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SENATE BILL NO. 87

INTRODUCED BY *[Signature]*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL FINANCE CONSOLIDATION ACT TO ALLOW THE STATE AND STATE ENTITIES TO PARTICIPATE IN THE ISSUANCE OF BONDS; AND AMENDING SECTIONS 17-5-1602, 17-5-1604, 17-5-1606, 17-5-1607, 17-5-1609, 17-5-1611, 17-5-1623, 17-5-1643, 17-5-1644, 17-5-1645, 17-5-1646, 17-5-1647, 17-5-1650, AND 17-5-1651, MCA."

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

**Section 1.** Section 17-5-1602, MCA, is amended to read:

**"17-5-1602. Policy and purpose.** (1) It is the policy of the state of Montana to:

(a) foster and promote, by all reasonable means, the provision of efficient capital markets and facilities for borrowing money by ~~counties, cities, towns, school districts, special taxing districts, and other public bodies~~ eligible government units to pay for capital improvements and other needs as otherwise authorized by law; and

(b) reduce, to the extent possible, costs of ~~local~~ public indebtedness to taxpayers and residents by affording public bodies an appropriate degree of flexibility and choice in the marketing of their debt securities so as to minimize marketing costs and interest rates.

(2) It is the purpose of this part to promote the policies stated in subsection (1) by:

(a) creating a means for ~~public bodies~~ eligible government units to pool, in effect, the debt instruments they are otherwise authorized to offer for sale to the investment community in order to obtain economies of scale and reduce marketing and interest costs; and

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**Section 2.** Section 17-5-1604, MCA, is amended to read:

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

(1) "Board" means the board of investments created in 2-15-1808.

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



1 (3) "~~Local~~ Eligible government unit" means:

2 (a) any municipal corporation or political subdivision of the state, including without limitation any  
3 city, town, county, school district, or other special taxing district, ~~an~~ or assessment or service district  
4 authorized by law to borrow money; or

5 (b) the state, any board, agency, or department of the state, or the board of regents of the Montana  
6 university system when authorized by law to borrow money.

7 (4) "Reserve fund" means the municipal finance consolidation act reserve fund created in  
8 17-5-1630."  
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10 **Section 3.** Section 17-5-1606, MCA, is amended to read:

11 "**17-5-1606. Bonds, bond anticipation notes, and notes of the board.** (1) The board may by  
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13 ~~local eligible~~ government units and its purchases of ~~their~~ eligible government unit bonds, registered  
14 warrants, and tax or revenue anticipation notes and other notes, to establish or replenish reserves securing  
15 the payment of its bonds and notes, and to finance all other expenditures of the board incident to and  
16 necessary or convenient to carry out this part.

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

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

19 (b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds,  
20 whether the bonds to be refunded have or have not matured; and

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

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

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

28 (5)(a) The notes and bonds must be authorized by resolutions of the board, ~~shall~~ must bear a date,  
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3 (ii) be in denominations;

4 (iii) be in a form, either coupon or registered;

5 (iv) carry registration privileges;

6 (v) be executed in a manner;

7 (vi) be payable in a medium of payment, at places inside or outside the state; and

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

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25 **Section 6.** Section 17-5-1611, MCA, is amended to read:

26 "**17-5-1611. Additional powers of the board.** In addition to all other powers conferred on the board  
27 by this part or any other law, the board has the power:

28 (1) to purchase or hold ~~municipal~~ eligible government unit bonds, bond anticipation notes,  
29 registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner that the  
30 board considers advisable;

- 1           (2) to sell ~~municipal~~ eligible government unit bonds, bond anticipation notes, registered warrants,  
 2 tax or revenue anticipation notes, or other notes acquired or held by it at prices without relation to cost and  
 3 in a manner that the board considers advisable;
- 4           (3) to invest funds or money acquired by the board as provided in 17-5-1641;
- 5           (4) with regard to an eligible local government unit, to:
- 6           (a) prescribe the form of application or procedure required ~~of a local government unit~~ for a loan or  
 7 purchase of ~~its municipal~~ eligible government unit bonds, bond anticipation notes, registered warrants, tax  
 8 or revenue anticipation notes, or other notes;
- 9           (b) fix the terms and conditions of the loan or purchase; and
- 10          (c) enter into agreements with ~~local~~ eligible government units with respect to loans or purchases;
- 11          (5) to render services to ~~local~~ eligible government units in connection with public or private sales  
 12 of their ~~municipal~~ bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes,  
 13 or other notes that are eligible for purchase by the board under this part, including advisory and other  
 14 services, and charge the ~~local~~ eligible government units for ~~such~~ the services;
- 15          (6) to charge for its costs and services in reviewing or acting upon a proposed loan to ~~a local~~ an  
 16 eligible government unit or a proposed purchase by the board of ~~municipal~~ bonds, bond anticipation notes,  
 17 registered warrants, tax or revenue anticipation notes, or other notes of the ~~local~~ eligible government unit,  
 18 whether or not the loan is made or the ~~municipal~~ bonds, bond anticipation notes, registered warrants, tax  
 19 or revenue anticipation notes, or other notes are purchased;
- 20          (7) to fix and establish terms, interest rates, and provisions with respect to a purchase of ~~municipal~~  
 21 eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation  
 22 notes, or other notes by the board, including:
- 23           (a) the date and maturities of the bonds, bond anticipation notes, registered warrants, tax or  
 24 revenue anticipation notes, or other notes;
- 25           (b) provisions as to redemption or payment before maturity; and
- 26           (c) any other matters judged by the board to be necessary, desirable, or advisable for the purchase  
 27 or loan;
- 28          (8) in connection with any loan to ~~a local~~ an eligible government unit or purchase of ~~municipal~~  
 29 bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes of  
 30 ~~a local~~ an eligible government unit, to consider:

- 1 (a) the lawfulness and validity of the purpose to be served by the loan or purchase;
- 2 (b) the ability of the ~~local~~ eligible government unit to secure borrowed money from other sources  
3 and the costs ~~thereof~~ of borrowing;
- 4 (c) the ability of the ~~local~~ eligible government unit to repay the loan, notes, or bonds;
- 5 (d) the priority of need for the particular public improvement or purpose to be financed; and
- 6 (e) varying the terms and conditions of its loans or purchases as between various ~~local~~ eligible  
7 government units in accordance with their respective priorities and credit worthiness;
- 8 (9) to conduct examinations and hearings and to hear testimony and take proof, under oath or  
9 affirmation, at public or private hearings, on any matter material to its information and necessary to carry  
10 out this part;
- 11 (10) to issue subpoenas requiring the attendance of witnesses and the production of books and  
12 papers pertinent to any hearing before the board;
- 13 (11) to appoint, employ, or contract for the services of officers, employees, agents, financial or  
14 professional advisers, and attorneys and to pay ~~such~~ compensation for their services as the board ~~may~~  
15 ~~determine~~ determines;
- 16 (12) to procure insurance against any losses in connection with its property, operations, or assets  
17 in ~~such~~ amounts and from ~~such~~ insurers as it considers desirable;
- 18 (13) to the extent permitted under its contracts with the holders of bonds or notes of the board,  
19 to consent to modification of the rate of interest, the time for payment of any installment of principal or  
20 interest, or the security for any other term of a bond, bond anticipation note, note, contract, or agreement  
21 of any kind to which the board is a party; and
- 22 (14) to do all acts and things necessary, convenient, or desirable to carry out the powers expressly  
23 granted or necessarily implied in this part."

24

25 **Section 7.** Section 17-5-1623, MCA, is amended to read:

26 "17-5-1623. **Nonimpairment by the state.** In accordance with the constitutions of the United States  
27 and the state of Montana, the state pledges that it will not in any way impair the obligations of any  
28 agreement between the board and a ~~local~~ an eligible government unit or between the board and the holders  
29 of notes and bonds issued by the board, including but not limited to an agreement to administer a loan  
30 program financed by the issuance of bonds and to employ a staff sufficient and competent for this

1 purpose."

2

3 **Section 8.** Section 17-5-1643, MCA, is amended to read:

4 **"17-5-1643. Sale or exchange of ~~municipal~~ securities.** (1) Notwithstanding any law applicable to  
5 or constituting any limitation on the maximum rate of interest per year payable on bonds or notes or to  
6 annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, ~~every~~  
7 ~~local~~ an eligible government unit is authorized to contract to pay interest on or an interest cost per year for  
8 money borrowed from the board and evidenced by ~~its municipal~~ the eligible government unit securities  
9 purchased by the board without regard to any statutory limitations as to rate of interest per year payable  
10 or as to annual interest cost to maturity of money borrowed by the ~~local~~ eligible government unit. ~~Every~~  
11 ~~local~~ An eligible government unit is authorized to contract with the board with respect to the loan or  
12 purchase, and the contract must contain the terms and conditions of ~~such~~ the loan or purchase. ~~Every local~~  
13 An eligible government unit is authorized to pay fees and charges required to be paid to the board for its  
14 services.

15 (2) Notwithstanding any law applicable to or constituting any limitation on the sale of bonds or  
16 notes except the limitation on amount of bonded indebtedness, ~~any local~~ an eligible government unit may  
17 sell bonds or notes to the board by private negotiated sale, without limitation as to denomination. The  
18 bonds or notes may be fully registered or registerable as to principal only or in bearer form or may bear  
19 interest at the rate or rates, all in accordance with this section. The bonds or notes may be evidenced in  
20 the manner and may contain other provisions not inconsistent with this part and may be sold to the board  
21 without advertisement at the price or prices as may be determined, all as provided in the proceedings of  
22 the governing body of the ~~local~~ eligible government unit pursuant to which the bonds or notes are  
23 authorized to be issued. The governing body of the ~~local~~ eligible government unit may provide for the  
24 exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and  
25 for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the  
26 manner provided in the proceedings authorizing their issuance. The bonds in changed form or  
27 denominations must be exchanged for the surrendered bonds in the same aggregate principal amounts and  
28 in ~~such a~~ a manner that no overlapping interest is paid and the bonds in changed form or denominations bear  
29 interest at the same rate or rates and mature on the same date or dates as the bonds for which they are  
30 exchanged. If any exchange is made under this subsection, the bonds surrendered by the holders at the

1 time of the exchange must be canceled. The exchange may be made only at the request of the holders of  
 2 the bonds to be surrendered. The ~~local~~ eligible government unit may require all expenses incurred in  
 3 connection with the exchange to be paid by the holders."

