

House BILL NO. 493

INTRODUCED BY

*Conner McLean Larson HARP SPINDE Sage*

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

*Groffield V. Valkenburg*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFE DRINKING WATER TREATMENT REVOLVING FUND ACT; AUTHORIZING THE ISSUANCE OF \$10 MILLION IN GENERAL OBLIGATION BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE SAFE DRINKING WATER TREATMENT REVOLVING FUND; AUTHORIZING THE ISSUANCE OF \$5 MILLION IN GENERAL OBLIGATION BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE STATE WASTE WATER TREATMENT REVOLVING FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 75-5-1112, 75-5-1113, AND 75-5-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted to the board of health and environmental sciences and the board of natural resources and conservation to implement a new state financial assistance program for communities that need to improve their public water systems. The legislature understands and anticipates that the program will provide low interest loans and grants to Montana entities to construct needed improvements for water supply and treatment systems and that program will be supported through federal grant funds and state matching funds raised through the issuance of general obligation bonds and repaid by interest charges of the loan. The bill requires rulemaking by both boards to establish procedures and criteria by which these loans and grants are awarded. In developing these rules, the legislature desires that the application review process should be straightforward and efficient for both the agencies and the applicant. Also, the criteria for awarding grants and loans should be clear and maximize the potential for state grants and loans to communities that need the funding.

Fundamentally, the legislature views this bill as providing a funding source for Montana entities required to meet drinking water standards or faced with upgrading or expanding their systems. Therefore, the rules should facilitate availability of this funding to the widest number of eligible entities at the lowest possible costs, taking into consideration the state's interest in protecting the viability of the program.

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

1           **NEW SECTION. Section 1. Short title.** [Sections 1 through 15] may be cited as the "Safe Drinking  
2 Water Treatment Revolving Fund Act".

3  
4           **NEW SECTION. Section 2. Definitions.** Unless the context requires otherwise, in [sections 1  
5 through 15], the following definitions apply:

6           (1) "Administrative costs" means costs incurred by the department and the department of natural  
7 resources and conservation in the administration of the program, including but not limited to:

8           (a) costs of servicing loans and issuing debt;

9           (b) program startup costs;

10           (c) financial, management, and legal consulting fees; and

11           (d) reimbursement costs for support services from other state agencies.

12           (2) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a  
13 public water system, including but not limited to:

14           (a) engineering, financing, and other fees;

15           (b) interest during construction; and

16           (c) a reasonable allowance for contingencies to the extent permitted by the federal act and rules  
17 promulgated under the federal act.

18           (3) "Federal act" means the federal Safe Drinking Water Act.

19           (4) "Governmental agency" means a city, county, water and sewer district, or other local  
20 government unit having authority to own, construct, or operate a public water system.

21           (5) "Grant" means a grant of money from the revolving fund for project costs.

22           (6) "Indian tribe" means an Indian tribe within the state of Montana that is recognized by the  
23 secretary of the U.S. department of interior.

24           (7) "Investor-owned public water system" means a public water system that is not owned by a  
25 governmental agency, an intergovernmental agency, a nonprofit organization, an Indian tribe, or a  
26 combination of governmental entities.

27           (8) "Loan" means a loan of money from the revolving fund for project costs.

28           (9) "Nonprofit organization" means an organization that is organized under Montana law and that  
29 qualifies as a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue  
30 Code.

1 (10) "Program" means the safe drinking water treatment revolving loan program established by this  
2 part.

3 (11) "Project" means improvements that are:

4 (a) to be undertaken for a public water system and that are of a type that will facilitate compliance  
5 with the national primary drinking water regulations applicable to the system; or

6 (b) to further the health protection objectives of the federal act.

7 (12) "Public water system" means a system for the provision to the public of piped water for human  
8 consumption, if that system has at least 15 service connections or regularly serves at least 25 individuals.  
9 The term includes any collection, treatment, storage, and distribution facilities under control of an operator  
10 of a system that are used primarily in connection with a system and any collection or pretreatment storage  
11 facilities not under control of the operator and that are used primarily in connection with a system.

12 (13) "Revolving fund" means the safe drinking water treatment revolving fund established by  
13 [section 6].

14  
15 **NEW SECTION. Section 3. Safe drinking water treatment revolving fund program.** There is a  
16 program under which the state may provide financial assistance to public water systems. The program  
17 must be administered in accordance with [sections 1 through 15] and the federal act.

