

HOUSE BILL NO. 846

INTRODUCED BY ASAY, OCHSNER, ROTH, DEVLIN, CONROY, KEATING,  
McLANE, KEMMIS, CURTISS, SWITZER, HUENNEKENS, ZABROCKI, GALT,  
GRAHAM

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

IN THE HOUSE

March 17, 1981	Introduced and referred to Committee on Appropriations.
March 30, 1981	On motion rules were suspended to allow bill to be transmitted on the 75th legislative day.
April 2, 1981	Committee recommend bill do pass as amended. Report adopted.
April 3, 1981	Bill printed and placed on members' desks.  Bill rereferred to the Select Committee on Water.
April 4, 1981	Transmittal date extended to the 76th legislative day.
April 6, 1981	Committee recommend bill do pass. Report adopted.  On motion rules were suspended and bill placed on second reading this day.  Second reading, do pass as amended.  On motion rules were suspended and bill placed on third reading this day.  Third reading, passed. Ayes, 95; Noes, 0. Transmitted to Senate.

IN THE SENATE

April 7, 1981

By consent and motion bill allowed to be received and considered this session.

Introduced and referred to Committee on Finance and Claims.

April 15, 1981

Committee recommend bill be concurred in. Report adopted.

April 17, 1981

Second reading, concurred in.

On motion rules suspended Bill placed on calendar for third reading this day.

Third reading, concurred in. Ayes, 49; Noes, 1.

IN THE HOUSE

April 20, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 846

*Enrolled*

INTRODUCED BY *Asst. Dir. Robert A. Conroy*

*McDon Kammls* BY REQUEST OF *Curtis*

THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

*Zabriskie* *Matt Graham*

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE REHABILITATION OF THE TONGUE RIVER DAM AND TO APPROVE THE ISSUANCE OF STATE OF MONTANA COAL SEVERANCE TAX BONDS FOR A STATE-FEDERAL COST SHARE OF THE TONGUE RIVER DAM REHABILITATION CONSTRUCTION COSTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Tongue River Dam is in a dangerously unsafe condition; a flood, which is expected to occur once every 68 years, is capable of washing out the present dam; and the dam almost failed during a flood that occurred in the spring of 1978 and would have failed during a flood that occurred in 1923 had the dam been in place at that time; and

WHEREAS, dam failure would result in devastating property damage downstream along the Tongue River and to the communities of Birney and Ashland and might cause loss of life; and

WHEREAS, an enlarged Tongue River reservoir that is federally funded and jointly managed by the Northern

Cheyenne Tribe, the Department of Natural Resources and Conservation, and the federal government can provide a cost-effective means of preserving all existing project benefits, provide water for future agricultural and tribal use, and provide sufficient water to facilitate the negotiation of a compact between the Northern Cheyenne Tribe and the Reserved Water Rights Compact Commission regarding tribal rights to water from the Tongue River; and

WHEREAS, a state cost share is essential in expeditiously securing the federal funds necessary to construct a joint tribal-federal-state project.

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

Section 1. Appropriation for rehabilitation of the Tongue River Dam. (1) There is appropriated to the department of natural resources and conservation for pursuing the option to rehabilitate the Tongue River Dam as recommended in the department of natural resources and conservation's report to the legislature, "Tongue River Dam Project Summary Report":

- (a) from the net earnings available for appropriation in the resource indemnity trust account, created by 15-38-201, the sum of \$40,732 for the period beginning on the effective date of this act and ending June 30, 1981; and
- (b) from the water development earmarked account,

1 created by section 5, Senate Bill 409, out of funds  
2 available under section 5(3)(b), Senate Bill 409, the sum of  
3 \$395,331 for the biennium ending June 30, 1983.

4 (2) The department shall:

5 (a) maintain the reservoir at the lowest level  
6 possible to meet existing water contracts until safety and  
7 other problems with the dam are rectified;

8 (b) develop, implement, and maintain an emergency  
9 warning and downstream evacuation system for residents  
10 living below the Tongue River Dam;

11 (c) work with the Northern Cheyenne Tribe and the  
12 federal government to develop a jointly managed and funded  
13 project on the Tongue River that provides for a larger  
14 reservoir behind a safe dam; and

15 (d) cooperate with the Northern Cheyenne Tribe and the  
16 reserved water rights compact commission, established in  
17 2-15-212, to reach a negotiated settlement of the tribe's  
18 water right in conjunction with a joint tribal-state  
19 rehabilitation of Tongue River Dam.

