

1 HOUSE BILL NO. 757

2 INTRODUCED BY L. JONES, BLACK, TESTER, BERGREN, PETERSON, BUTCHER, KITZENBERG,
3 WITT, BALES

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA ESSENTIAL FREIGHT RAIL ACT;
6 CREATING A REVOLVING LOAN ACCOUNT; PROVIDING FUNDING FOR THE MONTANA ESSENTIAL
7 FREIGHT RAIL ACT REVOLVING LOAN ACCOUNT; PROVIDING GUIDELINES FOR APPLICATIONS AND
8 ELIGIBILITY FOR A LOAN FROM THE REVOLVING LOAN ACCOUNT; PROVIDING FOR MANAGEMENT OF
9 THE ACCOUNT; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR FUNDING THE ACCOUNT;
10 PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 60-11-120, MCA;
11 AND PROVIDING AN EFFECTIVE DATE."

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

14
15 NEW SECTION. Section 1. Short title. [Sections 1 through 4] may be cited as the "Montana Essential
16 Freight Rail Act".

17
18 NEW SECTION. Section 2. Purpose. (1) Montana's railroad branch lines provide critical transportation
19 to Montana businesses and communities. These lines are especially important to Montana's agricultural and
20 wood products industries that rely on railroads to transport Montana products to national and international
21 markets. The branch lines are also critical to efforts to increase or expand businesses that process Montana
22 commodities into more valuable products.

23 (2) A state rail funding program will provide Montana with an important tool to help preserve and
24 enhance Montana's branch lines.

25 (3) The purpose of [sections 1 through 4] is to provide low-interest loans to railroads, cities, counties,
26 companies, or regional rail authorities for the purposes provided in 60-11-120 to preserve or enhance
27 cost-effective rail service to Montana communities and businesses.

28
29 NEW SECTION. Section 3. Revolving loan account -- statutory appropriation -- RULEMAKING. (1)
30 There is a revolving loan account to be administered by the department. Any interest or income that is earned

1 by the account and loan repayments must be deposited into the revolving loan account ~~and must be used to~~
 2 ~~sustain the program~~ UNLESS REVENUE BONDS ARE ISSUED TO FUND A LOAN, IN WHICH CASE THE LOAN REPAYMENTS
 3 MUST BE DEPOSITED IN THE DEBT SERVICE ACCOUNT. THE DEPARTMENT MAY REQUEST THE BOARD OF EXAMINERS
 4 INVESTMENTS TO ISSUE REVENUE BONDS, AS PROVIDED IN [SECTIONS 7 THROUGH 24 48 9] FOR THE PURPOSE OF
 5 PROVIDING FUNDS FOR A LOAN.

6 (2) The department may make loans from the account pursuant to 60-11-120.

7 (3) Funds in the account that are deposited pursuant to former 49 U.S.C. 1654 must continue to be
 8 managed as local rail freight assistance program funds. ANY ADDITIONAL FEDERAL FUNDS RECEIVED FOR LOCAL RAIL
 9 FREIGHT ASSISTANCE PROGRAMS OR FOR RAILROAD PROJECTS MUST BE DEPOSITED IN THE ACCOUNT.

10 (4) There is statutorily appropriated, as provided in 17-7-502, to the department up to \$2 million annually
 11 for the purposes of making loans pursuant to 60-11-120.

12 (5) Loans may not be made if the loan would cause the balance in the account to be less than \$500,000.

13 ~~(6) THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT [SECTIONS 1 THROUGH 4].~~

14
 15 NEW SECTION. Section 4. Funding for account. (†) Federal funds received for local freight
 16 assistance programs under former 49 U.S.C. 1654 in an amount up to \$1.1 million must be deposited in the
 17 account established in [section 3].

18 ~~————(2) There is transferred from the general fund to the revolving loan account provided for in [section 3]~~
 19 ~~a total of \$3 million for fiscal years 2006 and 2007.~~

20
 21 **Section 5.** Section 17-7-502, MCA, is amended to read:

22 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 23 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 24 the need for a biennial legislative appropriation or budget amendment.

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

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

28 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 29 appropriation is made as provided in this section.

30 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;

1 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
 2 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222;
 3 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
 4 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;
 5 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
 6 53-1-109; 53-6-703; 53-24-108; 53-24-206; [section 3]; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214;
 7 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and
 8 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 12 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 13 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 14 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 15 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
 16 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 17 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 18 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
 19 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
 20 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
 21 the inclusion of 2-15-151 terminates June 30, 2005.)"