18  
19 **NEW SECTION. Section 4. Authorization of agreement -- content.** (1) The department may enter  
20 into a capitalization grant agreement or other agreement with the U.S. environmental protection agency to  
21 implement the program and may accept from that agency other grants and loans to carry out the program.

22 (2) In entering into an agreement, the director of the department may commit the state to:

23 (a) accept grant payments from the U.S. environmental protection agency in accordance with the  
24 schedule established by the administrator of that agency and deposit the payments in the revolving fund  
25 established in [section 6];

26 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total  
27 amount of all capitalization grants made to the state as provided by [section 6] on or before the date on  
28 which each federal grant payment is made to the state;

29 (c) provide financial and technical assistance to a public water system in accordance with [sections  
30 1 through 15] in an amount equal to 120% of the amount of each grant payment within a period not to

1 exceed 1 year after receipt of a grant;

2 (d) expend all funds in the revolving fund in an expeditious and timely manner;

3 (e) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure  
4 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and  
5 requirements of the federal act;

6 (f) expend each grant payment in accordance with the laws and procedures applicable to  
7 commitment or expenditure of revenues of the state;

8 (g) use accounting, audit, and fiscal procedures conforming to generally accepted government  
9 accounting standards;

10 (h) make annual reports to the U.S. environmental protection agency concerning the use of the  
11 revolving fund as required by the federal act; and

12 (i) any other covenants, commitments, and obligations necessary to ensure that the state's  
13 administration of the program is consistent with the provisions of [sections 1 through 15] and the federal  
14 act.

15 (3) as a condition of making a loan or providing other financial assistance from the revolving fund,  
16 the department shall require that the public water system maintain project accounts in accordance with  
17 generally accepted government accounting standards.

18

19 **NEW SECTION. Section 5. Rulemaking authority.** The board and the board of natural resources  
20 and conservation may adopt rules within their respective authorities established within the provisions of  
21 this part, including rules:

22 (1) prescribing the form and content of applications for loans and grants;

23 (2) governing the application of the criteria for awarding loans and grants;

24 (3) establishing additional terms and conditions for the making of loans and the security instruments  
25 and other necessary agreements;

26 (4) establishing ceilings on the amount of individual loans and grants to be made if considered  
27 appropriate and necessary for the successful administration of the program;

28 (5) regarding other matters that may be required to ensure compliance of the program with the  
29 provisions and the federal act and rules promulgated under the federal act, unless these matters are  
30 specifically governed by [sections 1 through 15]; and

1 (6) to maintain the financial integrity of the program.

2  
3 **NEW SECTION. Section 6. Revolving fund.** (1) There is established in the state treasury a  
4 separate account designated as the safe drinking water treatment revolving fund. The corpus of the fund  
5 must be available in perpetuity for providing assistance under [sections 1 through 15]. There are  
6 established within the revolving fund a federal allocation account, a state allocation account, an  
7 administration account, an investment income account, and a debt service account.

8 (2) There must be credited to:

9 (a) the federal allocation account all amounts received by the state pursuant to the federal act as  
10 capitalization grants for a state revolving fund to assist construction of or improvements to public water  
11 systems;

12 (b) the state allocation account the net proceeds of bonds of the state issued pursuant to [section  
13 15] and other money appropriated by the legislature;

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

16 (d) the investment account all money received from investment of amounts in those accounts in  
17 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the  
18 issuance of bonds; and

19 (e) the debt service account the interest portion of loan repayments.

20 (3) Each loan made as authorized by [section 15] must be funded and disbursed from the federal  
21 allocation account or the state allocation account, or both, by the department of natural resources and  
22 conservation as recommended by the department. All amounts received in payment of principal or interest  
23 on a loan must be credited to the revolving fund. If bonds have been issued pursuant to [section 15] and  
24 are outstanding, the interest payments must be transferred to the debt service account securing the bonds.  
25 Money in the debt service account that is not required for debt service may be transferred to other accounts  
26 within the revolving fund as provided in the resolution or trust indenture authorizing the bonds.

27 (4) The department of natural resources and conservation may establish additional accounts and  
28 subaccounts within the revolving fund that it considers necessary to account for the program money and  
29 to ensure compliance with the federal act and [sections 1 through 15].