20 Section 2. Authorization of state of Montana coal  
21 severance tax bonds for Tongue River Dam rehabilitation. (1)  
22 The board of examiners is hereby authorized to issue up to  
23 \$10 million worth of state of Montana coal severance tax  
24 bonds pursuant to sections 25 through 44 of Senate Bill 409  
25 for the state of Montana's share of the construction costs

1 of the Tongue River Dam rehabilitation as established in a  
2 joint sharing of project costs between the state, the  
3 federal government, and the Northern Cheyenne Tribe. This  
4 authorization is contingent upon approval by the board of  
5 natural resources and conservation of a detailed project  
6 plan that includes a resolution of Northern Cheyenne water  
7 right conflicts in the Tongue River Basin and upon the  
8 appropriation of federal funds to construct the project  
9 approved by the board of natural resources and conservation.

10 (2) The state of Montana's share of any revenues from  
11 the rehabilitated Tongue River Dam is pledged first for the  
12 state of Montana's share of the operation and maintenance  
13 costs of the rehabilitated Tongue River Dam. The excess, if  
14 any, of revenues over the operation and maintenance costs is  
15 pledged and allocated to a special bond account, which shall  
16 be part of the sinking fund of the state treasury fund  
17 structure, for the benefit of the bonds approved by this  
18 section. The excess, if any, of revenues over debt service  
19 and operation and maintenance costs is allocated to the  
20 water development earmarked account.

21 Section 3. Effective date. This act is effective on  
22 passage and approval.

-End-

Approved by Comm.  
on Appropriations

1 HOUSE BILL NO. 846  
 2 INTRODUCED BY ASAY, OCHSNER, ROTH, DEVLIN, CONROY,  
 3 KEATING, McLANE, KEMMIS, CURTISS, SWITZER,  
 4 HUENNEKENS, ZABROCKI, GALT, GRAHAM  
 5 BY REQUEST OF  
 6 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
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 8 A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO  
 9 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE  
 10 REHABILITATION OF THE TONGUE RIVER DAM AND TO APPROVE THE  
 11 ISSUANCE OF STATE OF MONTANA COAL SEVERANCE TAX BONDS FOR A  
 12 STATE-FEDERAL COST SHARE OF THE TONGUE RIVER DAM  
 13 REHABILITATION CONSTRUCTION COSTS; AND PROVIDING AN  
 14 IMMEDIATE EFFECTIVE DATE."

15  
 16 WHEREAS, the Tongue River Dam, BECAUSE OF AN UNDERSIZED  
 17 SPIELWAY, is in a dangerously unsafe condition; a flood,  
 18 which is expected to occur once every 68 years, is capable  
 19 of washing out the present dam; and the dam almost failed  
 20 during a flood that occurred in the spring of 1978 and would  
 21 have failed during a flood that occurred in 1923 had the dam  
 22 been in place at that time; and

23 WHEREAS, dam failure would result in devastating  
 24 property damage downstream along the Tongue River and to the  
 25 communities of Birney and Ashland and might cause loss of

1 life; and  
 2 WHEREAS, an enlarged Tongue River reservoir that is  
 3 federally funded and jointly managed by the Northern  
 4 Cheyenne Tribe, the Department of Natural Resources and  
 5 Conservation, and the federal government can provide a  
 6 cost-effective means of preserving all existing project  
 7 benefits, provide water for future agricultural and tribal  
 8 use, PROVIDE FOR THE PRESERVATION OF THE RECREATIONAL AND  
 9 FISHERY VALUES, and provide sufficient water to facilitate  
 10 the negotiation of a compact between the Northern Cheyenne  
 11 Tribe and the Reserved Water Rights Compact Commission  
 12 regarding tribal rights to water from the Tongue River; and  
 13 WHEREAS, a state cost share is essential in  
 14 expeditiously securing the federal funds necessary to  
 15 construct a joint tribal-federal-state project.

16  
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 18 Section 1. Appropriation for rehabilitation of the  
 19 Tongue River Dam. (1) There is appropriated to the  
 20 department of natural resources and conservation for  
 21 pursuing the option to rehabilitate the Tongue River Dam as  
 22 recommended in the department of natural resources and  
 23 conservation's report to the legislature, "Tongue River Dam  
 24 Project Summary Report":

25 (a) from the net earnings available for appropriation

1 in the resource--indemnity--trust--accounty--created--by  
 2 ~~15-30-201,~~ RENEWABLE RESOURCE DEVELOPMENT BOND ACCOUNT,  
 3 PROVIDED FOR IN 15-35-108(2)(G), the sum of \$40,732 for the  
 4 period beginning on the effective date of this act and  
 5 ending June 30, 1981; and

6 (b) from the water development earmarked account,  
 7 created by section 5, Senate Bill 409, out of funds  
 8 available under section 5(3)(b), Senate Bill 409, the sum of  
 9 \$395,331 for the biennium ending June 30, 1983.