22

23 **Section 6.** Section 60-11-120, MCA, is amended to read:

24 **"60-11-120. Railroad and intermodal transportation facility loans and grants -- authorization --**
 25 **eligibility.** (1) Money appropriated by the legislature ~~may for the purposes provided for in this section and~~
 26 ~~pursuant to [section 3] must~~ be used by the department of transportation, after deducting the necessary costs
 27 and expenses for administering this section, to provide loans and grants for:

- 28 (a) the preservation and continued operation of railroad branch lines identified in 60-11-111; and
 29 (b) ~~for the development, and improvement, construction, purchase, maintenance, or rehabilitation of:~~
 30 (i) intermodal transportation facilities;

1 (ii) branch lines or short lines;
 2 (iii) sidings;
 3 (iv) light density railroad lines; and
 4 (v) rolling stock, including rail cars. Proceeds of all repayments of loans, including interest, made under
 5 ~~this section must be deposited in the state general fund.~~

6 (2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan ~~or grant~~ under this
 7 section if the owner or operator:

8 (a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad
 9 for local rail transportation service; and

10 (b) derives revenue from the continued operation of the railroad.

11 (3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan ~~or grant~~ under this
 12 section ~~for the development or improvement of an intermodal transportation facility under this section~~ if:

13 (a) the port authority is included in the state transportation planning process as described in 23 U.S.C.
 14 135; and

15 (b) ~~the intermodal transportation facility~~ purpose for which a loan ~~or grant~~ is sought is integrally related
 16 to the railroad transportation system of the state.

17 (4) Applications for a loan must include:

18 (a) a financial statement;

19 (b) evidence of matching funds required pursuant to subsection ~~(6)~~ (5); and

20 (c) an operating or business plan that demonstrates the applicant's ability to repay the funds; AND

21 (d) UPON REQUEST OF THE DEPARTMENT, AN INDEPENDENT FEASIBILITY STUDY.

22 ~~—— (5) To be eligible to receive a loan pursuant to this section, projects must be located on railroad lines~~
 23 ~~with at least 20 carloads of traffic a mile each year and no more than 5 million gross ton miles for each mile of~~
 24 ~~freight annually. The purpose of this upper weight limit restriction is to prevent these funds from being used on~~
 25 ~~high-volume main lines within Montana.~~

26 ~~(6)~~(5) Pursuant to requirements of former 49 U.S.C. 1654, which is providing a portion of the funds
 27 under [section 3], rehabilitation projects must ~~by~~ BE matched with 30% ~~private~~ IN OTHER funds and new
 28 construction projects must be matched with 50% ~~private~~ IN OTHER funds. THE TRANSPORTATION COMMISSION,
 29 PROVIDED FOR IN 2-15-2502, SHALL ESTABLISH MATCHING FUND REQUIREMENTS FOR OTHER PROJECT CATEGORIES.

30 ~~(7)~~(6) The ~~Montana~~ transportation commission, ~~provided for in 2-15-2502~~, is responsible for determining

1 funding recipients. Recipients must be determined using the guidelines provided in 60-2-110.

2 ~~(8)(7)~~ The department shall administer the Montana Essential Freight Rail Act with input from the
3 department of commerce, the department of agriculture, and the governor's office.

4 (8) FUNDING RECIPIENTS SHALL PAY THE STANDARD PREVAILING WAGE ON ANY CONSTRUCTION PROJECTS OR
5 SUBCONTRACTED CONSTRUCTION PROJECTS CONDUCTED WITH FUNDS RECEIVED UNDER THIS SECTION."

6
7 **NEW SECTION. SECTION 7. DEFINITIONS.** AS USED IN [SECTIONS 7 THROUGH 21 48 9], THE FOLLOWING
8 DEFINITIONS APPLY:

9 (1) "BOARD" MEANS THE BOARD OF EXAMINERS CREATED UNDER 2-15-1007 INVESTMENTS ESTABLISHED IN
10 2-15-1808.

11 (2) "BONDS" MEANS BONDS, NOTES, OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED PURSUANT TO [SECTIONS
12 7 THROUGH 21 48 9] AS ESSENTIAL FREIGHT RAIL REVENUE BONDS.

13 (3) "COST", AS APPLIED TO ANY PROJECT, MEANS ANY COST OF ANY PART OF THE PROJECT PURSUANT TO
14 60-11-120.