30

1           **NEW SECTION. Section 7. Use of revolving fund.** (1) Money in the revolving fund must be used  
2 for providing financial assistance that is in the form of loans and grants to public water systems and that  
3 is of the type provided in [sections 1 through 15].

4           (2) (a) Financial assistance may be used by a public water system only for expenditures that the  
5 U.S. environmental protection agency has determined through its regulations are appropriate. Financial  
6 assistance may be used for acquisition, from willing sellers at fair market value, of real property or interests  
7 that are integral to establishing a public water system.

8           (b) Financial assistance may not be used for expenditures related to monitoring, operation, and  
9 maintenance.

10  
11           **NEW SECTION. Section 8. Wellhead protection -- assessment and viability program.** The  
12 department may use up to 4% of the federal capitalization grants annually, to:

13           (1) establish wellhead protection programs;

14           (2) establish and implement source water assessment programs; and

15           (3) develop a viability program and assessment of viability programs consistent with Title 75,  
16 chapter 6, and the federal act.

17  
18           **NEW SECTION. Section 9. Statutory appropriation.** Money in the revolving fund is statutorily  
19 appropriated, as provided in 17-7-502, for the purposes of providing financial assistance to public water  
20 systems. Money in the administration account authorized by [section 6] is subject to legislative  
21 appropriation, and expenditures from this account must be made from temporary appropriations, as  
22 described in 17-7-501(1) or (2), that are made for that purpose.

23  
24           **NEW SECTION. Section 10. Grant program.** The department may make grants only to public  
25 water systems owned by a governmental agency, an intergovernmental agency, a nonprofit organization,  
26 an Indian tribe, or any combination of those entities that the state finds to be experiencing financial  
27 hardship or disadvantages. Grants may not be made in an aggregate amount that exceeds the sum of the  
28 interest collected on deposits in the revolving fund plus amounts deposited in the revolving fund by the  
29 state pursuant to [section 6]. The department shall establish rules for evaluating and determining financial  
30 hardship.

1           **NEW SECTION. Section 11. Loan program.** The department may provide financial assistance in  
2 the form of a loan to public water systems owned by a governmental agency, an intergovernmental agency,  
3 a nonprofit corporation, an Indian tribe, or any combination of those entities, subject to the requirements  
4 in [sections 12 through 14]. The department may provide financial assistance only in the form of a loan  
5 to an investor-owned public water system according to priorities established by the department, based on  
6 greatest public health needs and financial needs. Prior to making a loan to an investor-owned public water  
7 system, the department shall determine that the system has the ability to repay the loan according to its  
8 terms and conditions and may require a dedicated source of repayment and impose additional requirements.  
9 A loan to an investor-owned public water system is subject to the requirements of [sections 12 through  
10 14].

11  
12           **NEW SECTION. Section 12. Evaluation of projects.** After consultation with the department of  
13 natural resources and conservation, the department shall evaluate projects for loans and grants and place  
14 them on a priority list or intended use plan. In evaluating projects, the department shall consider the  
15 following factors:

- 16           (1) the viability of the public water system;
- 17           (2) the ability of the public water system to pay the costs of the project without the requested  
18 financial assistance;
- 19           (3) the amount available for financial assistance in the revolving fund;
- 20           (4) the total amount requested by other applications that have been received or that are likely to  
21 be received;
- 22           (5) the need for and the benefit to be derived from the project; and
- 23           (6) any other criteria that the department determines to be appropriate, considering the purposes  
24 of the program and the federal act.

25  
26           **NEW SECTION. Section 13. Applications for loans and grants.** (1) The department shall, after  
27 consultation with the department of natural resources and conservation, establish loan and grant application  
28 procedures, including forms for the applications. Each application for a loan must include:

- 29           (a) a reasonably detailed description of the project;
- 30           (b) a reasonably detailed estimate of the cost of the project;

1 (c) a timetable for the construction of the project and for payment of the cost of the project;

2 (d) identification of the source or sources of funds to be used in addition to the proceeds of the loan  
3 to pay the cost of the project;

4 (e) the source or sources of revenue proposed to be used to repay the loan;

5 (f) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
6 or other obligations payable from the revenue of the public water system and, if so, a description of the  
7 bonds, notes, or other obligations; and

8 (g) any other information that the department or the department of natural resources and  
9 conservation may require to determine the feasibility of a project and the applicant's ability to repay the  
10 loan, including but not limited to:

11 (i) engineering reports;

12 (ii) economic feasibility studies; and

13 (iii) legal opinions.

