

HOUSE BILL NO. 551

INTRODUCED BY O'KEEFE
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

FEBRUARY 1, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON NATURAL RESOURCES.

FEBRUARY 2, 1991 FIRST READING.

FEBRUARY 12, 1991 COMMITTEE RECOMMEND BILL
 DO PASS. REPORT ADOPTED.

FEBRUARY 13, 1991 PRINTING REPORT.

FEBRUARY 15, 1991 SECOND READING, DO PASS.

FEBRUARY 16, 1991 ENGROSSING REPORT.

FEBRUARY 18, 1991 THIRD READING, PASSED.
 AYES, 99; NOES, 0.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON FINANCE & CLAIMS.

 FIRST READING.

MARCH 20, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 22, 1991 SECOND READING, CONCURRED IN.

MARCH 23, 1991 THIRD READING, CONCURRED IN.
 AYES, 46; NOES, 1.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS NOT
 CONCURRED IN.

APRIL 11, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 19, 1991

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 20, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 551
 2 INTRODUCED BY Orlino
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE WASTEWATER
 7 TREATMENT REVOLVING FUND ACT TO ALLOW INTEREST EARNINGS ON
 8 BOND PROCEEDS TO BE DEPOSITED IN THE STATE ALLOCATION
 9 ACCOUNT; REMOVING THE REQUIREMENT THAT PRINCIPAL REPAYMENTS
 10 MUST BE CREDITED PROPORTIONATELY TO THE STATE ALLOCATION
 11 ACCOUNT AND THE FEDERAL ALLOCATION ACCOUNT; REQUIRING LOCAL
 12 GOVERNMENTS TO ESTABLISH AND MAINTAIN RESERVES; AMENDING
 13 SECTIONS 75-5-1106 AND 75-5-1113, MCA; AND PROVIDING AN
 14 IMMEDIATE EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 75-5-1106, MCA, is amended to read:

18 "75-5-1106. Revolving fund. (1) There is established in
 19 the state treasury a separate account designated as the
 20 wastewater treatment works revolving fund. There are
 21 established in the revolving fund as subaccounts a federal
 22 allocation account, a state allocation account, an
 23 administration account, an investment income account, and a
 24 debt service account.

25 (2) There must be credited to:

1 (a) the federal allocation account, all amounts
 2 received by the state pursuant to the federal act as
 3 capitalization grants for a state revolving fund to assist
 4 construction of wastewater treatment works and grants or
 5 transfers of grants received under subchapter II of the
 6 federal act for construction of wastewater treatment works;

7 (b) the state allocation account, the proceeds of bonds
 8 of the state issued pursuant to 75-5-1121, interest earnings
 9 on the bond proceeds, and other money appropriated by the
 10 legislature;

11 (c) the administration account, 4%, or the maximum
 12 amount allowed by the federal act, of the capitalization
 13 grant award for payment of administrative costs;

14 (d) the investment account, all money received from
 15 investment of amounts in the other accounts in the revolving
 16 fund; and

17 (e) the debt service account, ~~all interest earnings on~~
 18 ~~bond proceeds and~~ the interest portion of loan repayments.

19 (3) Each loan made as authorized by 75-5-1113 must be
 20 funded and disbursed from the federal allocation account or
 21 the state allocation account, or both, by the department of
 22 natural resources and conservation as recommended by the
 23 department, ~~and all amounts received in repayment of~~
 24 ~~principal of a loan must be credited in the same proportion~~
 25 ~~to the federal allocation account or the state allocation~~



1 ~~account,--or--both.~~ All amounts received in payment of
 2 principal or interest on a loan must be credited to the
 3 revolving fund. If bonds have been issued pursuant to
 4 75-5-1121 and are outstanding, the interest payments must be
 5 transferred to the debt service account securing the bonds.
 6 Money in the debt service account that is not required for
 7 debt service may be transferred by the board of examiners,
 8 upon request of the department of natural resources and
 9 conservation, to other accounts within the revolving fund.

10 (4) The department of natural resources and
 11 conservation may establish additional accounts and
 12 subaccounts within the revolving fund as it considers
 13 necessary to account for the program money and to ensure
 14 compliance with the federal act and this part."

15 **Section 2.** Section 75-5-1113, MCA, is amended to read:

16 "75-5-1113. Loans. (1) Upon approval of an application
 17 by the department, the department of natural resources and
 18 conservation may lend amounts on deposit in the revolving
 19 fund to a municipality or private concern to pay part or all
 20 of the cost of a project or to buy or refinance an
 21 outstanding obligation of a municipality that was issued to
 22 finance a project. The loan is subject to the municipality
 23 or private concern complying with the following conditions:

24 (a) meeting requirements of financial capability set by
 25 the department of natural resources and conservation to

1 assure sufficient revenues to operate and maintain the
 2 project for its useful life and to repay the loan, including
 3 the establishment and maintenance by the municipality of a
 4 reserve or revolving fund to secure the payment of principal
 5 of and interest on the loan to the extent permitted by the
 6 applicable law governing the municipality's obligation;

7 (b) agreeing to operate and maintain the project
 8 properly over its structural and material design life, which
 9 may not be less than 20 years;

10 (c) agreeing to maintain proper financial records in
 11 accordance with recognized government accounting procedures
 12 and agreeing that all records are subject to audit;

13 (d) meeting the requirements listed in the federal act
 14 for projects constructed with funds directly made available
 15 by federal capitalization grants;

16 (e) providing legal assurance that all necessary
 17 property titles, easements, and rights-of-way have been
 18 obtained to construct, operate, and maintain the project;

19 (f) submitting an engineering report evaluating the
 20 proposed project, including information demonstrating its
 21 cost-effectiveness and environmental information necessary
 22 for the department and the department of natural resources
 23 and conservation to fulfill their responsibilities under the
 24 Montana Environmental Policy Act and rules adopted to
 25 implement that act;

1 (g) complying with plan and specification requirements
2 for public wastewater systems established by the board; and

3 (h) providing for proper construction inspection and
4 project management.