4

5 **Section 9.** Section 17-5-1644, MCA, is amended to read:

6 **"17-5-1644. Care and custody of bonds purchased by the board.** The board may:

7 (1) enter into agreements or contracts with a bank, trust company, or financial institution, inside  
 8 or outside the state, as may be necessary, desirable, or convenient, in the opinion of the board, for  
 9 rendering services in connection with:

10 (a) the care, custody, or safekeeping of ~~municipal~~ bonds or other investments held or owned by  
 11 the board pursuant to this part;

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

13 (c) the delivery to the board of ~~municipal~~ bonds or other investments purchased by it or sold by  
 14 it pursuant to this part;

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

16 (3) ~~also,~~ in connection with any of the services to be rendered by a bank, trust company, or  
 17 financial institution as to the custody and safekeeping of its ~~municipal~~ bonds or investments, require  
 18 security in the form of collateral bonds, surety agreements, or security agreements in ~~such a~~ form and  
 19 amount as, in the opinion of the board, is necessary or desirable."

20

21 **Section 10.** Section 17-5-1645, MCA, is amended to read:

22 **"17-5-1645. Insurance or guaranty.** The board may obtain, from a department or agency of the  
 23 United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest  
 24 or principal, or both, or any part of interest or principal on bonds or notes issued by the board or on  
 25 ~~municipal~~ bonds, bond anticipation notes, or notes of ~~local~~ eligible government units purchased or held by  
 26 the board."

27

28 **Section 11.** Section 17-5-1646, MCA, is amended to read:

29 **"17-5-1646. Default in payment.** If the board or ~~local~~ eligible government unit defaults in the  
 30 payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity

1 or upon call for redemption, and the default continues for 30 days; or if the board or ~~local~~ eligible  
2 government unit fails or refuses to comply with this part or defaults in an agreement made with the holders  
3 of an issue of notes or bonds, the holders of 25% of the aggregate principal amount of the outstanding  
4 notes or bonds of that issue have the right, upon proper application to a court of competent jurisdiction,  
5 to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in  
6 this part."

7

8 **Section 12.** Section 17-5-1647, MCA, is amended to read:

9 **"17-5-1647. Powers and duties of trustee on default.** (1) A trustee appointed under 17-5-1646  
10 may:

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

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

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

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

22 (e) declare all the notes or bonds due and payable and, if all defaults are made good, then, with  
23 the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the  
24 declaration and its consequences.

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

28 (3) Before declaring the principal of notes or bonds due and payable, the trustee ~~must~~ shall give  
29 30 days' notice in writing to the governor, the attorney general, and the board or ~~local~~ eligible government  
30 unit defaulting."



1           **Section 13.** Section 17-5-1650, MCA, is amended to read:

2           **"17-5-1650. Annual report.** By December 31 of each year, the board shall publish a financial report  
3 for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished  
4 by providing two copies to the office of the legislative fiscal analyst, two copies to the legislative council,  
5 and a copy to a legislator on request. The report must include a statement of the board's current financial  
6 position with respect to its activities under this part, a summary of its activities pursuant to this part during  
7 the previous year (including a listing of the ~~local~~ eligible governmental securities purchased by the board,  
8 a listing of the bonds and notes sold by the board, and a summary of the performance of any other  
9 investments of the board's funds received under this part), an estimate of the levels of activities for the  
10 next year, and a comparison of the activities during the previous year with the estimates of those activities  
11 that were made in the previous annual report."  
12

13           **Section 14.** Section 17-5-1651, MCA, is amended to read:

14           **"17-5-1651. Limitations on board's power.** Under this part the board may not:

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

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

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

24           (4) be or constitute a bank, banker, or dealer in securities within the meaning of or subject to the  
25 provisions of any securities, securities exchange, or securities dealers law of the United States or of this  
26 state or of any other state."  
27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0087, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to permit state agencies to participate in the Municipal Finance Consolidation Act, a program by which the Montana Board of Investments (board) issues bonds and uses the bond proceeds to make loans to eligible governmental entities.

ASSUMPTIONS:

1. Local government agencies and the Montana university system are currently eligible to borrow under this program.
2. State agencies would, if this bill is enacted, also be able to participate if they were authorized by law to borrow.

FISCAL IMPACT:

Expenditures:

1. Enactment of this bill would not increase the operating budget of the Montana Board of Investments because the number of anticipated loan requests by state agencies could be handled by existing staff and the board's trustee would handle all accounting for the loans.
2. Debt service expenses for state agencies participating in the program may be reduced if they can borrow from the board. A participating state agency would, at the time it needed to borrow funds, determine whether it was more economical to borrow from the board, or make other financial arrangements.

Revenues:

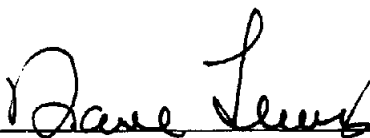
Depending upon the number of loans the board makes to eligible state agencies, board revenues may increase because the revenue received in this program is directly related to the number of outstanding loans. However, the actual number of outstanding loans to all participants in the program cannot be accurately estimated in advance.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

This bill would simply permit state agencies to participate in a well-established program in which local governments and the Montana university system are currently eligible to participate.