15 ~~———— (4) "OUTSTANDING BONDS" MEANS BONDS ISSUED AND OUTSTANDING AT ANY PARTICULAR TIME BUT DOES NOT~~
16 ~~INCLUDE BONDS OWNED BY THE STATE, BONDS THAT HAVE BEEN REFUNDED, OR BONDS FOR THE PAYMENT OF WHICH AN~~
17 ~~IRREVOCABLE DEPOSIT OF CASH AND UNITED STATES GOVERNMENT SECURITIES HAS BEEN MADE IN AN AMOUNT~~
18 ~~SUFFICIENT TO PAY PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, WHEN DUE.~~

19 ~~(5)(4)~~ "PROJECTS" MEANS THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR
20 OF RAIL LINES.

21 ~~(6)(5)~~ "REVENUE" MEANS THE REVENUE FROM THE OPERATION OF A RAIL LINE CREDITED TO THE DEPARTMENT
22 IN THE STATE SPECIAL REVENUE FUND LOAN REPAYMENTS AND ANY DELINQUENCY CHARGES ON LOAN REPAYMENTS.

23
24 **NEW SECTION. SECTION 8. REVENUE BOND DEBT SERVICE ACCOUNT -- DEPOSIT OF BOND PROCEEDS.** (1)
25 THERE IS IN THE DEBT SERVICE FUND AN ESSENTIAL FREIGHT RAIL REVENUE BOND DEBT SERVICE ACCOUNT. SUBJECT
26 ONLY TO THE PRIOR PLEDGE AND APPROPRIATION MADE BY 17-5-507, THE THE STATE TREASURER SHALL DEPOSIT
27 REVENUE AS MAY BE PLEDGED TO THE PAYMENT OF PARTICULAR BONDS TO THE CREDIT OF THE ESSENTIAL FREIGHT RAIL
28 REVENUE BOND DEBT SERVICE ACCOUNT AS REQUIRED BY RESOLUTION OR INDENTURE.

29 (2) ALL PROCEEDS OF AN ISSUE OF BONDS MUST BE DEPOSITED IN A SEPARATE ACCOUNT IN THE STATE SPECIAL
30 REVENUE FUND, EXCEPT THAT ANY PREMIUMS AND ACCRUED INTEREST RECEIVED MAY BE DEPOSITED IN A SEPARATE

1 ACCOUNT IN THE DEBT SERVICE FUND ESTABLISHED FOR THAT BOND ISSUE BY RESOLUTION OR INDENTURE. NO MORE
 2 THAN THE PRINCIPAL AND INTEREST ON THE BONDS DUE IN ANY YEAR MAY BE RETAINED IN THE ESSENTIAL FREIGHT RAIL
 3 REVENUE BOND DEBT SERVICE ACCOUNT FOR THE PAYMENT OF BONDS. THE REMAINDER OF PLEDGED REVENUE IS
 4 AVAILABLE FOR AUTHORIZED PURPOSES OF THE DEPARTMENT. MONEY DEPOSITED IN THE SEPARATE ACCOUNTS IN THE
 5 STATE SPECIAL REVENUE FUND UNTIL SPENT FOR PROJECT PURPOSES MAY BE PLEDGED AND APPROPRIATED FOR THE
 6 PAYMENT OF BONDS, WHICH ARE A FIRST LIEN AND PRIOR CHARGE UPON THE FUNDS, AND THE FUNDS MAY BE USED FOR
 7 PAYMENT OF BONDS TO THE EXTENT THAT REVENUE DEPOSITED IN THE ESSENTIAL FREIGHT RAIL REVENUE BOND DEBT
 8 SERVICE ACCOUNT ARE NOT SUFFICIENT FOR THOSE PURPOSES.

9 (3) INTEREST AND INVESTMENT EARNINGS ON THE SEPARATE ACCOUNTS IN SUBSECTIONS (1) AND (2) MUST BE
 10 RETAINED IN THE SEPARATE ACCOUNTS REFERRED TO IN SUBSECTION (2).

11
 12 ~~NEW SECTION. SECTION 9. PLEDGE OF REVENUE. ALL OR ANY PORTION OF REVENUE MAY BE PLEDGED TO~~
 13 ~~THE PAYMENT OF THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, ON PARTICULAR ISSUES OF ESSENTIAL~~
 14 ~~FREIGHT RAIL REVENUE BONDS, AND THE PLEDGE IS AND REMAINS AT ALL TIMES A FIRST LIEN AND PRIOR CHARGE UPON~~
 15 ~~THE PLEDGED REVENUE CREDITED TO THE ESSENTIAL FREIGHT RAIL REVENUE BOND DEBT SERVICE ACCOUNT, SUBJECT~~
 16 ~~TO A FIRST LIEN AND CHARGE IN FAVOR OF CERTAIN ESSENTIAL FREIGHT RAIL REVENUE BONDS AS PROVIDED IN 17-5-507~~
 17 ~~AND SUBJECT TO THE PLEDGE OF PARTICULAR REVENUE TO SECURE PARTICULAR ISSUES OF ESSENTIAL FREIGHT RAIL~~
 18 ~~REVENUE BONDS.~~