5 (2) Each loan, unless prepaid, is payable subject to
6 the limitations of the federal act, with interest paid in
7 annual or more frequent installments, the first of which
8 must be received not more than 1 year after the completion
9 date of the project and the last of which must be received
10 not more than 20 years after the completion date.

11 (3) Subject to the limitations of the federal act, the
12 interest rate on a loan must enable the state to pay the
13 principal of and interest on the bonds issued pursuant to
14 75-5-1121.

15 (a) The interest rate must be determined as of the date
16 the loan is authorized by the department of natural
17 resources and conservation.

18 (b) The rate may include any additional rate that the
19 department of natural resources and conservation considers
20 reasonable or necessary to provide a reserve for the
21 repayment of the loan. The additional rate may be fixed or
22 variable or may be calculated according to a formula, and it
23 may differ from the rate established for any other loan.

24 (4) Each loan must be evidenced by a bond, note, or
25 other evidence of indebtedness of the municipality or

1 private concern, in a form prescribed or approved by the
2 department of natural resources and conservation, except
3 that the bond, note, or other evidence must include
4 provisions required by the federal act and must be
5 consistent with the provisions of this part. The bond, note,
6 or other evidence is not required to be identical for all
7 loans.

8 (5) As a condition to making a loan, the department of
9 natural resources and conservation, with the concurrence of
10 the department, may impose a reasonable administrative fee
11 that may be paid from the proceeds of the loan or other
12 available funds of the municipality or private concern.
13 Administrative fees must be deposited in a special
14 administrative costs account that the department of natural
15 resources and conservation may create for that purpose
16 outside the revolving fund provided for in 75-5-1106. Money
17 deposited in the special administrative costs account must
18 be used for the payment of administrative costs of the
19 program."

20 NEW SECTION. **Section 3.** Effective date. [This act] is
21 effective on passage and approval.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

1 HOUSE BILL NO. 551
2 INTRODUCTION BY Rife
3 BY REQUEST OF THE DEPARTMENT OF
4 HEALTH AND ENVIRONMENTAL SCIENCES

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7 TREATMENT REVOLVING FUND ACT TO ALLOW INTEREST EARNINGS ON
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19 the state treasury a separate account designated as the
20 wastewater treatment works revolving fund. There are
21 established in the revolving fund as subaccounts a federal
22 allocation account, a state allocation account, an
23 administration account, an investment income account, and a
24 debt service account.

25 (2) There must be credited to:

1 (a) the federal allocation account, all amounts
2 received by the state pursuant to the federal act as
3 capitalization grants for a state revolving fund to assist
4 construction of wastewater treatment works and grants or
5 transfers of grants received under subchapter II of the
6 federal act for construction of wastewater treatment works;

7 (b) the state allocation account, the proceeds of bonds
8 of the state issued pursuant to 75-5-1121, interest earnings
9 on the bond proceeds, and other money appropriated by the
10 legislature;

11 (c) the administration account, 4%, or the maximum
12 amount allowed by the federal act, of the capitalization
13 grant award for payment of administrative costs;

14 (d) the investment account, all money received from
15 investment of amounts in the other accounts in the revolving
16 fund; and

17 (e) the debt service account, ~~all-interest-earnings-on~~
18 ~~bond-proceeds-and~~ the interest portion of loan repayments.

19 (3) Each loan made as authorized by 75-5-1113 must be
20 funded and disbursed from the federal allocation account or
21 the state allocation account, or both, by the department of
22 natural resources and conservation as recommended by the
23 department, ~~and all amounts received in repayment of~~
24 ~~principal of a loan must be credited in the same proportion~~
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 2 principal or interest on a loan must be credited to the
 3 revolving fund. If bonds have been issued pursuant to
 4 75-5-1121 and are outstanding, the interest payments must be
 5 transferred to the debt service account securing the bonds.
 6 Money in the debt service account that is not required for
 7 debt service may be transferred by the board of examiners,
 8 upon request of the department of natural resources and
 9 conservation, to other accounts within the revolving fund.

10 (4) The department of natural resources and
 11 conservation may establish additional accounts and
 12 subaccounts within the revolving fund as it considers
 13 necessary to account for the program money and to ensure
 14 compliance with the federal act and this part."