 1-14-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 1-16-95  
DELWYN GAGE, PRIMARY SPONSOR      DATE

Fiscal Note for SB0087, as introduced

**SB 87**

SENATE BILL NO. 87

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4 (iii) be in a form, either coupon or registered;

5 (iv) carry registration privileges;

6 (v) be executed in a manner;

7 (vi) be payable in a medium of payment, at places inside or outside the state; and

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26 "**17-5-1611. Additional powers of the board.** In addition to all other powers conferred on the board  
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28 (1) to purchase or hold ~~municipal~~ eligible government unit bonds, bond anticipation notes,  
29 registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner that the  
30 board considers advisable;

- 1           (2) to sell ~~municipal~~ eligible government unit bonds, bond anticipation notes, registered warrants,  
2 tax or revenue anticipation notes, or other notes acquired or held by it at prices without relation to cost and  
3 in a manner that the board considers advisable;
- 4           (3) to invest funds or money acquired by the board as provided in 17-5-1641;
- 5           (4) with regard to an eligible local government unit, to:
- 6           (a) prescribe the form of application or procedure required ~~of a local government unit~~ for a loan or  
7 purchase of ~~its municipal~~ eligible government unit bonds, bond anticipation notes, registered warrants, tax  
8 or revenue anticipation notes, or other notes;
- 9           (b) fix the terms and conditions of the loan or purchase; and
- 10          (c) enter into agreements with ~~local~~ eligible government units with respect to loans or purchases;
- 11          (5) to render services to ~~local~~ eligible government units in connection with public or private sales  
12 of their ~~municipal~~ bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes,  
13 or other notes that are eligible for purchase by the board under this part, including advisory and other  
14 services, and charge the ~~local~~ eligible government units for ~~such~~ the services;
- 15          (6) to charge for its costs and services in reviewing or acting upon a proposed loan to ~~a local an~~ an  
16 eligible government unit or a proposed purchase by the board of ~~municipal~~ bonds, bond anticipation notes,  
17 registered warrants, tax or revenue anticipation notes, or other notes of the ~~local~~ eligible government unit,  
18 whether or not the loan is made or the ~~municipal~~ bonds, bond anticipation notes, registered warrants, tax  
19 or revenue anticipation notes, or other notes are purchased;
- 20          (7) to fix and establish terms, interest rates, and provisions with respect to a purchase of ~~municipal~~  
21 eligible government unit bonds, bond anticipation notes, registered warrants, tax or revenue anticipation  
22 notes, or other notes by the board, including:
- 23           (a) the date and maturities of the bonds, bond anticipation notes, registered warrants, tax or  
24 revenue anticipation notes, or other notes;
- 25           (b) provisions as to redemption or payment before maturity; and
- 26           (c) any other matters judged by the board to be necessary, desirable, or advisable for the purchase  
27 or loan;
- 28          (8) in connection with any loan to ~~a local~~ an eligible government unit or purchase of ~~municipal~~  
29 bonds, bond anticipation notes, registered warrants, tax or revenue anticipation notes, or other notes of  
30 ~~a local~~ an eligible government unit, to consider:

- 1 (a) the lawfulness and validity of the purpose to be served by the loan or purchase;
- 2 (b) the ability of the ~~local~~ eligible government unit to secure borrowed money from other sources  
3 and the costs ~~thereof~~ of borrowing;
- 4 (c) the ability of the ~~local~~ eligible government unit to repay the loan, notes, or bonds;
- 5 (d) the priority of need for the particular public improvement or purpose to be financed; and
- 6 (e) varying the terms and conditions of its loans or purchases as between various ~~local~~ eligible  
7 government units in accordance with their respective priorities and credit worthiness;
- 8 (9) to conduct examinations and hearings and to hear testimony and take proof, under oath or  
9 affirmation, at public or private hearings, on any matter material to its information and necessary to carry  
10 out this part;
- 11 (10) to issue subpoenas requiring the attendance of witnesses and the production of books and  
12 papers pertinent to any hearing before the board;
- 13 (11) to appoint, employ, or contract for the services of officers, employees, agents, financial or  
14 professional advisers, and attorneys and to pay ~~such~~ compensation for their services as the board ~~may~~  
15 ~~determine~~ determines;
- 16 (12) to procure insurance against any losses in connection with its property, operations, or assets  
17 in ~~such~~ amounts and from ~~such~~ insurers as it considers desirable;
- 18 (13) to the extent permitted under its contracts with the holders of bonds or notes of the board,  
19 to consent to modification of the rate of interest, the time for payment of any installment of principal or  
20 interest, or the security for any other term of a bond, bond anticipation note, note, contract, or agreement  
21 of any kind to which the board is a party; and
- 22 (14) to do all acts and things necessary, convenient, or desirable to carry out the powers expressly  
23 granted or necessarily implied in this part."

24  
25 **Section 7.** Section 17-5-1623, MCA, is amended to read:

26 **"17-5-1623. Nonimpairment by the state.** In accordance with the constitutions of the United States  
27 and the state of Montana, the state pledges that it will not in any way impair the obligations of any  
28 agreement between the board and a ~~local~~ an eligible government unit or between the board and the holders  
29 of notes and bonds issued by the board, including but not limited to an agreement to administer a loan  
30 program financed by the issuance of bonds and to employ a staff sufficient and competent for this

1 purpose."