19
 20 NEW SECTION. SECTION 9. AUTHORITY TO ISSUE REVENUE BONDS. THE BOARD MAY ISSUE AND SELL
 21 ESSENTIAL FREIGHT RAIL REVENUE BONDS TO MAKE LOANS TO FINANCE THE COST OF PROJECTS, TO PAY THE COSTS OF
 22 ISSUING THE BONDS, AND TO PROVIDE FOR RESERVES, UPON RECOMMENDATION OF THE DEPARTMENT. THE STATE
 23 RESERVES THE RIGHT TO ISSUE ADDITIONAL BONDS SECURED EQUALLY AND RATABLY BY THE PLEDGE AND APPROPRIATION
 24 OF THE REVENUE OR SEPARATELY SECURED BY A PORTION OF REVENUE SUBJECT ONLY TO THE PLEDGE OF PARTICULAR
 25 REVENUE TO SECURE PARTICULAR BONDS. THE BONDS MUST BE ISSUED UNDER TITLE 17, CHAPTER 5, PART 15.

26
 27 ~~NEW SECTION. SECTION 11. COLLECTION OF REVENUE -- RESTRICTION ON ADDITIONAL BONDS. THE~~
 28 ~~LEGISLATURE SHALL PROVIDE FOR THE CONTINUED COLLECTION AND DEPOSIT OF REVENUE INTO THE STATE SPECIAL~~
 29 ~~REVENUE FUND FOR THE CREDIT OF THE DEPARTMENT IN AMOUNTS SUFFICIENT TO PAY, WHEN DUE, THE ANNUAL DEBT~~
 30 ~~SERVICE CHARGES ON ALL OUTSTANDING BONDS. THE BOARD IS AUTHORIZED TO INCLUDE A CONTRACTUAL UNDERTAKING~~

1 ~~FOR THE BENEFIT OF BONDHOLDERS TO THIS EFFECT IN THE RESOLUTION OR INDENTURE UNDER WHICH THE BONDS ARE~~
 2 ~~ISSUED;~~