14 (2) Each application for a grant must include:

15 (a) a reasonably detailed description of the project;

16 (b) a reasonably detailed estimate of the cost of the project;

17 (c) a timetable for the construction of the project and for payment of the cost of the project;

18 (d) identification of the source or sources of funds to be used in addition to the proceeds of the  
19 grant to pay the cost of the project;

20 (e) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
21 or other obligations payable from the revenue of the public water system and, if so, a description of the  
22 bonds, notes, or other obligations;

23 (f) an explanation as to why a grant rather than a loan is requested; and

24 (g) any other information that the department or the department of natural resources and  
25 conservation may require.

26

27 **NEW SECTION. Section 14. Loan conditions.** (1) Upon approval of an application by the  
28 department, the department of natural resources and conservation may lend amounts on deposit in the  
29 revolving fund to a public water system to pay part or all of the cost of a project. The loan is subject to  
30 the applicant complying with the following conditions:



1 (a) meeting requirements of financial capability set by the department of natural resources and  
2 conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay  
3 the loan, including the establishment and maintenance by the applicant of a reserve or revolving fund to  
4 secure the payment of principal of and interest on the loan to the extent permitted by the applicable law  
5 governing the public water system or the applicant's financial authority;

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

8 (c) agreeing to maintain proper financial records in accordance with generally accepted government  
9 accounting standards and agreeing that all records are subject to audit;

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

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

14 (f) submitting an engineering report evaluating the proposed project, including information  
15 demonstrating its cost-effectiveness and environmental information necessary for the department and the  
16 department of natural resources and conservation to fulfill their responsibilities under the Montana  
17 Environmental Policy Act and rules adopted to implement that act;

18 (g) complying with plan and specification requirements for public water systems established by the  
19 board; and

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

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

25 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
26 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with  
27 other available funds in the revolving fund, including investment income, to enable the state to pay the  
28 principal of and interest on the bonds issued pursuant to [section 15].

29 (b) The interest rate may include any additional rate that the department of natural resources and  
30 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The

1 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the  
2 rate established for any other loans.

3 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
4 borrower, in a form prescribed or approved by the department of natural resources and conservation,  
5 except that the bond, note, or other evidence must include provisions required by the federal act and must  
6 be consistent with the provisions of [sections 1 through 15]. The bond, note, or other evidence is not  
7 required to be identical for all loans.

8 (5) As a condition to making a loan, the department of natural resources and conservation, with  
9 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
10 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees  
11 may be deposited:

12 (a) in a special administrative costs account that the department of natural resources and  
13 conservation may create for that purpose outside the revolving fund provided for in [section 6]; or

14 (b) in the administrative account provided for in [section 6]. In determining into which account the  
15 administrative fees are deposited, the department shall take into consideration the needs and requirements  
16 of the programs. Money deposited in the special administrative costs account or the administration account  
17 must be used for the payment of administrative costs of the program.

18

19 **NEW SECTION. Section 15. Authorization of bonds -- appropriation of proceeds.** (1) The board  
20 of examiners is authorized, upon request of the department of natural resources and conservation, to issue  
21 and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds  
22 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for  
23 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part  
24 8.

25 (2) The proceeds of the bonds, other than any premium and accrued interest received, the amounts  
26 to be used to pay interest on the bonds, or the costs of issuing the bonds, are appropriated to the state  
27 allocation account of the revolving fund. Any premium and accrued interest and bond proceeds to be used  
28 to pay interest must be deposited in the debt service account of the revolving fund. Proceeds of bonds to  
29 be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established  
30 outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the

1 issuance of the bonds. For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost  
2 of issuance account constitute a capital projects account. The proceeds must be available to the  
3 department and the department of natural resources and conservation and may be used for the purposes  
4 authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

25  
26 **NEW SECTION. Section 16. Creation of debt.** The legislature, through enactment of this section,  
27 authorizes the creation of state debt in an amount not to exceed \$10 million and authorizes the issuance  
28 and sale of general obligation bonds in this amount for the purpose of providing the state's share of the  
29 drinking water program.

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

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
4 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

10           (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
11 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
12 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;  
13 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;  
14 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;  
15 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;  
16 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;  
17 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;  
18 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;  
19 75-1-1101; 75-5-507; 75-5-1108; [section 9]; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;  
20 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;  
21 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

22           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
26 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
27 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
28 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
29 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates  
30 July 1, 1995.)"