15 **Section 2.** Section 75-5-1113, MCA, is amended to read:

16 *75-5-1113. Loans. (1) Upon approval of an application
 17 by the department, the department of natural resources and
 18 conservation may lend amounts on deposit in the revolving
 19 fund to a municipality or private concern to pay part or all
 20 of the cost of a project or to buy or refinance an
 21 outstanding obligation of a municipality that was issued to
 22 finance a project. The loan is subject to the municipality
 23 or private concern complying with the following conditions:

24 (a) meeting requirements of financial capability set by
 25 the department of natural resources and conservation to

1 assure sufficient revenues to operate and maintain the
 2 project for its useful life and to repay the loan, including
 3 the establishment and maintenance by the municipality of a
 4 reserve or revolving fund to secure the payment of principal
 5 of and interest on the loan to the extent permitted by the
 6 applicable law governing the municipality's obligation;

7 (b) agreeing to operate and maintain the project
 8 properly over its structural and material design life, which
 9 may not be less than 20 years;

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 11 accordance with recognized government accounting procedures
 12 and agreeing that all records are subject to audit;

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 17 property titles, easements, and rights-of-way have been
 18 obtained to construct, operate, and maintain the project;

19 (f) submitting an engineering report evaluating the
 20 proposed project, including information demonstrating its
 21 cost-effectiveness and environmental information necessary
 22 for the department and the department of natural resources
 23 and conservation to fulfill their responsibilities under the
 24 Montana Environmental Policy Act and rules adopted to
 25 implement that act;

1 (g) complying with plan and specification requirements
2 for public wastewater systems established by the board; and

3 (h) providing for proper construction inspection and
4 project management.

5 (2) Each loan, unless prepaid, is payable subject to
6 the limitations of the federal act, with interest paid in
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11 (3) Subject to the limitations of the federal act, the
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13 principal of and interest on the bonds issued pursuant to
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17 deposited in the special administrative costs account must
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20 NEW SECTION. **Section 3.** Effective date. [This act] is
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 25 the department of natural resources and conservation to

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 5 of and interest on the loan to the extent permitted by the
 6 applicable law governing the municipality's obligation;

7 (b) agreeing to operate and maintain the project
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 11 accordance with recognized government accounting procedures
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19 (f) submitting an engineering report evaluating the
 20 proposed project, including information demonstrating its
 21 cost-effectiveness and environmental information necessary
 22 for the department and the department of natural resources
 23 and conservation to fulfill their responsibilities under the
 24 Montana Environmental Policy Act and rules adopted to
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1 (g) complying with plan and specification requirements
2 for public wastewater systems established by the board; and

3 (h) providing for proper construction inspection and
4 project management.

5 (2) Each loan, unless prepaid, is payable subject to
6 the limitations of the federal act, with interest paid in
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9 date of the project and the last of which must be received
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11 (3) Subject to the limitations of the federal act, the
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13 principal of and interest on the bonds issued pursuant to
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15 (a) The interest rate must be determined as of the date
16 the loan is authorized by the department of natural
17 resources and conservation.

18 (b) The rate may include any additional rate that the
19 department of natural resources and conservation considers
20 reasonable or necessary to provide a reserve for the
21 repayment of the loan. The additional rate may be fixed or
22 variable or may be calculated according to a formula, and it
23 may differ from the rate established for any other loan.

24 (4) Each loan must be evidenced by a bond, note, or
25 other evidence of indebtedness of the municipality or

1 private concern, in a form prescribed or approved by the
2 department of natural resources and conservation, except
3 that the bond, note, or other evidence must include
4 provisions required by the federal act and must be
5 consistent with the provisions of this part. The bond, note,
6 or other evidence is not required to be identical for all
7 loans.

8 (5) As a condition to making a loan, the department of
9 natural resources and conservation, with the concurrence of
10 the department, may impose a reasonable administrative fee
11 that may be paid from the proceeds of the loan or other
12 available funds of the municipality or private concern.
13 Administrative fees must be deposited in a special
14 administrative costs account that the department of natural
15 resources and conservation may create for that purpose
16 outside the revolving fund provided for in 75-5-1106. Money
17 deposited in the special administrative costs account must
18 be used for the payment of administrative costs of the
19 program."

20 NEW SECTION. **Section 3.** Effective date. [This act] is
21 effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

Page 2 of 4
March 20, 1991

Page 1 of 4
March 20, 1991

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 551 (third reading copy -- blue), respectfully report that House Bill No. 551 be amended and as so amended be concurred in:

1. Title, lines 7 and 8.
Following: "ALLOW" on line 7
Strike: "INTEREST EARNINGS ON BOND PROCEEDS"
Insert: "NET PROCEEDS OF BONDS"

2. Title, line 11.
Following: "ALLOCATION ACCOUNT;"
Insert: "AUTHORIZING BONDS TO BE ISSUED BY RESOLUTION OR
INDENTURE OF TRUST;"

3. Title, line 13.
Following: "75-5-1106"
Strike: "AND"
Insert: ", "
Following: "75-5-1113,"
Insert: "AND 75-5-1121,"

4. Page 1, line 23.
Strike: "and"

5. Page 1, line 24.
Following: "account"
Insert: ", and a cost of issuance account"

6. Page 2, line 7.
Following: ", the"
Insert: "net"

7. Page 2, lines 8 and 9.
Following: "75-5-1121" on line 8
Strike: "interest earnings on the bond proceeds."

8. Page 2, line 15.
Following: "amounts in"
Strike: "the other"
Insert: "those"

9. Page 2, line 16.
Following: "fund"
Insert: "designated by the board of examiners in the resolution
or indenture of trust authorizing the issuance of bonds"
Strike: "and"

10. Page 2, line 18.
Strike: "."
Insert: "; and"

11. Page 2.
Following: line 18
Insert: "(f) the cost of issuance account, bond proceeds as
determined necessary by the department of natural resources
and conservation to pay the cost of issuing bonds."