2

3 **Section 8.** Section 17-5-1643, MCA, is amended to read:

4 **"17-5-1643. Sale or exchange of ~~municipal~~ securities.** (1) Notwithstanding any law applicable to  
5 or constituting any limitation on the maximum rate of interest per year payable on bonds or notes or to  
6 annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, ~~every~~  
7 ~~local~~ an eligible government unit is authorized to contract to pay interest on or an interest cost per year for  
8 money borrowed from the board and evidenced by ~~its municipal~~ the eligible government unit securities  
9 purchased by the board without regard to any statutory limitations as to rate of interest per year payable  
10 or as to annual interest cost to maturity of money borrowed by the ~~local~~ eligible government unit. ~~Every local~~  
11 ~~local~~ An eligible government unit is authorized to contract with the board with respect to the loan or  
12 purchase, and the contract must contain the terms and conditions of ~~such~~ the loan or purchase. ~~Every local~~  
13 An eligible government unit is authorized to pay fees and charges required to be paid to the board for its  
14 services.

15 (2) Notwithstanding any law applicable to or constituting any limitation on the sale of bonds or  
16 notes except the limitation on amount of bonded indebtedness, ~~any local~~ an eligible government unit may  
17 sell bonds or notes to the board by private negotiated sale, without limitation as to denomination. The  
18 bonds or notes may be fully registered or registerable as to principal only or in bearer form or may bear  
19 interest at the rate or rates, all in accordance with this section. The bonds or notes may be evidenced in  
20 the manner and may contain other provisions not inconsistent with this part and may be sold to the board  
21 without advertisement at the price or prices as may be determined, all as provided in the proceedings of  
22 the governing body of the ~~local~~ eligible government unit pursuant to which the bonds or notes are  
23 authorized to be issued. The governing body of the ~~local~~ eligible government unit may provide for the  
24 exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and  
25 for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the  
26 manner provided in the proceedings authorizing their issuance. The bonds in changed form or  
27 denominations must be exchanged for the surrendered bonds in the same aggregate principal amounts and  
28 in ~~such~~ a manner that no overlapping interest is paid and the bonds in changed form or denominations bear  
29 interest at the same rate or rates and mature on the same date or dates as the bonds for which they are  
30 exchanged. If any exchange is made under this subsection, the bonds surrendered by the holders at the



1 time of the exchange must be canceled. The exchange may be made only at the request of the holders of  
 2 the bonds to be surrendered. The ~~local~~ eligible government unit may require all expenses incurred in  
 3 connection with the exchange to be paid by the holders."

4  
 5 **Section 9.** Section 17-5-1644, MCA, is amended to read:

6 "**17-5-1644. Care and custody of bonds purchased by the board.** The board may:

7 (1) enter into agreements or contracts with a bank, trust company, or financial institution, inside  
 8 or outside the state, as may be necessary, desirable, or convenient, in the opinion of the board, for  
 9 rendering services in connection with:

10 (a) the care, custody, or safekeeping of ~~municipal~~ bonds or other investments held or owned by  
 11 the board pursuant to this part;

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

13 (c) the delivery to the board of ~~municipal~~ bonds or other investments purchased by it or sold by  
 14 it pursuant to this part;

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

16 (3) ~~also~~, in connection with any of the services to be rendered by a bank, trust company, or  
 17 financial institution as to the custody and safekeeping of its ~~municipal~~ bonds or investments, require  
 18 security in the form of collateral bonds, surety agreements, or security agreements in ~~such a~~ form and  
 19 amount as, in the opinion of the board, is necessary or desirable."

20  
 21 **Section 10.** Section 17-5-1645, MCA, is amended to read:

22 "**17-5-1645. Insurance or guaranty.** The board may obtain, from a department or agency of the  
 23 United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest  
 24 or principal, or both, or any part of interest or principal on bonds or notes issued by the board or on  
 25 ~~municipal~~ bonds, bond anticipation notes, or notes of ~~local~~ eligible government units purchased or held by  
 26 the board."

27  
 28 **Section 11.** Section 17-5-1646, MCA, is amended to read:

29 "**17-5-1646. Default in payment.** If the board or ~~local~~ eligible government unit defaults in the  
 30 payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity

1 or upon call for redemption, and the default continues for 30 days, or if the board or ~~local~~ eligible  
 2 government unit fails or refuses to comply with this part or defaults in an agreement made with the holders  
 3 of an issue of notes or bonds, the holders of 25% of the aggregate principal amount of the outstanding  
 4 notes or bonds of that issue have the right, upon proper application to a court of competent jurisdiction,  
 5 to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in  
 6 this part."

7

8 **Section 12.** Section 17-5-1647, MCA, is amended to read:

9 **"17-5-1647. Powers and duties of trustee on default.** (1) A trustee appointed under 17-5-1646  
 10 may:

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

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

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

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

22 (e) declare all the notes or bonds due and payable and, if all defaults are made good, then, with  
 23 the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the  
 24 declaration and its consequences.

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

28 (3) Before declaring the principal of notes or bonds due and payable, the trustee ~~must~~ shall give  
 29 30 days' notice in writing to the governor, the attorney general, and the board or ~~local~~ eligible government  
 30 unit defaulting."