1           **Section 18.** Section 75-5-1112, MCA, is amended to read:

2           "**75-5-1112. Evaluation of ~~applications~~ projects.** After consultation with the department of natural  
3 resources and conservation, the department shall evaluate projects ~~and annually rank applications~~ for loans  
4 and other financial assistance and place them on a priority list or intended use plan. In ~~ranking the~~  
5 ~~applications~~ evaluating projects, the department ~~must~~ shall consider the following factors:

6           (1) the ability of the municipality or private concern to pay the costs of the project without the  
7 requested financial assistance;

8           (2) the amount available for financial assistance in the revolving fund;

9           (3) the total amount requested by other applications that have been received or that are likely to  
10 be received;

11           (4) the need for and benefit to be derived from the project;

12           (5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing  
13 as measured by a decrease in interest rates and whether the refinancing permits the construction of an  
14 additional project by the municipality; and

15           (6) any other criteria that the department determines appropriate, considering the purposes of the  
16 federal act and the program."

17  
18           **Section 19.** Section 75-5-1113, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

18 (3) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
19 interest payments on the loan and on other outstanding loans will be sufficient, if paid timely and in full,  
20 with other available funds in the revolving fund, including investment income, to enable the state to pay  
21 the principal of and interest on the bonds issued pursuant to 75-5-1121.

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

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

28 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
29 municipality or private concern, in a form prescribed or approved by the department of natural resources  
30 and conservation, except that the bond, note, or other evidence must include provisions required by the

1 federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is  
2 not required to be identical for all loans.

3 (5) As a condition to making a loan, the department of natural resources and conservation, with  
4 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
5 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees may  
6 be deposited:

7 (a) in a special administrative costs account that the department of natural resources and  
8 conservation may create for that purpose outside the revolving fund provided for in 75-5-1106; or

9 (b) in the administration account. Money deposited in the ~~special administrative costs account or~~  
10 ~~the administration account~~ established in [section 6] must be used for the payment of administrative costs  
11 of the program. Money deposited in the special administration costs account must be used for the payment  
12 of administrative costs of the program unless not required for that purpose, in which case the money may  
13 be transferred to other funds and accounts in the program."

14

15 **Section 20.** Section 75-5-1121, MCA, is amended to read:

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

22 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts  
23 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state  
24 allocation account of the wastewater treatment works revolving fund. Any premium and accrued interest  
25 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of  
26 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account  
27 established outside of the revolving fund by the board of examiners in the resolution or trust indenture  
28 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state  
29 allocation account and the cost of issuance account constitute a capital projects account. The proceeds  
30 must be available to the department and the department of natural resources and conservation and may

1 be used for the purposes authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

22

23 **NEW SECTION. Section 21. Creation of debt.** The legislature through enactment of [this section],  
24 authorizes the creation of state debt in an amount not to exceed \$5 million and the issuance and sale of  
25 general obligation bonds in this amount for the purpose of providing the state's share of the waste water  
26 treatment works revolving loan program.

27

28 **NEW SECTION. Section 22. Two-thirds vote required.** Because [sections 16 and 21] authorize  
29 the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds  
30 of the members of each house of the legislature for passage.





STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0493, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

This bill creates the Safe Drinking Water Treatment Revolving Fund Act; authorizes the issuance of \$10 million in general obligation bonds to provide the state matching funds for the Safe Drinking Water Treatment Revolving Fund; authorizes the issuance of \$5 million in general obligation bonds to provide the state matching funds for the State Waste Water Treatment Revolving Fund; and provides a statutory appropriation.

ASSUMPTIONS:

1. Money in the revolving fund is statutorily appropriated for the purposes of providing financial assistance for public water systems. Money in the administration account is subject to legislative appropriations.
2. This program will operate in the same manner as the Wastewater State Revolving Fund (SRF) administered by the Department of Natural Resources and Conservation (DNRC) and the Department of Health and Environmental Sciences (DHES).
3. There will be \$10 million of general obligation bonds sold as match for EPA grant funds at 17% state and 83% federal split. This will result in funding of \$10 million of state and \$50 million of federal funds.
4. Low interest loans will be made to local governments for drinking water systems. The loan repayments will pay off the state general obligation bonds and provide funds for administration of the program. Loan repayments will be deposited into the revolving account to make future loans.
5. DNRC requested \$45,000 each year of the biennium to fund 1.00 FTE and operating costs for this program in the Executive Budget recommendation as a new proposal. The new proposal has received no action from the Natural Resource and Commerce Joint Subcommittee.
6. DHES requested 3.00 FTE and \$212,953 in FY96 and 4.00 FTE and \$232,308 for this program as a new proposal in the Executive Budget recommendation. No action was taken by the Natural Resource and Commerce Joint Subcommittee on the new proposal.