12. Page 3, lines 7 through 9.
Following: "transferred"
Strike: remainder of line 7 through "fund" on line 9
Insert: "to other accounts within the revolving fund as provided
in the resolution or indenture of trust authorizing the
bonds"

13. Page 5, line 12.
Following: "must"
Insert: "ensure that the interest payments on the loan and on
other outstanding loans will be sufficient, if paid timely
and in full, with other available funds in the revolving
fund, including investment income, to"

14. Page 6, line 13.
Strike: "must"
Insert: "may"
Following: "deposited"
Insert: "; (a)"

15. Page 6, line 16.
Following: "75-11-1106"
Insert: "; or (b) in the administration account"

16. Page 6, line 17.
Following: "account"
Insert: "or the administration account"

17. Page 6, line 20.
Following, line 19

Insert: Section 3. Section 75-5-1121, MCA, is amended to read:
"75-5-1121. Authorization of bonds -- appropriation of proceeds. (1) The board of examiners is authorized, upon request of the department of natural resources and conservation, to issue and sell bonds of the state in an aggregate principal amount not exceeding \$10 million to provide money for the revolving loan program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) The proceeds of the bonds, other than any premium and accrued interest received or amounts to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state allocation account of the wastewater treatment works revolving fund. Any premium and accrued interest and bond proceeds to be used to pay interest must be deposited to in the debt service account. Proceeds of bonds deposited in the state allocation account may to be used to pay the costs of issuing the bonds must be deposited in the cost of issuance account. For purposes of sections 17-5-803 and 17-5-804, the state allocation account and the costs of issuance account constitutes constitute a capital projects account. The proceeds must be available to the department and the department of natural resources and conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of natural resources and conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the interest component of the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

(4) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having the powers of a trustee inside or outside the state.

(a) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(b) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and
(ii) permit representatives of the state treasurer, department, or department of natural resources and conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(c) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state."

Renumber; subsequent section

Signed: Judy H. Jacobsen
Judy H. Jacobsen, Chairman

LB 3/20/91
Amd. Coofd!

SB 3/20 1:45
Sec. of Senate

1 HOUSE BILL NO. 551
 2 INTRODUCED BY O'KEEFE
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE WASTEWATER
 7 TREATMENT REVOLVING FUND ACT TO ALLOW ~~INTEREST--EARNINGS--ON~~
 8 ~~BOND--PROCEEDS~~ NET PROCEEDS OF BONDS TO BE DEPOSITED IN THE
 9 STATE ALLOCATION ACCOUNT; REMOVING THE REQUIREMENT THAT
 10 PRINCIPAL REPAYMENTS MUST BE CREDITED PROPORTIONATELY TO THE
 11 STATE ALLOCATION ACCOUNT AND THE FEDERAL ALLOCATION ACCOUNT;
 12 AUTHORIZING BONDS TO BE ISSUED BY RESOLUTION OR INDENTURE OF
 13 TRUST; REQUIRING LOCAL GOVERNMENTS TO ESTABLISH AND MAINTAIN
 14 RESERVES; AMENDING SECTIONS 75-5-1106 AND, 75-5-1113, AND
 15 75-5-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 16

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

18 **Section 1.** Section 75-5-1106, MCA, is amended to read:

19 "75-5-1106. Revolving fund. (1) There is established in
 20 the state treasury a separate account designated as the
 21 wastewater treatment works revolving fund. There are
 22 established in the revolving fund as subaccounts a federal
 23 allocation account, a state allocation account, an
 24 administration account, an investment income account, and a
 25 debt service account, AND A COST OF ISSUANCE ACCOUNT.

1 (2) There must be credited to:
 2 (a) the federal allocation account, all amounts
 3 received by the state pursuant to the federal act as
 4 capitalization grants for a state revolving fund to assist
 5 construction of wastewater treatment works and grants or
 6 transfers of grants received under subchapter II of the
 7 federal act for construction of wastewater treatment works;
 8 (b) the state allocation account, the NET proceeds of
 9 bonds of the state issued pursuant to 75-5-1121, ~~interest~~
 10 ~~earnings-on-the-bond-proceeds,~~ and other money appropriated
 11 by the legislature;
 12 (c) the administration account, 4%, or the maximum
 13 amount allowed by the federal act, of the capitalization
 14 grant award for payment of administrative costs;
 15 (d) the investment account, all money received from
 16 investment of amounts in ~~the-other~~ THOSE accounts in the
 17 revolving fund DESIGNATED BY THE BOARD OF EXAMINERS IN THE
 18 RESOLUTION OR INDENTURE OF TRUST AUTHORIZING THE ISSUANCE OF
 19 BONDS; and
 20 (e) the debt service account, ~~all-interest-earnings--on~~
 21 ~~bond--proceeds-and~~ the interest portion of loan repayments;
 22 AND
 23 (F) THE COST OF ISSUANCE ACCOUNT, BOND PROCEEDS AS
 24 DETERMINED NECESSARY BY THE DEPARTMENT OF NATURAL RESOURCES
 25 AND CONSERVATION TO PAY THE COST OF ISSUING BONDS.



