirement for these bonds. For the purposes of this section, the term "minimum capital reserve requirement" means, as of any particular date of computation, an amount of money, as provided in the resolution or indenture of the board authority authorizing the bonds or notes, equal to not more than the greatest of the respective amounts for the current or any future fiscal year of the board authority of annual debt service on the bonds of the board authority secured in whole or in part by the account. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all interest and principal payable on the bonds during the fiscal year, calculated on the assumption that all the bonds are paid at



maturity. If any amount of the bonds is required to be redeemed on an earlier date by the operation of a debt service fund, then that amount is considered payable on those bonds during the year they are to be redeemed for the purposes of this calculation.

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

**Section 24.** Section 90-6-120, MCA, is amended to read:

"90-6-120. Maintenance of capital reserve account. (1) In order to assure the maintenance of the capital reserve account, the chairman presiding officer of the board authority shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the minimum capital reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the sum of minimum capital reserve requirements. All sums appropriated by the legislature ~~shall~~ must be deposited in the capital reserve account.

(2) All amounts appropriated to the board authority by

the legislature under this section constitute advances to the board authority and, subject to the rights of the holders of any bonds or notes of the board authority, ~~shall~~ must be repaid to the state's general fund without interest from available operating revenues of the board authority in excess of amounts required for the payment of bonds, notes, or other obligations of the board authority, for maintenance of the capital reserve account, and for operating expenses."

**Section 25.** Section 90-6-121, MCA, is amended to read:

"90-6-121. Refunding obligations -- issuance. The board authority may provide for the issuance of refunding obligations for refunding any obligations then outstanding ~~which that~~ have been issued under this part, 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 obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the board authority are governed by the appropriate provisions of this part which relate to the issuance of obligations."

**Section 26.** Section 90-6-123, MCA, is amended to read:

"90-6-123. Credit of state not pledged. Obligations issued under the provisions of this part do not constitute a debt or liability or obligation or a pledge of the faith and credit of the state but are payable solely from the revenues

or assets of the board authority. An obligation issued under this part ~~shall~~ must contain on the face thereof of the obligation a statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt of the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the obligation."

**Section 27.** Section 90-6-124, MCA, is amended to read:

"90-6-124. Annual audit. (1) There ~~shall~~ must be an audit of the board's authority's books and records at least once each fiscal year.

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

**Section 28.** Section 90-6-125, MCA, is amended to read:

"90-6-125. Tax exemption of bonds. Bonds, notes, or other obligations issued by the board authority under this part or by local housing authorities under Title 7, chapter 15, parts 21, 44, and 45, their transfer, and their income (including any profits made on their sale) ~~shall be~~ are free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance, estate, and gift taxes. The board authority is not required to pay recording or transfer fees or taxes on instruments recorded by it."

**Section 29.** Section 90-6-126, MCA, is amended to read:

"90-6-126. 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 board authority and the holders of notes and bonds issued by the board authority, including but not limited to an agreement to administer a loan program financed by the issuance of bonds and to employ a staff sufficient and competent for this purpose."

**Section 30.** Section 90-6-127, MCA, is amended to read:

"90-6-127. Allocation of state limit. (1) All of the aggregate amount of qualified mortgage bonds that may be issued during any calendar year in accordance with Section 103A(g) of the Internal Revenue Code of 1954, as amended is allocated to the board-of-housing authority.

(2) The board-of-housing authority may adopt standards for determining and may designate areas of chronic economic distress within the meaning of Section 103A(g) of the Internal Revenue Code of 1954, as amended."

**Section 31.** Section 90-7-102, MCA, is amended to read:

"90-7-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana-health-facility state revenue bond authority created in 2-15-1815 [section 3 2].

(2) "Capital reserve account" means the account established in 90-7-317.

(3) "Costs" means costs allowed under 90-7-103.

(4) "Health facility" means any facility provided for in 90-7-104.