10 (2) The department shall:

11 (a) maintain the reservoir at the lowest level  
 12 possible to meet existing water contracts until safety and  
 13 other problems with the dam are rectified;

14 (b) develop, implement, and maintain an emergency  
 15 warning and downstream evacuation system for residents  
 16 living below the Tongue River Dam;

17 (c) work with the Northern Cheyenne Tribe and the  
 18 federal government to develop a jointly managed and funded  
 19 project on the Tongue River that provides for a larger  
 20 reservoir behind a safe dam; and

21 (d) cooperate with ~~the Northern Cheyenne Tribe and the~~  
 22 ~~reserved water rights compact commission,~~ established in  
 23 ~~2-15-212,~~ to reach a negotiated settlement of the tribe's  
 24 water right in conjunction with a joint tribal-state  
 25 rehabilitation of Tongue River Dam.

1 Section 2. Authorization of state of Montana coal  
 2 severance tax bonds for Tongue River Dam rehabilitation. (1)  
 3 The board of examiners is hereby authorized to issue up to  
 4 \$10 million worth of state of Montana coal severance tax  
 5 bonds pursuant to sections ~~25~~ 24 through ~~44~~ 42 of Senate  
 6 Bill 409 for the state of Montana's share of the  
 7 construction costs of the Tongue River Dam rehabilitation as  
 8 established in a joint sharing of project costs between the  
 9 state, the federal government, and the Northern Cheyenne  
 10 Tribe. This authorization is contingent upon LEGISLATIVE  
 11 ~~approval by the board of natural resources and conservation~~  
 12 ~~of a detailed project plan~~ APPROVED BY THE BOARD OF NATURAL  
 13 RESOURCES AND CONSERVATION that includes a resolution of  
 14 Northern Cheyenne water right conflicts in the Tongue River  
 15 Basin and upon the appropriation of federal funds to  
 16 construct the project approved by the board of natural  
 17 resources and conservation AND LEGISLATURE.

18 (2) The state of Montana's share of any revenues from  
 19 the rehabilitated Tongue River Dam is pledged first for the  
 20 state of Montana's share of the operation and maintenance  
 21 costs of the rehabilitated Tongue River Dam. The excess, if  
 22 any, of revenues over the operation and maintenance costs is  
 23 pledged and allocated to a special bond account, which shall  
 24 be part of the sinking fund of the state treasury fund  
 25 structure, for the benefit of the bonds approved by this

1 section. The excess, if any, of revenues over debt service  
2 and operation and maintenance costs is allocated to the  
3 water development earmarked account.

4 Section 3. Effective date. This act is effective on  
5 passage and approval.

-End-

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2 INTRODUCED BY ASAY, OCHSNER, ROTH, DEVLIN, CONROY,

3 KEATING, McLANE, KEMMIS, CURTISS, SWITZER,

4 HUENNEKENS, ZABROCKI, GALT, GRAHAM

5 BY REQUEST OF

6 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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8 A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE FUNDS TO  
9 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE  
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11 ISSUANCE OF STATE OF MONTANA COAL SEVERANCE TAX BONDS FOR A  
12 STATE-FEDERAL COST SHARE OF THE TONGUE RIVER DAM  
13 REHABILITATION CONSTRUCTION COSTS; AND PROVIDING AN  
14 IMMEDIATE EFFECTIVE DATE."

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16 WHEREAS, the Tongue River Dam, BECAUSE OF AN UNDERSIZED  
17 SPILLWAY, is in a dangerously unsafe condition; a flood,  
18 which is expected to occur once every 68 years, is capable  
19 of washing out the present dam; and the dam almost failed  
20 during a flood that occurred in the spring of 1978 and would  
21 have failed during a flood that occurred in 1923 had the dam  
22 been in place at that time; and

23 WHEREAS, dam failure would result in devastating  
24 property damage downstream along the Tongue River and to the  
25 communities of Birney and Ashland and might cause loss of

1 life; and

2 WHEREAS, an enlarged Tongue River reservoir that is  
3 federally funded and jointly managed by the Northern  
4 Cheyenne Tribe, the Department of Natural Resources and  
5 Conservation, and the federal government can provide a  
6 cost-effective means of preserving all existing project  
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9 FISHERY VALUES, and provide sufficient water to facilitate