FISCAL IMPACT:

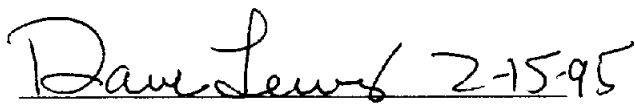
The state would pledge repayment of the bonds if the borrowers could not pay. The program requires borrowers to have debt service reserves so that the state has no financial impact.

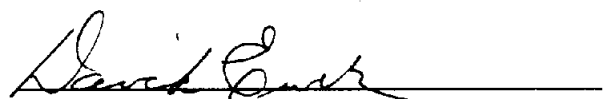
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This program would give communities in Montana a low cost interest rate financing program for drinking water systems. The wastewater program uses an interest rate of 4% which is the model for the Drinking Water Program. Many water systems in Montana need updated facilities because they are 10 to 20 years old and no longer meet federal standards. The program goal is to improve the water quality for communities in Montana.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

EPA grant funds are retained by the state to continue low-cost financing for drinking water systems. These funds will be available in perpetuity to be loaned out for future projects.

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

  
DAVID EWER, PRIMARY SPONSOR      DATE

Fiscal Note for HB0493, as introduced

**HB 493**

TECHNICAL NOTES:

The enabling federal legislation for the drinking water program is anticipated. The enabling federal legislation for the wastewater program is in effect and the state has received or applied for \$50,177,500 in federal capitalization grant funds for the program.

This bill asks for \$10 million in general obligation bond authority to start up the drinking water loan program. The \$5 million in general obligation bond authority is to keep the current state revolving fund wastewater program in operation.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No. Borrowers make loan repayments, those are used to repay the bonds.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

When bonds are issued proceeds must be segregated for federal tax reporting regulations.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?  Yes  No (if no, explain)

We only issue bonds when borrowers are ready to borrow and can demonstrate repayment.

- d) Does the need for this state special revenue provision still exist?  Yes  No (Explain)

The program is starting with the passage of HB #493.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

Yes. Only these funds are used in the loan program.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes. General Obligation Bonds are used to improve the financing of drinking systems that improve or conserve the use of water.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

Because the Internal Revenue Service requires reporting on bonds issued the accounting entities for those bond proceeds must be segregated.

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House BILL NO. 493

INTRODUCED BY

~~Conrad McLean Larson HARP SPINDE Dyer~~

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Grossfield Van Valkenburg

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFE DRINKING WATER TREATMENT REVOLVING FUND ACT; AUTHORIZING THE ISSUANCE OF \$10 MILLION IN GENERAL OBLIGATION BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE SAFE DRINKING WATER TREATMENT REVOLVING FUND; AUTHORIZING THE ISSUANCE OF \$5 MILLION IN GENERAL OBLIGATION BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE STATE WASTE WATER TREATMENT REVOLVING FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 75-5-1112, 75-5-1113, AND 75-5-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted to the board of health and environmental sciences and the board of natural resources and conservation to implement a new state financial assistance program for communities that need to improve their public water systems. The legislature understands and anticipates that the program will provide low interest loans and grants to Montana entities to construct needed improvements for water supply and treatment systems and that program will be supported through federal grant funds and state matching funds raised through the issuance of general obligation bonds and repaid by interest charges of the loan. The bill requires rulemaking by both boards to establish procedures and criteria by which these loans and grants are awarded. In developing these rules, the legislature desires that the application review process should be straightforward and efficient for both the agencies and the applicant. Also, the criteria for awarding grants and loans should be clear and maximize the potential for state grants and loans to communities that need the funding.

Fundamentally, the legislature views this bill as providing a funding source for Montana entities required to meet drinking water standards or faced with upgrading or expanding their systems. Therefore, the rules should facilitate availability of this funding to the widest number of eligible entities at the lowest possible costs, taking into consideration the state's interest in protecting the viability of the program.