(5) "Health institution" means any public or private nonprofit hospital, corporation, or other organization authorized to provide or operate a health facility in this state.

(6) "Participating health institution" means a health institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to the provisions of this chapter.

(7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of such the facilities."

**Section 32.** Section 90-7-201, MCA, is amended to read:

"90-7-201. Authority -- quorum--- mode of action -- expenses. ~~{1}--Four--members--of-the-authority-constitute-a quorum-for-the-purpose-of-conducting-business--Action-may-be taken-by-the-authority-upon-the-affirmative-vote-of-at-least four-of-its-members--No-vacancy-in--the--membership--of--the authority--impairs-the-right-of-a-quorum-to-exercise-all-the~~

~~rights-and-perform-all-the-duties-of-the-authority.~~

~~{2}--Each-meeting-of-the-authority-for-any-purpose--must be--open--to--the--public--Notice--of--meetings--must-be-as provided-in-the-bylaws-of-the--authority--Resolutions--need not-be-published-or-posted;~~

~~{3}--Each-member-is-entitled-to-be-paid-\$50-for-each-day he-is-actually-and-necessarily-engaged-in-the-performance-of board--duties--plus--cost--of--travel--lodging--and-meals-as provided-in-2-18-501-through--2-18-503. The provisions of 90-6-105 apply to the authority when acting pursuant to this chapter.~~"

**Section 33.** Section 90-7-202, MCA, is amended to read:

"90-7-202. Powers of authority. The Pursuant to this chapter, the authority may:

(1) sue and be sued;

(2) have a seal;

(3) adopt all procedural and substantive rules necessary for the administration of this chapter;

(4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or refunding bonds;

(5) invest any funds obtained from the issuance of bonds and notes which are not required for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except that

1 all investment income from funds invested by the authority,  
2 less the cost for investment, must be deposited in an  
3 enterprise fund to the credit of the authority;

4 (6) contract in its own name for the investment of  
5 funds, borrowing of funds, or any other purposes it  
6 considers appropriate to carry out the purposes of this  
7 chapter;

8 (7) participate with any financial institution in the  
9 purchase or guarantee of any loan or obligation;

10 (8) issue bond anticipation notes or any other  
11 anticipatory financial obligations to secure funding of  
12 eligible facilities;

13 (9) enter into agreements or make advance commitments  
14 to insure repayments required by loan agreements made by a  
15 lender. Such The agreements are subject to terms and  
16 conditions established by the authority.

17 (10) sell, purchase, or insure loans to finance the  
18 costs of eligible facilities;

19 (11) accept gifts, grants, or loans from a federal  
20 agency, an agency or instrumentality of the state, a  
21 municipality, or any other source;

22 (12) enter into contracts or other transactions with a  
23 federal agency, an agency or instrumentality of the state, a  
24 municipality, a private organization, or any other entity  
25 consistent with the exercise of any power under this

1 chapter;

2 (13) with regard to property:

3 (a) acquire real or personal property or any right,  
4 interest, or easement therein in the property by gift,  
5 purchase, transfer, foreclosure, lease, or otherwise;

6 (b) hold, sell, assign, lease, encumber, mortgage, or  
7 otherwise dispose thereof of property;

8 (c) hold, sell, assign, or otherwise dispose of any  
9 mortgage or loan owned by it or in its control or custody;

10 (d) release or relinquish any right, title, claim,  
11 interest, easement, or demand, however acquired, including  
12 any equity or right of redemption;

13 (e) make any disposition by public or private sale,  
14 with or without public bidding;

15 (f) commence any action to protect or enforce any right  
16 conferred upon it by any law, mortgage, contract, or other  
17 agreement;

18 (g) bid for and purchase property at any foreclosure or  
19 other sale or acquire or take possession of it in lieu of  
20 foreclosure; and

21 (h) operate, manage, lease, dispose of, and otherwise  
22 deal with such the property in any manner necessary or  
23 desirable to protect its interests or the holders of its  
24 bonds or notes if such the action is consistent with any  
25 agreement with such the holders;