3

4 ~~———— NEW SECTION. SECTION 12. BOND ANTICIPATION NOTES — ISSUED WHEN — PAYMENT OF PRINCIPAL AND~~

5 ~~INTEREST. (1) THE BOARD MAY, PENDING THE ISSUANCE OF ESSENTIAL FREIGHT RAIL REVENUE BONDS, ISSUE TEMPORARY~~

6 ~~NOTES IN ANTICIPATION OF THE PROCEEDS TO BE DERIVED FROM THE SALE OF THE BONDS, WHICH NOTES ARE~~

7 ~~DESIGNATED AS "BOND ANTICIPATION NOTES". THE PROCEEDS OF THE SALE OF THE BOND ANTICIPATION NOTES MAY BE~~

8 ~~USED ONLY FOR THE PURPOSE FOR WHICH THE PROCEEDS OF THE BONDS ARE TO BE USED, INCLUDING COSTS OF~~

9 ~~ISSUANCE. IF, PRIOR TO THE ISSUANCE OF THE BONDS, IT BECOMES NECESSARY OR DESIRABLE TO REDEEM OUTSTANDING~~

10 ~~NOTES, ADDITIONAL BOND ANTICIPATION NOTES MAY BE ISSUED TO REDEEM THE OUTSTANDING NOTES. A RENEWAL OF~~

11 ~~ANY NOTE MAY NOT BE ISSUED AFTER THE SALE OF BONDS IN ANTICIPATION OF WHICH THE ORIGINAL NOTES WERE ISSUED.~~

12 ~~———— (2) BOND ANTICIPATION NOTES OR OTHER SHORT-TERM EVIDENCES OF INDEBTEDNESS MATURING NOT MORE~~

13 ~~THAN 3 YEARS AFTER THE DATE OF ISSUE MAY BE ISSUED FROM TIME TO TIME AS THE PROCEEDS ARE NEEDED. THE NOTES~~

14 ~~MUST BE AUTHORIZED BY THE BOARD AND HAVE TERMS AND PROVISIONS AS MAY BE PROVIDED BY RESOLUTION OF THE~~

15 ~~BOARD. HOWEVER, EACH RESOLUTION OF THE BOARD AUTHORIZING NOTES MUST:~~

16 ~~———— (A) DESCRIBE THE NEED FOR THE PROCEEDS OF THE NOTES TO BE ISSUED; AND~~

17 ~~———— (B) SPECIFY THE PRINCIPAL AMOUNT OF THE NOTES OR MAXIMUM PRINCIPAL AMOUNT OF THE NOTES THAT MAY~~

18 ~~BE OUTSTANDING AT ANY ONE TIME, THE RATE OR RATES OF INTEREST OR MAXIMUM RATE OF INTEREST OR INTEREST RATE~~

19 ~~FORMULA OF THE NOTES AS DETERMINED IN THE MANNER SPECIFIED IN THE RESOLUTION AUTHORIZING THE NOTES, AND~~

20 ~~THE MATURITY DATE OR MAXIMUM MATURITY DATE OF THE NOTES.~~

21 ~~———— (3) SUBJECT TO THE LIMITATIONS CONTAINED IN THIS SECTION AND THE STANDARDS AND LIMITATIONS~~

22 ~~PRESCRIBED IN THE AUTHORIZING RESOLUTION, THE BOARD IN ITS DISCRETION MAY PROVIDE FOR THE NOTES DESCRIBED~~

23 ~~IN SUBSECTION (2) TO BE ISSUED AND SOLD, IN WHOLE OR IN PART, FROM TIME TO TIME, AND MAY DELEGATE TO THE STATE~~

24 ~~TREASURER THE POWER TO DETERMINE THE TIME OR TIMES OF SALE, THE MANNER OF SALE, THE AMOUNTS, THE~~

25 ~~MATURITIES, THE RATE OR RATES OF INTEREST, AND OTHER TERMS AND DETAILS OF THE NOTES AS MAY BE CONSIDERED~~

26 ~~APPROPRIATE BY THE BOARD OR, IF THERE HAS BEEN A DELEGATION, THE STATE TREASURER. THE BOARD MAY, IN ITS~~

27 ~~DISCRETION BUT SUBJECT TO THE LIMITATIONS CONTAINED IN THIS SECTION, PROVIDE IN THE RESOLUTION AUTHORIZING~~

28 ~~THE ISSUANCE OF NOTES FOR:~~

29 ~~———— (A) THE EMPLOYMENT OF ONE OR MORE PERSONS OR FIRMS TO ASSIST THE BOARD IN THE SALE OF THE NOTES;~~

30 ~~———— (B) THE APPOINTMENT OF ONE OR MORE BANKS OR TRUST COMPANIES, EITHER INSIDE OR OUTSIDE THE STATE;~~

1 ~~AS DEPOSITORY FOR SAFEKEEPING AND AS AGENT FOR THE DELIVERY AND PAYMENT OF THE NOTES;~~
2 ~~——— (C) THE REFUNDING OF THE NOTES, FROM TIME TO TIME, WITHOUT FURTHER ACTION BY THE BOARD, UNLESS AND~~
3 ~~UNTIL THE BOARD REVOKES THE AUTHORITY TO REFUND; AND~~
4 ~~——— (D) OTHER TERMS AND CONDITIONS THAT THE BOARD MAY CONSIDER APPROPRIATE.~~
5
6 ~~——— NEW SECTION. SECTION 10. FORM — PRINCIPAL AND INTEREST — FISCAL AGENT — BONDS AUTHORIZED. (1)~~
7 ~~EACH SERIES OF ESSENTIAL FREIGHT RAIL REVENUE BONDS MAY BE ISSUED BY THE BOARD AT PUBLIC OR PRIVATE SALE,~~