1 (3) Each loan made as authorized by 75-5-1113 must be
 2 funded and disbursed from the federal allocation account or
 3 the state allocation account, or both, by the department of
 4 natural resources and conservation as recommended by the
 5 department, ~~and all amounts received in repayment of~~
 6 ~~principal of a loan must be credited in the same proportion~~
 7 ~~to the federal allocation account or the state allocation~~
 8 ~~account, or both.~~ All amounts received in payment of
 9 principal or interest on a loan must be credited to the
 10 revolving fund. If bonds have been issued pursuant to
 11 75-5-1121 and are outstanding, the interest payments must be
 12 transferred to the debt service account securing the bonds.
 13 Money in the debt service account that is not required for
 14 debt service may be transferred ~~by the board of examiners,~~
 15 ~~upon request of the department of natural resources and~~
 16 ~~conservation, to other accounts within the revolving fund~~ TO
 17 OTHER ACCOUNTS WITHIN THE REVOLVING FUND AS PROVIDED IN THE
 18 RESOLUTION OR INDENTURE OF TRUST AUTHORIZING THE BONDS.

19 (4) The department of natural resources and
 20 conservation may establish additional accounts and
 21 subaccounts within the revolving fund as it considers
 22 necessary to account for the program money and to ensure
 23 compliance with the federal act and this part."

24 **Section 2.** Section 75-5-1113, MCA, is amended to read:
 25 "75-5-1113. Loans. (1) Upon approval of an application

1 by the department, the department of natural resources and
 2 conservation may lend amounts on deposit in the revolving
 3 fund to a municipality or private concern to pay part or all
 4 of the cost of a project or to buy or refinance an
 5 outstanding obligation of a municipality that was issued to
 6 finance a project. The loan is subject to the municipality
 7 or private concern complying with the following conditions:

8 (a) meeting requirements of financial capability set by
 9 the department of natural resources and conservation to
 10 assure sufficient revenues to operate and maintain the
 11 project for its useful life and to repay the loan, including
 12 the establishment and maintenance by the municipality of a
 13 reserve or revolving fund to secure the payment of principal
 14 of and interest on the loan to the extent permitted by the
 15 applicable law governing the municipality's obligation;

16 (b) agreeing to operate and maintain the project
 17 properly over its structural and material design life, which
 18 may not be less than 20 years;

19 (c) agreeing to maintain proper financial records in
 20 accordance with recognized government accounting procedures
 21 and agreeing that all records are subject to audit;

22 (d) meeting the requirements listed in the federal act
 23 for projects constructed with funds directly made available
 24 by federal capitalization grants;

25 (e) providing legal assurance that all necessary

1 property titles, easements, and rights-of-way have been
2 obtained to construct, operate, and maintain the project;

3 (f) submitting an engineering report evaluating the
4 proposed project, including information demonstrating its
5 cost-effectiveness and environmental information necessary
6 for the department and the department of natural resources
7 and conservation to fulfill their responsibilities under the
8 Montana Environmental Policy Act and rules adopted to
9 implement that act;

10 (g) complying with plan and specification requirements
11 for public wastewater systems established by the board; and

12 (h) providing for proper construction inspection and
13 project management.

14 (2) Each loan, unless prepaid, is payable subject to
15 the limitations of the federal act, with interest paid in
16 annual or more frequent installments, the first of which
17 must be received not more than 1 year after the completion
18 date of the project and the last of which must be received
19 not more than 20 years after the completion date.

20 (3) Subject to the limitations of the federal act, the
21 interest rate on a loan must ENSURE THAT THE INTEREST
22 PAYMENTS ON THE LOAN AND ON OTHER OUTSTANDING LOANS WILL BE
23 SUFFICIENT, IF PAID TIMELY AND IN FULL, WITH OTHER AVAILABLE
24 FUNDS IN THE REVOLVING FUND, INCLUDING INVESTMENT INCOME, TO
25 enable the state to pay the principal of and interest on the

1 bonds issued pursuant to 75-5-1121.

2 (a) The interest rate must be determined as of the date
3 the loan is authorized by the department of natural
4 resources and conservation.

5 (b) The rate may include any additional rate that the
6 department of natural resources and conservation considers
7 reasonable or necessary to provide a reserve for the
8 repayment of the loan. The additional rate may be fixed or
9 variable or may be calculated according to a formula, and it
10 may differ from the rate established for any other loan.

11 (4) Each loan must be evidenced by a bond, note, or
12 other evidence of indebtedness of the municipality or
13 private concern, in a form prescribed or approved by the
14 department of natural resources and conservation, except
15 that the bond, note, or other evidence must include
16 provisions required by the federal act and must be
17 consistent with the provisions of this part. The bond, note,
18 or other evidence is not required to be identical for all
19 loans.

20 (5) As a condition to making a loan, the department of
21 natural resources and conservation, with the concurrence of
22 the department, may impose a reasonable administrative fee
23 that may be paid from the proceeds of the loan or other
24 available funds of the municipality or private concern.
25 Administrative fees must MAY be deposited:

1 (A) in a special administrative costs account that the
 2 department of natural resources and conservation may create
 3 for that purpose outside the revolving fund provided for in
 4 75-5-1106; OR

5 (B) IN THE ADMINISTRATION ACCOUNT. Money deposited in
 6 the special administrative costs account OR THE
 7 ADMINISTRATION ACCOUNT must be used for the payment of
 8 administrative costs of the program."