10 the negotiation of a compact between the Northern Cheyenne  
11 Tribe and the Reserved Water Rights Compact Commission  
12 regarding tribal rights to water from the Tongue River; and

13 WHEREAS, a state cost share is essential in  
14 expeditiously securing the federal funds necessary to  
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17 Section 1. Appropriation for rehabilitation of the  
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19 department of natural resources and conservation for  
20 pursuing the option to rehabilitate the Tongue River Dam as  
21 recommended in the department of natural resources and  
22 conservation's report to the legislature, "Tongue River Dam  
23 Project Summary Report":

24 (a) from the net earnings available for appropriation



1 in the ~~resource--indemnity--trust--accounty--created--by~~  
 2 ~~15-38-201~~ RENEWABLE RESOURCE DEVELOPMENT BOND ACCOUNT  
 3 PROVIDED FOR IN ~~15-35-108(2)(6)~~ 90-2-102(4), the sum of  
 4 \$40,732 for the period beginning on the effective date of  
 5 this act and ending June 30, 1981; and

6 (b) from the water development earmarked account,  
 7 created by section 5, Senate Bill 409, out of funds  
 8 available under section 5(3)(b), Senate Bill 409, the sum of  
 9 \$395,331 for the biennium ending June 30, 1983.

10 (2) The department shall:

11 (a) maintain the reservoir at the lowest level  
 12 possible to meet existing water contracts until safety and  
 13 other problems with the dam are rectified;

14 (b) develop, implement, and maintain an emergency  
 15 warning and downstream evacuation system for residents  
 16 living below the Tongue River Dam;

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 18 federal government to develop a jointly managed and funded  
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1 Section 2. Authorization of state of Montana coal  
 2 severance tax bonds for Tongue River Dam rehabilitation. (1)  
 3 THE LEGISLATURE, THROUGH THE ENACTMENT OF THIS SECTION BY A  
 4 VOTE OF THREE-FOURTHS (3/4) OF THE MEMBERS OF EACH HOUSE OF  
 5 THE LEGISLATURE AS REQUIRED BY ARTICLE IX, SECTION 5 OF THE  
 6 MONTANA CONSTITUTION, APPROPRIATES FROM THE SEVERANCE TAX  
 7 BOND SUBFUND ALL MONEY NECESSARY FOR THE PAYMENT OF ANY  
 8 PRINCIPAL AND INTEREST NOT PROVIDED FOR IN SUBSECTION (2) OF  
 9 THIS SECTION. THE LEGISLATURE, THROUGH THE ENACTMENT OF  
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 11 OF EACH HOUSE OF THE LEGISLATURE, INCORPORATES BY REFERENCE  
 12 SECTIONS 24 THROUGH 42 OF SENATE BILL 409 AS PART OF THE  
 13 APPROPRIATION AUTHORIZED BY THIS SECTION.

14 (2) THE LEGISLATURE, THROUGH THE ENACTMENT OF THIS  
 15 SECTION BY A TWO-THIRDS VOTE OF THE MEMBERS OF EACH HOUSE OF  
 16 THE LEGISLATURE, AUTHORIZES THE CREATION OF A STATE DEBT IN  
 17 AN AMOUNT NOT TO EXCEED \$10 MILLION FOR THE ISSUANCE OF  
 18 STATE OF MONTANA COAL SEVERANCE TAX BONDS AUTHORIZED BY THIS  
 19 SECTION.

20 ~~(1)(3)~~ (3) The board of examiners is hereby authorized to  
 21 issue up to \$10 million worth of state of Montana coal  
 22 severance tax bonds pursuant to sections 25 ~~24~~ through 44 ~~42~~  
 23 of Senate Bill 409 for the state of Montana's share of the  
 24 construction costs of the Tongue River Dam rehabilitation as  
 25 established in a joint sharing of project costs between the

1 state, the federal government, and the Northern Cheyenne  
2 Tribe. This authorization is contingent upon LEGISLATIVE  
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4 of a detailed project plan APPROVED BY THE BOARD OF NATURAL  
5 RESOURCES AND CONSERVATION that includes a resolution of  
6 Northern Cheyenne water right conflicts in the Tongue River  
7 Basin and upon the appropriation of federal funds to  
8 construct the project approved by the board of natural  
9 resources and conservation AND LEGISLATURE.

10 ~~(2)(4)~~ The state of Montana's share of any revenues  
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21 Section 3. Effective date. This act is effective on  
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 17 AN AMOUNT NOT TO EXCEED \$10 MILLION FOR THE ISSUANCE OF  
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7 Basin and upon the appropriation of federal funds to  
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