8 ~~IN DENOMINATIONS AND FORM, WHETHER PAYABLE TO BEARER OR REGISTERED AS TO PRINCIPAL OR BOTH PRINCIPAL AND~~
9 ~~INTEREST, WITH PROVISIONS FOR THE CONVERSION OR EXCHANGE, BEARING INTEREST AT A RATE OR RATES OR THE~~
10 ~~METHOD OF DETERMINING THE RATE OR RATES, MATURING AT TIMES, NOT MORE THAN 40 YEARS FROM THE DATE OF~~
11 ~~ISSUE, SUBJECT TO REDEMPTION AT EARLIER TIMES AND PRICES AND UPON NOTICE, AND PAYABLE AT THE OFFICE OF A~~
12 ~~FISCAL AGENCY OF THE STATE THAT THE BOARD SHALL DETERMINE, SUBJECT TO THE LIMITATIONS CONTAINED IN~~
13 ~~[SECTIONS 7 THROUGH 21 18]. ANY ACTION TAKEN BY THE BOARD UNDER [SECTIONS 7 THROUGH 21 18] MUST BE~~
14 ~~APPROVED BY AT LEAST A MAJORITY VOTE OF ITS MEMBERS. THE INTEREST RATE ON THE BONDS MUST BE SUFFICIENT TO~~
15 ~~PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS ISSUED TO FUND THE LOAN.~~
16 ~~——— (2) IN ALL OTHER RESPECTS, THE BOARD IS AUTHORIZED TO PRESCRIBE THE FORM AND TERMS OF THE BONDS~~
17 ~~AND SHALL DO WHATEVER IS LAWFUL AND NECESSARY FOR THEIR ISSUANCE AND PAYMENT.~~
18 ~~——— (3) BONDS AND ANY INTEREST COUPONS APPURTENANT TO THE BONDS MUST BE SIGNED BY THE MEMBERS OF~~
19 ~~THE BOARD, AND THE BONDS MUST BE ISSUED UNDER THE GREAT SEAL OF THE STATE OF MONTANA. THE BONDS AND~~
20 ~~COUPONS MAY BE EXECUTED WITH FACSIMILE SIGNATURES AND SEAL IN THE MANNER AND SUBJECT TO THE LIMITATIONS~~
21 ~~PRESCRIBED BY LAW. THE STATE TREASURER SHALL KEEP A RECORD OF ALL BONDS ISSUED AND SOLD.~~
22 ~~——— (4) THE BOARD MAY EMPLOY A FISCAL AGENT AND A BOND REGISTRAR AND TRANSFER AGENT TO ASSIST IN THE~~
23 ~~PERFORMANCE OF ITS DUTIES UNDER [SECTIONS 7 THROUGH 21 18].~~
24 ~~——— (5) IN CONNECTION WITH THE ISSUANCE AND SALE OF BONDS, THE BOARD MAY ARRANGE FOR LINES OF CREDIT~~
25 ~~OR LETTERS OF CREDIT WITH ANY BANK, FIRM, OR PERSON FOR THE PURPOSE OF PROVIDING AN ADDITIONAL SOURCE OF~~
26 ~~REPAYMENT FOR BONDS ISSUED PURSUANT TO [SECTIONS 7 THROUGH 21 18]. AMOUNTS DRAWN ON LINES OF CREDIT MAY~~
27 ~~BE EVIDENCED BY NEGOTIABLE OR NONNEGOTIABLE NOTES OR OTHER EVIDENCES OF INDEBTEDNESS, CONTAINING THE~~
28 ~~TERMS AND CONDITIONS THAT THE BOARD MAY AUTHORIZE IN THE RESOLUTION APPROVING THE SAME.~~
29 ~~——— (6) NO MORE THAN \$150 MILLION OF BONDS ISSUED UNDER [SECTIONS 7 THROUGH 21] MAY BE OUTSTANDING~~
30 ~~AT ANY TIME. ADDITIONAL BONDS, OTHER THAN REFUNDING BONDS, MAY NOT BE ISSUED UNTIL THE PLEDGE IN FAVOR OF~~

1 ~~THE BONDS IS SATISFIED AND DISCHARGED:~~

2

3 ~~———— **NEW SECTION. SECTION 11. TRUST INDENTURE.** IN THE DISCRETION OF THE BOARD, ESSENTIAL FREIGHT RAIL~~
 4 ~~REVENUE BONDS ISSUED UNDER [SECTIONS 7 THROUGH 21 18] MAY BE SECURED BY A TRUST INDENTURE BY AND~~
 5 ~~BETWEEN THE BOARD AND A TRUSTEE, WHICH MAY BE ANY TRUST COMPANY OR BANK HAVING THE POWERS OF A TRUST~~
 6 ~~COMPANY INSIDE OR OUTSIDE OF THE STATE. EACH TRUST INDENTURE OR AN EXECUTED COUNTERPART OF THE~~
 7 ~~INDENTURE MUST BE FILED IN THE OFFICE OF THE SECRETARY OF STATE. THE FILING OF A TRUST INDENTURE OR AN~~
 8 ~~EXECUTED COUNTERPART OF THE INDENTURE IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY IN~~
 9 ~~WHICH THE PROPERTY COVERED BY THE TRUST INDENTURE IS LOCATED IS CONSTRUCTIVE NOTICE OF ITS CONTENT TO~~
 10 ~~ALL PERSONS FROM THE TIME OF FILING, AND THE RECORDING OF THE TRUST INDENTURE OR ITS CONTENT IS NOT~~
 11 ~~NECESSARY.~~