9 SECTION 3. SECTION 75-5-1121, MCA, IS AMENDED TO READ:

10 *75-5-1121. Authorization of bonds -- appropriation of
 11 proceeds. (1) The board of examiners is authorized, upon
 12 request of the department of natural resources and
 13 conservation, to issue and sell bonds of the state in an
 14 aggregate principal amount not exceeding \$10 million to
 15 provide money for the revolving loan program. The bonds are
 16 general obligations on which the full faith, credit, and
 17 taxing powers of the state are pledged for payment of the
 18 principal and interest. The bonds must be issued as provided
 19 by Title 17, chapter 5, part 8.

20 (2) The proceeds of the bonds, other than any premium
 21 and accrued interest received or amounts to be used to pay
 22 interest on the bonds or the costs of issuing the bonds, are
 23 appropriated to the state allocation account of the
 24 wastewater treatment works revolving fund. Any premium and
 25 accrued interest and bond proceeds to be used to pay

1 interest must be deposited to in the debt service account.
 2 Proceeds of bonds ~~deposited-in-the-state-allocation-account~~
 3 may to be used to pay the costs of issuing the bonds must be
 4 deposited in the cost of issuance account. For purposes of
 5 sections 17-5-803 and 17-5-804, the state allocation account
 6 and the costs of issuance account constitutes constitute a
 7 capital projects account. The proceeds must be available to
 8 the department and the department of natural resources and
 9 conservation and may be used for the purposes authorized in
 10 this part without further budgetary authorization.

11 (3) In the resolution authorizing the sale and issuance
 12 of the bonds, the board of examiners, upon the request of
 13 the department of natural resources and conservation, may
 14 create separate accounts or subaccounts to provide for the
 15 payment security of the bonds and may pledge the interest
 16 component of the loan repayments credited to the revolving
 17 fund and the revolving fund as security for the bonds.

18 (4) The board of examiners may allow bonds issued under
 19 this section to be secured by a trust indenture between the
 20 board of examiners and a trustee. The trustee may be a trust
 21 company or bank having the powers of a trustee inside or
 22 outside the state.

23 (a) If the board of examiners elects to issue bonds
 24 pursuant to a trust indenture, the trustee may, as
 25 determined by the board of examiners, hold one or more of

1 the funds and accounts created pursuant to this chapter.

2 (b) In addition to provisions that the board of
3 examiners determines to be necessary and appropriate to
4 secure the bonds, provide for the rights of the bondholders,
5 and ensure compliance with all applicable law, the trust
6 indenture must contain provisions that:

7 (i) govern the custody, safeguarding, and disbursement
8 of all money held by the trustee under the trust indenture;
9 and

10 (ii) permit representatives of the state treasurer,
11 department, or department of natural resources and
12 conservation, upon reasonable notice and at reasonable
13 times, to inspect the trustee's books and records concerning
14 the trust indenture.

15 (c) A trust indenture or an executed counterpart of a
16 trust indenture developed pursuant to this chapter must be
17 filed with the secretary of state."

18 NEW SECTION. Section 4. Effective date. [This act] is
19 effective on passage and approval.

-End-

Free Conference Committee
on House Bill 551
Report No. 1, April 18, 1991

4-19-91
8:55 AM
POA

April 18, 1991
Page 2 of 2

Page 1 of 2

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 551 and recommend House Bill 551 (reference copy -- salmon) be amended as follows:

1. Title, line 12.
Following: "OR"
Insert: "TRUST"
2. Title, lines 12 and 13.
Following: "INDENTURE"
Strike: "OF TRUST"
3. Page 1, line 24.
Following: "and"
Insert: "and"
4. Page 1, line 25.
Following: "service account"
Strike: ", AND A COST OF ISSUANCE ACCOUNT"
5. Page 2, line 18.
Following: "OR"
Strike: "INDENTURE OF"
Following: "TRUST"
Insert: "indenture"
6. Page 2, line 19.
Following: "and"
Insert: "and"
7. Page 2, lines 21 and 22.
Following: " "
Strike: " ; AND "
Insert: " . "
8. Page 2, lines 23 through 25.
Strike: subsection (F) in its entirety
9. Page 3, line 18.
Following: "OR"
Strike: "INDENTURE OF"
Following: "TRUST"
Insert: "indenture"

10. Page 8, line 4.

Following: "in"

Strike: "the"

Insert: "a"

Following: "account"

Insert: "established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds"

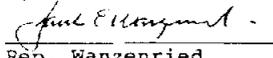
And this Free Conference Committee report be adopted.