(14) service, contract, and pay for the servicing of loans;

(15) provide general technical services in the analysis, planning, design, processing, construction, rehabilitation, and management of eligible health facilities whenever considered appropriate;

(16) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the modification of the rate of interest, time, or payment of any installment of principal, interest, or security or any other term of any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and noteholders;

(17) collect reasonable interest, fees, and charges from participating institutions in connection with making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. The interest, fees, and charges ~~shall~~ must be deposited to an enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the amounts required to pay the costs of the authority, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(18) perform any other acts necessary and convenient to

carry out the purposes of this chapter."

**Section 34.** Section 90-7-220, MCA, is amended to read:

"90-7-220. Montana developmental center loan. (1) The department of corrections and human services may enter into a loan agreement with the Montana-health-facility authority for the purpose of financing the costs of acquiring, constructing, and equipping facilities for the developmentally disabled at the Montana developmental center in Boulder, including the establishment of reserves and the payment of costs of the financing. The maximum principal amount of the loan may not exceed \$8,665,000 for construction and related costs, plus the necessary amounts for capitalized interest, debt service reserves, and financing costs, and the loan must be payable over a term of not to exceed 30 years and must bear interest and contain other terms and provisions with respect to prepayment or otherwise as are not inconsistent with this section and as the department approves.

(2) The loan may be secured by a mortgage on the Montana developmental center facility, including the land on which it is located. The loan constitutes a special limited obligation of the department, and the principal and interest payments required by that agreement are payable solely from the facility revenues obtained by the department from the ownership and operation of and the provision of services at

1 the Montana developmental center, including payments or  
 2 reimbursements from private users, insurers, and the federal  
 3 government. All facility revenues obtained from services  
 4 provided by the Montana developmental center must be  
 5 deposited in a special revenue fund and must be applied to  
 6 the payment of the principal and interest payments as due  
 7 under the loan agreement. Principal and interest payments  
 8 constitute a statutory appropriation within the meaning of  
 9 17-7-502. Whenever the foregoing facility revenues exceed  
 10 the amount and terms specified and required to repay the  
 11 loan and maintain required reserves, the excess must be  
 12 deposited to the general fund. As long as the loan remains  
 13 outstanding and the department provides services for the  
 14 developmentally disabled, the department shall use the  
 15 Montana developmental center for those purposes or for other  
 16 purposes as permitted by the loan agreement and state law,  
 17 except when foreclosure occurs under the agreement or the  
 18 mortgage. Notwithstanding 77-2-302(1) and upon foreclosure  
 19 of a mortgage given to secure the loan agreement, there must  
 20 be paid to the board of land commissioners as a first and  
 21 prior claim against the mortgaged land an amount equal to  
 22 the full market value of the land as determined by the board  
 23 prior to the execution of the mortgage and after appraisal  
 24 by a qualified land appraiser. The loan agreement may  
 25 contain other provisions or agreements that the department

1 determines are necessary and that are not inconsistent with  
 2 the provisions of Title 90, chapter 7.

3 (3) The obligations of the department under the  
 4 agreement are special limited obligations payable solely  
 5 from the facility revenues and do not constitute a debt of  
 6 the state or obligate the state to appropriate or apply any  
 7 funds or revenues of the state, except the facility revenues  
 8 as provided in this section."

9 **Section 35.** Section 90-7-317, MCA, is amended to read:

10 "90-7-317. Capital reserve account. (1) There is a  
 11 capital reserve account in the enterprise fund provided-for  
 12 in 90-7-202(17).

13 (2) The authority shall deposit into the capital  
 14 reserve account:

15 (a) funds from state appropriations received for  
 16 deposit into the account, as provided in 90-7-319, for bonds  
 17 issued to finance capital projects for community health  
 18 facilities that contract with the state to provide health  
 19 care services;

20 (b) proceeds from the sale of bonds or notes to the  
 21 extent provided in the resolutions or indentures of the  
 22 authority authorizing their issuance;

23 (c) revenues from fees and charges imposed by the  
 24 authority;

25 (d) income from the investment of funds belonging to

1 the authority; and

2 (e) any other funds that may be available to the  
3 authority for the purpose of the account from any other  
4 source, including loans authorized under 90-7-320."