12

13 ~~———— **NEW SECTION. SECTION 12. PROVISIONS FOR PROTECTING BONDHOLDERS.** THE RESOLUTION OF THE BOARD~~
 14 ~~PROVIDING FOR THE ISSUANCE OF ESSENTIAL FREIGHT RAIL REVENUE BONDS OR THE TRUST INDENTURE MAY CONTAIN~~
 15 ~~PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF THE BONDHOLDERS THAT ARE~~
 16 ~~REASONABLE, PROPER, AND NOT IN VIOLATION OF LAW, INCLUDING COVENANTS SETTING FORTH THE DUTIES OF THE~~
 17 ~~STATE, THE BOARD, AND THE DEPARTMENT IN RELATION TO THE PROJECTS FINANCED WITH THE PROCEEDS OF THE BONDS~~
 18 ~~AND THE CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEY. THE TRUST INDENTURE MAY SET FORTH THE RIGHTS~~
 19 ~~AND REMEDIES OF THE BONDHOLDERS CUSTOMARY IN TRUST INDENTURES, DEEDS OF TRUSTS, AND MORTGAGES~~
 20 ~~SECURING BONDS OR DEBENTURES OF CORPORATIONS. THE ENUMERATION OF PARTICULAR POWERS GRANTED BY THIS~~
 21 ~~SECTION MAY NOT IMPAIR ANY GENERAL GRANT OF POWER CONTAINED IN [SECTIONS 7 THROUGH 21 18].~~

22

23 ~~———— **NEW SECTION. SECTION 13. PERSONAL LIABILITY -- SUIT TO COMPEL PERFORMANCE.** (1) THE MEMBERS OF~~
 24 ~~THE BOARD AND OFFICERS AND EMPLOYEES OF THE DEPARTMENT ARE NOT PERSONALLY LIABLE OR ACCOUNTABLE BY~~
 25 ~~REASON OF THE ISSUANCE OF OR ON ANY ESSENTIAL FREIGHT RAIL REVENUE BOND ISSUED BY THE BOARD UNDER~~
 26 ~~[SECTIONS 7 THROUGH 21 18].~~

27 ~~———— (2) ANY HOLDER OF BONDS ISSUED UNDER [SECTIONS 7 THROUGH 21 18] OR ANY PERSON OR OFFICER WHO~~
 28 ~~IS A PARTY IN INTEREST, SUBJECT TO ANY APPLICABLE AGREEMENTS OR TRUST INDENTURES, MAY SUE TO ENFORCE AND~~
 29 ~~COMPEL THE PERFORMANCE OF THE BOND PROVISIONS AS SET OUT IN [SECTIONS 7 THROUGH 21 18].~~

30

1 ~~NEW SECTION. SECTION 14. NEGOTIABILITY OF BONDS. ESSENTIAL FREIGHT RAIL REVENUE BONDS ISSUED~~
2 ~~UNDER [SECTIONS 7 THROUGH 21 18] ARE NEGOTIABLE INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE,~~
3 ~~SUBJECT ONLY TO THE PROVISIONS FOR REGISTRATION OF BONDS.~~

4
5 ~~NEW SECTION. SECTION 15. SIGNATURES OF BOARD MEMBERS. IF ANY MEMBER OF THE BOARD WHOSE~~
6 ~~SIGNATURE APPEARS ON ESSENTIAL FREIGHT RAIL REVENUE BONDS OR COUPONS ISSUED UNDER [SECTIONS 7 THROUGH~~
7 ~~21 18] CEASES TO BE A MEMBER BEFORE THE DELIVERY OF THE BONDS, THE MEMBER'S SIGNATURE IS NEVERTHELESS~~
8 ~~VALID AND SUFFICIENT FOR ALL PURPOSES AS IF THE MEMBER HAD REMAINED IN OFFICE UNTIL DELIVERY.~~

9
10 ~~NEW SECTION. SECTION 16. REFUNDING OBLIGATIONS. (1) THE BOARD MAY PROVIDE FOR THE ISSUANCE~~
11 ~~OF REFUNDING OBLIGATIONS FOR REFUNDING ANY OBLIGATIONS THEN OUTSTANDING THAT HAVE BEEN ISSUED UNDER~~
12 ~~[SECTIONS 7 THROUGH 21 18], INCLUDING THE PAYMENT OF ANY REDEMPTION PREMIUM AND ANY INTEREST ACCRUED OR~~
13 ~~TO ACCRUE TO THE DATE OF REDEMPTION OF THE OBLIGATIONS. THE ISSUANCE OF REFUNDING OBLIGATIONS, THE~~
14 ~~MATURITIES AND OTHER DETAILS, THE RIGHTS OF THE HOLDERS, AND THE RIGHTS, DUTIES, AND OBLIGATIONS OF THE~~
15 ~~STATE ARE GOVERNED BY THE APPROPRIATE PROVISIONS OF [SECTIONS 7 THROUGH 21 18] THAT RELATE TO THE~~
16 ~~ISSUANCE OF THE OBLIGATIONS.~~