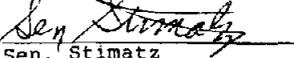
For the House:

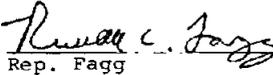
For the Senate:


Rep. O'Keefe, Chair


Sen. Hockett, Chair


Rep. Wanzonried


Sen. Stimatz


Rep. Fagg


Sen. Anderson

ADOPT
REJECT

FCCR.#1
HB 551
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831629CC.HSF

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 7 TREATMENT REVOLVING FUND ACT TO ALLOW INTEREST--EARNINGS--ON
 8 ~~BOND--PROCEEDS~~ NET PROCEEDS OF BONDS TO BE DEPOSITED IN THE
 9 STATE ALLOCATION ACCOUNT; REMOVING THE REQUIREMENT THAT
 10 PRINCIPAL REPAYMENTS MUST BE CREDITED PROPORTIONATELY TO THE
 11 STATE ALLOCATION ACCOUNT AND THE FEDERAL ALLOCATION ACCOUNT;
 12 AUTHORIZING BONDS TO BE ISSUED BY RESOLUTION OR TRUST
 13 INDENTURE OF TRUST; REQUIRING LOCAL GOVERNMENTS TO ESTABLISH
 14 AND MAINTAIN RESERVES; AMENDING SECTIONS 75-5-1106 AND
 15 75-5-1113, AND 75-5-1121, MCA; AND PROVIDING AN IMMEDIATE
 16 EFFECTIVE DATE."
 17

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

19 **Section 1.** Section 75-5-1106, MCA, is amended to read:
 20 ***75-5-1106. Revolving fund.** (1) There is established in
 21 the state treasury a separate account designated as the
 22 wastewater treatment works revolving fund. There are
 23 established in the revolving fund as subaccounts a federal
 24 allocation account, a state allocation account, an
 25 administration account, an investment income account, and

1 AND a debt service account, ~~AND A COST-OF-ISSUANCE-ACCOUNT.~~
 2 (2) There must be credited to:
 3 (a) the federal allocation account, all amounts
 4 received by the state pursuant to the federal act as
 5 capitalization grants for a state revolving fund to assist
 6 construction of wastewater treatment works and grants or
 7 transfers of grants received under subchapter II of the
 8 federal act for construction of wastewater treatment works;
 9 (b) the state allocation account, the NET proceeds of
 10 bonds of the state issued pursuant to 75-5-1121, ~~interest~~
 11 earnings-on-the-bond-proceeds, and other money appropriated
 12 by the legislature;
 13 (c) the administration account, 4%, or the maximum
 14 amount allowed by the federal act, of the capitalization
 15 grant award for payment of administrative costs;
 16 (d) the investment account, all money received from
 17 investment of amounts in the other THOSE accounts in the
 18 revolving fund DESIGNATED BY THE BOARD OF EXAMINERS IN THE
 19 RESOLUTION OR INDENTURE OF TRUST INDENTURE AUTHORIZING THE
 20 ISSUANCE OF BONDS; and AND
 21 (e) the debt service account, ~~all-interest-earnings-on~~
 22 ~~bond-proceeds-and~~ the interest portion of loan repayments;
 23 AND.
 24 †P--THE--COST--OF--ISSUANCE--ACCOUNT,--BOND--PROCEEDS--AS
 25 DETERMINED-NECESSARY-BY-THE-DEPARTMENT-OF-NATURAL--RESOURCES



AND CONSERVATION TO PAY THE COST OF ISSUING BONDS:

(3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal allocation account or the state allocation account, or both, by the department of natural resources and conservation as recommended by the department; ~~and all amounts received in repayment of principal of a loan must be credited in the same proportion to the federal allocation account or the state allocation account, or both.~~ All amounts received in payment of principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account securing the bonds. Money in the debt service account that is not required for debt service may be transferred ~~by the board of examiners, upon request of the department of natural resources and conservation, to other accounts within the revolving fund~~ TO OTHER ACCOUNTS WITHIN THE REVOLVING FUND AS PROVIDED IN THE RESOLUTION OR INDENTURE OF TRUST INDENTURE AUTHORIZING THE BONDS.

(4) The department of natural resources and conservation may establish additional accounts and subaccounts within the revolving fund as it considers necessary to account for the program money and to ensure compliance with the federal act and this part."

Section 2. Section 75-5-1113, MCA, is amended to read:

***75-5-1113. Loans.** (1) Upon approval of an application by the department, the department of natural resources and conservation may lend amounts on deposit in the revolving fund to a municipality or private concern to pay part or all of the cost of a project or to buy or refinance an outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the municipality or private concern complying with the following conditions:

(a) meeting requirements of financial capability set by the department of natural resources and conservation to assure sufficient revenues to operate and maintain the project for its useful life and to repay the loan, including the establishment and maintenance by the municipality of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the municipality's obligation;

(b) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than 20 years;

(c) agreeing to maintain proper financial records in accordance with recognized government accounting procedures and agreeing that all records are subject to audit;

(d) meeting the requirements listed in the federal act for projects constructed with funds directly made available

1 by federal capitalization grants;

2 (e) providing legal assurance that all necessary
3 property titles, easements, and rights-of-way have been
4 obtained to construct, operate, and maintain the project;

5 (f) submitting an engineering report evaluating the
6 proposed project, including information demonstrating its
7 cost-effectiveness and environmental information necessary
8 for the department and the department of natural resources
9 and conservation to fulfill their responsibilities under the
10 Montana Environmental Policy Act and rules adopted to
11 implement that act;

12 (g) complying with plan and specification requirements
13 for public wastewater systems established by the board; and

14 (h) providing for proper construction inspection and
15 project management.

16 (2) Each loan, unless prepaid, is payable subject to
17 the limitations of the federal act, with interest paid in
18 annual or more frequent installments, the first of which
19 must be received not more than 1 year after the completion
20 date of the project and the last of which must be received
21 not more than 20 years after the completion date.