5 NEW SECTION. **Section 36.** Saving clause. [This act]  
6 does not affect rights and duties that matured, penalties  
7 that were incurred, or proceedings that were begun before  
8 [the effective date of this act].

9 NEW SECTION. **Section 37.** Repealer. Sections 2-15-1814,  
10 2-15-1815, and 90-7-203, MCA, are repealed.

11 NEW SECTION. **Section 38.** Codification instruction.  
12 [Section 3 2] is intended to be codified as an integral part  
13 of Title 2, chapter 15, part 18, and the provisions of Title  
14 2, chapter 15, part 18, apply to [section 3 2].

15 NEW SECTION. **Section 39.** Effective date. [This act] is  
16 effective July 1, 1993.

-End-

## 1 HOUSE BILL NO. 425

2 INTRODUCED BY KADAS, BARDANOUVE, ZOOK, R. JOHNSON, PECK,

3 T. NELSON, COBB, PAVLOVICH, JACOBSON, GRINDE, JERGESON

4 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

5 AND THE LEGISLATIVE FINANCE COMMITTEE

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT MERGING THE FUNCTIONS  
8 OF THE BOARD OF HOUSING AND THE HEALTH FACILITY AUTHORITY IN  
9 THE STATE REVENUE BOND AUTHORITY; PROVIDING NEW DUTIES FOR A  
10 REVISED BOARD OF HOUSING; ASSIGNING CERTAIN REVENUE BOND  
11 FUNCTIONS OF THE BOARD OF INVESTMENTS TO THE STATE REVENUE  
12 BOND AUTHORITY; CLARIFYING THE STATUTORY APPROPRIATION OF  
13 FUNDS; AMENDING SECTIONS 2-15-1808, 2-15-1814, 17-5-1302,  
14 17-5-1312, 17-5-1325, 17-5-1502, 17-5-1503, 17-5-1504,  
15 17-5-1505, 17-5-1506, 17-5-1507, 17-5-1508, 17-5-1509,  
16 17-5-1510, 17-5-1511, 17-5-1512, 17-5-1513, 17-5-1514,  
17 17-5-1515, 17-5-1516, 17-5-1517, 17-5-1518, 17-5-1521,  
18 17-5-1522, 17-5-1523, 17-5-1524, 17-5-1525, 17-5-1526,  
19 17-5-1527, 17-5-1528, 17-5-1529, 17-5-1604, 17-5-1605,  
20 17-5-1606, 17-5-1607, 17-5-1608, 17-5-1609, 17-5-1610,  
21 17-5-1611, 17-5-1621, 17-5-1622, 17-5-1623, 17-5-1624,  
22 17-5-1625, 17-5-1626, 17-5-1629, 17-5-1630, 17-5-1631,  
23 17-5-1641, 17-5-1642, 17-5-1643, 17-5-1644, 17-5-1645,  
24 17-5-1646, 17-5-1647, 17-5-1648, 17-5-1649, 17-5-1650,  
25 17-5-1651, 17-6-211, 17-7-502, 90-6-103, 90-6-104, 90-6-105,

House bill 425 was only amended on page 7. This amendment is attached. This bill will be reprinted on reference copy.



HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
House Bill 425  
Representative Kadas

February 20, 1993 9:10 am  
Page 1 of 1

Mr. Chairman: I move to amend House Bill 425 (second reading copy -- yellow).

Signed: Mike Kadas  
Representative Kadas

And, that such amendments to House Bill 425 read as follows:

1. Page 7, line 14.

Following: line 13

Insert: "(9) The authority is the successor in interest to the former board of housing and the former health facility authority."

-END-