17 ~~(2) REFUNDING OBLIGATIONS ISSUED AS PROVIDED IN SUBSECTION (1) MAY BE SOLD OR EXCHANGED FOR~~
18 ~~OUTSTANDING OBLIGATIONS ISSUED UNDER [SECTIONS 7 THROUGH 21 18]. THE PROCEEDS MAY BE APPLIED TO THE~~
19 ~~PURCHASE, REDEMPTION, OR PAYMENT OF THE OUTSTANDING OBLIGATIONS. PENDING THE APPLICATION OF THE~~
20 ~~PROCEEDS OF REFUNDING OBLIGATIONS, WITH OTHER AVAILABLE FUNDS, TO THE PAYMENT OF PRINCIPAL, ACCRUED~~
21 ~~INTEREST, AND ANY REDEMPTION PREMIUM ON THE OBLIGATIONS BEING REFUNDED AND, IF PERMITTED IN THE RESOLUTION~~
22 ~~AUTHORIZING THE ISSUANCE OF THE REFUNDING OBLIGATIONS OR IN THE TRUST AGREEMENT SECURING THEM, TO THE~~
23 ~~PAYMENT OF INTEREST ON REFUNDING OBLIGATIONS AND EXPENSES IN CONNECTION WITH REFUNDING, THE PROCEEDS~~
24 ~~MAY BE INVESTED AS PROVIDED IN TITLE 17, CHAPTER 6.~~

25
26 ~~NEW SECTION. SECTION 20. PLEDGE OF STATE. IN ACCORDANCE WITH THE CONSTITUTIONS OF THE UNITED~~
27 ~~STATES AND THE STATE OF MONTANA, THE STATE PLEDGES THAT IT WILL NOT IN ANY WAY IMPAIR THE OBLIGATIONS OF~~
28 ~~ANY AGREEMENT BETWEEN THE STATE AND THE HOLDERS OF NOTES AND ESSENTIAL FREIGHT RAIL REVENUE BONDS~~
29 ~~ISSUED BY THE STATE UNDER [SECTIONS 7 THROUGH 21].~~

30

1 ~~NEW SECTION. SECTION 17. LIMITED OBLIGATION. ALL BONDS ISSUED UNDER THE AUTHORITY OF [SECTIONS~~
2 ~~7 THROUGH 18] MUST BE LIMITED OBLIGATIONS OF THE STATE. BONDS AND INTEREST COUPONS ISSUED UNDER THE~~
3 ~~AUTHORITY OF [SECTIONS 7 THROUGH 18] MAY NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE STATE~~
4 ~~OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS. THIS LIMITATION MUST BE PLAINLY STATED UPON THE~~
5 ~~FACE OF EACH OF THE BONDS.~~

6
7 ~~NEW SECTION. SECTION 18. TAX EXEMPTION OF BONDS -- LEGAL INVESTMENT. (1) ALL ESSENTIAL FREIGHT~~
8 ~~RAIL REVENUE BONDS ISSUED UNDER [SECTIONS 7 THROUGH 21 18], THEIR TRANSFER, AND THEIR INCOME, INCLUDING~~
9 ~~ANY PROFITS MADE ON THEIR SALE, ARE EXEMPT FROM TAXATION BY THE STATE OR ANY POLITICAL SUBDIVISION OR OTHER~~
10 ~~INSTRUMENTALITY OF THE STATE, EXCEPT FOR ESTATE TAXES.~~

11 ~~(2) BONDS ISSUED UNDER [SECTIONS 7 THROUGH 21 18] ARE LEGAL INVESTMENTS FOR ANY PERSON OR BOARD~~
12 ~~CHARGED WITH INVESTMENT OF PUBLIC FUNDS AND ARE ACCEPTABLE AS SECURITY FOR ANY DEPOSIT OF PUBLIC MONEY.~~

13
14 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 4 ~~AND 7 THROUGH 21 18~~
15 ~~9]~~ are intended to be codified as an integral part of Title 60, chapter 11, part 1, and the provisions of Title 60,
16 chapter 11, part 1, apply to [sections 1 through 4 ~~AND 7 THROUGH 21 18 9]~~.

17
18 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2005.

19 - END -