1           **Section 13.** Section 17-5-1650, MCA, is amended to read:

2           **"17-5-1650. Annual report.** By December 31 of each year, the board shall publish a financial report  
3 for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished  
4 by providing two copies to the office of the legislative fiscal analyst, two copies to the legislative council,  
5 and a copy to a legislator on request. The report must include a statement of the board's current financial  
6 position with respect to its activities under this part, a summary of its activities pursuant to this part during  
7 the previous year (including a listing of the ~~total~~ eligible governmental securities purchased by the board,  
8 a listing of the bonds and notes sold by the board, and a summary of the performance of any other  
9 investments of the board's funds received under this part), an estimate of the levels of activities for the  
10 next year, and a comparison of the activities during the previous year with the estimates of those activities  
11 that were made in the previous annual report."  
12

13           **Section 14.** Section 17-5-1651, MCA, is amended to read:

14           **"17-5-1651. Limitations on board's power.** Under this part the board may not:

15           (1) make loans of money to any person, firm, or corporation other than a ~~total~~ eligible  
16 government unit or purchase securities issued by any person, firm, or corporation other than a ~~total~~ an  
17 eligible government unit as provided in this part;

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

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

24           (4) be or constitute a bank, banker, or dealer in securities within the meaning of or subject to the  
25 provisions of any securities, securities exchange, or securities dealers law of the United States or of this  
26 state or of any other state."  
27

-END-

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10

SENATE BILL NO. 87

INTRODUCED BY



A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL FINANCE CONSOLIDATION ACT TO ALLOW THE STATE AND STATE ENTITIES TO PARTICIPATE IN THE ISSUANCE OF BONDS; AND AMENDING SECTIONS 17-5-1602, 17-5-1604, 17-5-1606, 17-5-1607, 17-5-1609, 17-5-1611, 17-5-1623, 17-5-1643, 17-5-1644, 17-5-1645, 17-5-1646, 17-5-1647, 17-5-1650, AND 17-5-1651, MCA."

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

THERE ARE NO CHANGES IN THIS BILL AND WILL NOT BE REPRINTED. PLEASE REFER TO YELLOW COPY FOR COMPLETE TEXT.

## 1 SENATE BILL NO. 87

2 INTRODUCED BY GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL FINANCE CONSOLIDATION ACT TO  
5 ALLOW THE STATE AND STATE ENTITIES TO PARTICIPATE IN THE ISSUANCE OF BONDS; AND  
6 AMENDING SECTIONS 17-5-1602, 17-5-1604, 17-5-1606, 17-5-1607, 17-5-1609, 17-5-1611, 17-5-1623,  
7 17-5-1643, 17-5-1644, 17-5-1645, 17-5-1646, 17-5-1647, 17-5-1650, AND 17-5-1651, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 17-5-1602, MCA, is amended to read:

12 **"17-5-1602. Policy and purpose.** (1) It is the policy of the state of Montana to:

13 (a) foster and promote, by all reasonable means, the provision of efficient capital markets and  
14 facilities for borrowing money by ~~counties, cities, towns, school districts, special taxing districts, and other~~  
15 ~~public bodies~~ eligible government units to pay for capital improvements and other needs as otherwise  
16 authorized by law; and

17 (b) reduce, to the extent possible, costs of ~~local~~ public indebtedness to taxpayers and residents  
18 by affording public bodies an appropriate degree of flexibility and choice in the marketing of their debt  
19 securities so as to minimize marketing costs and interest rates.

20 (2) It is the purpose of this part to promote the policies stated in subsection (1) by:

21 (a) creating a means for ~~public bodies~~ eligible government units to pool, in effect, the debt  
22 instruments they are otherwise authorized to offer for sale to the investment community in order to obtain  
23 economies of scale and reduce marketing and interest costs; and

24 (b) providing additional security for the payment of bonds and notes held by investors and thereby  
25 further reducing interest costs."

26  
27 **Section 2.** Section 17-5-1604, MCA, is amended to read:

28 **"17-5-1604. Definitions.** As used in this part, the following definitions apply:

29 (1) "Board" means the board of investments created in 2-15-1808.

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

1 (3) "~~Local~~ Eligible government unit" means:

2 (a) any municipal corporation or political subdivision of the state, including without limitation any  
3 city, town, county, school district, or other special taxing district, ~~an~~ or assessment or service district  
4 authorized by law to borrow money; or

5 (b) the state, any board, agency, or department of the state, or the board of regents of the Montana  
6 university system when authorized by law to borrow money.

7 (4) "Reserve fund" means the municipal finance consolidation act reserve fund created in  
8 17-5-1630."

9

10 **Section 3.** Section 17-5-1606, MCA, is amended to read:

11 "**17-5-1606. Bonds, bond anticipation notes, and notes of the board.** (1) The board may by  
12 resolution, from time to time, issue negotiable notes and bonds to finance loans or refinance its loans to  
13 ~~local~~ eligible government units and its purchases of ~~their~~ eligible government unit bonds, registered  
14 warrants, and tax or revenue anticipation notes and other notes, to establish or replenish reserves securing  
15 the payment of its bonds and notes, and to finance all other expenditures of the board incident to and  
16 necessary or convenient to carry out this part.

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

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

19 (b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds,  
20 whether the bonds to be refunded have or have not matured; and

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

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

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

28 (5)(a) The notes and bonds must be authorized by resolutions of the board, ~~shall~~ must bear a date,  
29 and ~~shall~~ must mature at times as provided in the resolutions ~~provide~~. The bonds may be issued as serial  
30 bonds payable in annual installments, ~~or~~ as term bonds, or as a combination ~~thereof~~ of serial and term

1 bonds. The notes and bonds ~~shall~~ must:

2 (i) bear interest at a rate or rates;

3 (ii) be in denominations;

4 (iii) be in a form, either coupon or registered;

5 (iv) carry registration privileges;

6 (v) be executed in a manner;

7 (vi) be payable in a medium of payment, at places inside or outside the state; and

8 (vii) be subject to terms of redemption as provided in resolutions of the board.