22 (3) Subject to the limitations of the federal act, the
23 interest rate on a loan must ENSURE THAT THE INTEREST
24 PAYMENTS ON THE LOAN AND ON OTHER OUTSTANDING LOANS WILL BE
25 SUFFICIENT, IF PAID TIMELY AND IN FULL, WITH OTHER AVAILABLE

1 FUNDS IN THE REVOLVING FUND, INCLUDING INVESTMENT INCOME, TO
2 enable the state to pay the principal of and interest on the
3 bonds issued pursuant to 75-5-1121.

4 (a) The interest rate must be determined as of the date
5 the loan is authorized by the department of natural
6 resources and conservation.

7 (b) The rate may include any additional rate that the
8 department of natural resources and conservation considers
9 reasonable or necessary to provide a reserve for the
10 repayment of the loan. The additional rate may be fixed or
11 variable or may be calculated according to a formula, and it
12 may differ from the rate established for any other loan.

13 (4) Each loan must be evidenced by a bond, note, or
14 other evidence of indebtedness of the municipality or
15 private concern, in a form prescribed or approved by the
16 department of natural resources and conservation, except
17 that the bond, note, or other evidence must include
18 provisions required by the federal act and must be
19 consistent with the provisions of this part. The bond, note,
20 or other evidence is not required to be identical for all
21 loans.

22 (5) As a condition to making a loan, the department of
23 natural resources and conservation, with the concurrence of
24 the department, may impose a reasonable administrative fee
25 that may be paid from the proceeds of the loan or other

1 available funds of the municipality or private concern.
2 Administrative fees must MAY be deposited:

3 (A) in a special administrative costs account that the
4 department of natural resources and conservation may create
5 for that purpose outside the revolving fund provided for in
6 75-5-1106; OR

7 (B) IN THE ADMINISTRATION ACCOUNT. Money deposited in
8 the special administrative costs account OR THE
9 ADMINISTRATION ACCOUNT must be used for the payment of
10 administrative costs of the program."

11 **SECTION 3. SECTION 75-5-1121, MCA, IS AMENDED TO READ:**

12 "75-5-1121. Authorization of bonds -- appropriation of
13 proceeds. (1) The board of examiners is authorized, upon
14 request of the department of natural resources and
15 conservation, to issue and sell bonds of the state in an
16 aggregate principal amount not exceeding \$10 million to
17 provide money for the revolving loan program. The bonds are
18 general obligations on which the full faith, credit, and
19 taxing powers of the state are pledged for payment of the
20 principal and interest. The bonds must be issued as provided
21 by Title 17, chapter 5, part 8.

22 (2) The proceeds of the bonds, other than any premium
23 and accrued interest received or amounts to be used to pay
24 interest on the bonds or the costs of issuing the bonds, are
25 appropriated to the state allocation account of the

1 wastewater treatment works revolving fund. Any premium and
2 accrued interest and bond proceeds to be used to pay
3 interest must be deposited to in the debt service account.
4 Proceeds of bonds ~~deposited-in-the-state-allocation--account~~
5 may to be used to pay the costs of issuing the bonds must be
6 deposited in the A cost of issuance account ESTABLISHED
7 OUTSIDE OF THE REVOLVING FUND BY THE BOARD OF EXAMINERS IN
8 THE RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE
9 OF THE BONDS. For purposes of sections 17-5-803 and
10 17-5-804, the state allocation account and the costs of
11 issuance account constitutes constitute a capital projects
12 account. The proceeds must be available to the department
13 and the department of natural resources and conservation and
14 may be used for the purposes authorized in this part without
15 further budgetary authorization.

16 (3) In the resolution authorizing the sale and issuance
17 of the bonds, the board of examiners, upon the request of
18 the department of natural resources and conservation, may
19 create separate accounts or subaccounts to provide for the
20 payment security of the bonds and may pledge the interest
21 component of the loan repayments credited to the revolving
22 fund and the revolving fund as security for the bonds.

23 (4) The board of examiners may allow bonds issued under
24 this section to be secured by a trust indenture between the
25 board of examiners and a trustee. The trustee may be a trust

1 company or bank having the powers of a trustee inside or
2 outside the state.

3 (a) If the board of examiners elects to issue bonds
4 pursuant to a trust indenture, the trustee may, as
5 determined by the board of examiners, hold one or more of
6 the funds and accounts created pursuant to this chapter.

7 (b) In addition to provisions that the board of
8 examiners determines to be necessary and appropriate to
9 secure the bonds, provide for the rights of the bondholders,
10 and ensure compliance with all applicable law, the trust
11 indenture must contain provisions that:

12 (i) govern the custody, safeguarding, and disbursement
13 of all money held by the trustee under the trust indenture;
14 and

15 (ii) permit representatives of the state treasurer,
16 department, or department of natural resources and
17 conservation, upon reasonable notice and at reasonable
18 times, to inspect the trustee's books and records concerning
19 the trust indenture.

20 (c) A trust indenture or an executed counterpart of a
21 trust indenture developed pursuant to this chapter must be
22 filed with the secretary of state."

23 NEW SECTION. Section 4. Effective date. [This act] is
24 effective on passage and approval.

-End-