9 (b) The notes and bonds of the board may be sold at public or private sale at ~~such~~ prices, which  
10 may be above or below par, ~~as~~ that are determined by the board."

11

12 **Section 4.** Section 17-5-1607, MCA, is amended to read:

13 "17-5-1607. **Participation voluntary.** Use of the financing mechanism created by this part is entirely  
14 voluntary, and ~~no local~~ an eligible government unit ~~may be~~ is not required to sell its bonds, bond  
15 anticipation notes, or notes to the board."

16

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

18 "17-5-1609. **Purchase of anticipation notes.** Notwithstanding any other provision of law, ~~a local~~  
19 an eligible government unit may issue and the board may purchase notes in anticipation of an otherwise  
20 authorized sale of ~~municipal~~ eligible government unit securities. In connection with any purchase of  
21 anticipation notes, the board may by agreement with the ~~local~~ eligible government unit impose terms,  
22 conditions, and limitations that in the board's opinion are proper under the circumstances and for the  
23 purposes and security of the board and the holders of its bonds or notes."

24

25 **Section 6.** Section 17-5-1611, MCA, is amended to read:

26 "17-5-1611. **Additional powers of the board.** In addition to all other powers conferred on the board  
27 by this part or any other law, the board has the power:

28 (1) to purchase or hold ~~municipal~~ eligible government unit bonds, bond anticipation notes,  
29 registered warrants, tax or revenue anticipation notes, or other notes at prices and in a manner that the  
30 board considers advisable;

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

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

5           (4) with regard to an eligible local government unit, to:

6           (a) prescribe the form of application or procedure required ~~of a local government unit~~ for a loan or  
7 purchase of ~~its municipal~~ eligible government unit bonds, bond anticipation notes, registered warrants, tax  
8 or revenue anticipation notes, or other notes;

9           (b) fix the terms and conditions of the loan or purchase; and

10          (c) enter into agreements with ~~local~~ eligible government units with respect to loans or purchases;

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

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

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

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

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

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

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



- 1 (a) the lawfulness and validity of the purpose to be served by the loan or purchase;
- 2 (b) the ability of the ~~local~~ eligible government unit to secure borrowed money from other sources  
3 and the costs ~~thereof~~ of borrowing;
- 4 (c) the ability of the ~~local~~ eligible government unit to repay the loan, notes, or bonds;
- 5 (d) the priority of need for the particular public improvement or purpose to be financed; and
- 6 (e) varying the terms and conditions of its loans or purchases as between various ~~local~~ eligible  
7 government units in accordance with their respective priorities and credit worthiness;
- 8 (9) to conduct examinations and hearings and to hear testimony and take proof, under oath or  
9 affirmation, at public or private hearings, on any matter material to its information and necessary to carry  
10 out this part;
- 11 (10) to issue subpoenas requiring the attendance of witnesses and the production of books and  
12 papers pertinent to any hearing before the board;
- 13 (11) to appoint, employ, or contract for the services of officers, employees, agents, financial or  
14 professional advisers, and attorneys and to pay ~~such~~ compensation for their services as the board ~~may~~  
15 determine determines;
- 16 (12) to procure insurance against any losses in connection with its property, operations, or assets  
17 in ~~such~~ amounts and from ~~such~~ insurers as it considers desirable;
- 18 (13) to the extent permitted under its contracts with the holders of bonds or notes of the board,  
19 to consent to modification of the rate of interest, the time for payment of any installment of principal or  
20 interest, or the security for any other term of a bond, bond anticipation note, note, contract, or agreement  
21 of any kind to which the board is a party; and
- 22 (14) to do all acts and things necessary, convenient, or desirable to carry out the powers expressly  
23 granted or necessarily implied in this part."

24

25 **Section 7.** Section 17-5-1623, MCA, is amended to read:

26 "17-5-1623. **Nonimpairment by the state.** In accordance with the constitutions of the United States  
27 and the state of Montana, the state pledges that it will not in any way impair the obligations of any  
28 agreement between the board and a ~~local~~ an eligible government unit or between the board and the holders  
29 of notes and bonds issued by the board, including but not limited to an agreement to administer a loan  
30 program financed by the issuance of bonds and to employ a staff sufficient and competent for this

1 purpose."

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4 **"17-5-1643. Sale or exchange of ~~municipal~~ securities.** (1) Notwithstanding any law applicable to  
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7 ~~local~~ an eligible government unit is authorized to contract to pay interest on or an interest cost per year for  
8 money borrowed from the board and evidenced by ~~its municipal~~ the eligible government unit securities  
9 purchased by the board without regard to any statutory limitations as to rate of interest per year payable  
10 or as to annual interest cost to maturity of money borrowed by the ~~local~~ eligible government unit. ~~Every~~  
11 ~~local~~ An eligible government unit is authorized to contract with the board with respect to the loan or  
12 purchase, and the contract must contain the terms and conditions of ~~such~~ the loan or purchase. ~~Every local~~  
13 An eligible government unit is authorized to pay fees and charges required to be paid to the board for its  
14 services.

15 (2) Notwithstanding any law applicable to or constituting any limitation on the sale of bonds or  
16 notes except the limitation on amount of bonded indebtedness, ~~any local~~ an eligible government unit may  
17 sell bonds or notes to the board by private negotiated sale, without limitation as to denomination. The  
18 bonds or notes may be fully registered or registerable as to principal only or in bearer form or may bear  
19 interest at the rate or rates, all in accordance with this section. The bonds or notes may be evidenced in  
20 the manner and may contain other provisions not inconsistent with this part and may be sold to the board  
21 without advertisement at the price or prices as may be determined, all as provided in the proceedings of  
22 the governing body of the ~~local~~ eligible government unit pursuant to which the bonds or notes are  
23 authorized to be issued. The governing body of the ~~local~~ eligible government unit may provide for the  
24 exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and  
25 for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the  
26 manner provided in the proceedings authorizing their issuance. The bonds in changed form or  
27 denominations must be exchanged for the surrendered bonds in the same aggregate principal amounts and  
28 in ~~such~~ a manner that no overlapping interest is paid and the bonds in changed form or denominations bear  
29 interest at the same rate or rates and mature on the same date or dates as the bonds for which they are  
30 exchanged. If any exchange is made under this subsection, the bonds surrendered by the holders at the

1 time of the exchange must be canceled. The exchange may be made only at the request of the holders of  
 2 the bonds to be surrendered. The ~~local~~ eligible government unit may require all expenses incurred in  
 3 connection with the exchange to be paid by the holders."

4  
 5 **Section 9.** Section 17-5-1644, MCA, is amended to read:

6 **"17-5-1644. Care and custody of bonds purchased by the board.** The board may:

7 (1) enter into agreements or contracts with a bank, trust company, or financial institution, inside  
 8 or outside the state, as may be necessary, desirable, or convenient, in the opinion of the board, for  
 9 rendering services in connection with:

10 (a) the care, custody, or safekeeping of ~~municipal~~ bonds or other investments held or owned by  
 11 the board pursuant to this part;

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

13 (c) the delivery to the board of ~~municipal~~ bonds or other investments purchased by it or sold by  
 14 it pursuant to this part;

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

16 (3) ~~also~~, in connection with any of the services to be rendered by a bank, trust company, or  
 17 financial institution as to the custody and safekeeping of its ~~municipal~~ bonds or investments, require  
 18 security in the form of collateral bonds, surety agreements, or security agreements in such a form and  
 19 amount as, in the opinion of the board, is necessary or desirable."

20  
 21 **Section 10.** Section 17-5-1645, MCA, is amended to read:

22 **"17-5-1645. Insurance or guaranty.** The board may obtain, from a department or agency of the  
 23 United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment of interest  
 24 or principal, or both, or any part of interest or principal on bonds or notes issued by the board or on  
 25 ~~municipal~~ bonds, bond anticipation notes, or notes of ~~local~~ eligible government units purchased or held by  
 26 the board."

27  
 28 **Section 11.** Section 17-5-1646, MCA, is amended to read:

29 **"17-5-1646. Default in payment.** If the board or ~~local~~ eligible government unit defaults in the  
 30 payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity

1 or upon call for redemption, and the default continues for 30 days, or if the board or ~~local~~ eligible  
2 government unit fails or refuses to comply with this part or defaults in an agreement made with the holders  
3 of an issue of notes or bonds, the holders of 25% of the aggregate principal amount of the outstanding  
4 notes or bonds of that issue have the right, upon proper application to a court of competent jurisdiction,  
5 to have a trustee appointed to represent the holders of those notes or bonds for the purposes provided in  
6 this part."

7

8 **Section 12.** Section 17-5-1647, MCA, is amended to read:

9 **"17-5-1647. Powers and duties of trustee on default.** (1) A trustee appointed under 17-5-1646  
10 may:

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

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

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

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

22 (e) declare all the notes or bonds due and payable and, if all defaults are made good, then, with  
23 the consent of the holders of 25% of the principal amount of the outstanding notes or bonds, annul the  
24 declaration and its consequences.

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

28 (3) Before declaring the principal of notes or bonds due and payable, the trustee ~~must~~ shall give  
29 30 days' notice in writing to the governor, the attorney general, and the board or ~~local~~ eligible government  
30 unit defaulting."

1           **Section 13.** Section 17-5-1650, MCA, is amended to read:

2           **"17-5-1650. Annual report.** By December 31 of each year, the board shall publish a financial report  
3 for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished  
4 by providing two copies to the office of the legislative fiscal analyst, two copies to the legislative council,  
5 and a copy to a legislator on request. The report must include a statement of the board's current financial  
6 position with respect to its activities under this part, a summary of its activities pursuant to this part during  
7 the previous year (including a listing of the ~~local~~ eligible governmental securities purchased by the board,  
8 a listing of the bonds and notes sold by the board, and a summary of the performance of any other  
9 investments of the board's funds received under this part), an estimate of the levels of activities for the  
10 next year, and a comparison of the activities during the previous year with the estimates of those activities  
11 that were made in the previous annual report."  
12

13           **Section 14.** Section 17-5-1651, MCA, is amended to read:

14           **"17-5-1651. Limitations on board's power.** Under this part the board may not:

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

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

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

24           (4) be or constitute a bank, banker, or dealer in securities within the meaning of or subject to the  
25 provisions of any securities, securities exchange, or securities dealers law of the United States or of this  
26 state or of any other state."  
27

-END-