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

1           **NEW SECTION. Section 1. Short title.** [Sections 1 through 15] may be cited as the "Safe Drinking  
2 Water Treatment Revolving Fund Act".

3  
4           **NEW SECTION. Section 2. Definitions.** Unless the context requires otherwise, in [sections 1  
5 through 15], the following definitions apply:

6           (1) "Administrative costs" means costs incurred by the department and the department of natural  
7 resources and conservation in the administration of the program, including but not limited to:

8           (a) costs of servicing loans and issuing debt;

9           (b) program startup costs;

10          (c) financial, management, and legal consulting fees; and

11          (d) reimbursement costs for support services from other state agencies.

12          (2) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a  
13 public water system, including but not limited to:

14          (a) engineering, financing, and other fees;

15          (b) interest during construction; and

16          (c) a reasonable allowance for contingencies to the extent permitted by the federal act and rules  
17 promulgated under the federal act.

18          (3) "Federal act" means the federal Safe Drinking Water Act.

19          (4) "Governmental agency" means a city, county, water and sewer district, or other local  
20 government unit having authority to own, construct, or operate a public water system.

21          (5) "Grant" means a grant of money from the revolving fund for project costs.

22          (6) "Indian tribe" means an Indian tribe within the state of Montana that is recognized by the  
23 secretary of the U.S. department of interior.

24          (7) "Investor-owned public water system" means a public water system that is not owned by a  
25 governmental agency, an intergovernmental agency, a nonprofit organization, an Indian tribe, or a  
26 combination of governmental entities.

27          (8) "Loan" means a loan of money from the revolving fund for project costs.

28          (9) "Nonprofit organization" means an organization that is organized under Montana law and that  
29 qualifies as a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue  
30 Code.

1 (10) "Program" means the safe drinking water treatment revolving loan program established by this  
2 part.

3 (11) "Project" means improvements that are:

4 (a) to be undertaken for a public water system and that are of a type that will facilitate compliance  
5 with the national primary drinking water regulations applicable to the system; or

6 (b) to further the health protection objectives of the federal act.

7 (12) "Public water system" means a system for the provision to the public of piped water for human  
8 consumption, if that system has at least 15 service connections or regularly serves at least 25 individuals.  
9 The term includes any collection, treatment, storage, and distribution facilities under control of an operator  
10 of a system that are used primarily in connection with a system and any collection or pretreatment storage  
11 facilities not under control of the operator and that are used primarily in connection with a system.

12 (13) "Revolving fund" means the safe drinking water treatment revolving fund established by  
13 [section 6].

14

15 **NEW SECTION. Section 3. Safe drinking water treatment revolving fund program.** There is a  
16 program under which the state may provide financial assistance to public water systems. The program  
17 must be administered in accordance with [sections 1 through 15] and the federal act.

18

19 **NEW SECTION. Section 4. Authorization of agreement -- content.** (1) The department may enter  
20 into a capitalization grant agreement or other agreement with the U.S. environmental protection agency to  
21 implement the program and may accept from that agency other grants and loans to carry out the program.

22 (2) In entering into an agreement, the director of the department may commit the state to:

23 (a) accept grant payments from the U.S. environmental protection agency in accordance with the  
24 schedule established by the administrator of that agency and deposit the payments in the revolving fund  
25 established in [section 6];

26 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total  
27 amount of all capitalization grants made to the state as provided by [section 6] on or before the date on  
28 which each federal grant payment is made to the state;

29 (c) provide financial and technical assistance to a public water system in accordance with [sections  
30 1 through 15] in an amount equal to 120% of the amount of each grant payment within a period not to

1 exceed 1 year after receipt of a grant;

2 (d) expend all funds in the revolving fund in an expeditious and timely manner;

3 (e) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure  
4 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and  
5 requirements of the federal act;

6 (f) expend each grant payment in accordance with the laws and procedures applicable to  
7 commitment or expenditure of revenues of the state;

8 (g) use accounting, audit, and fiscal procedures conforming to generally accepted government  
9 accounting standards;

10 (h) make annual reports to the U.S. environmental protection agency concerning the use of the  
11 revolving fund as required by the federal act; and

12 (i) any other covenants, commitments, and obligations necessary to ensure that the state's  
13 administration of the program is consistent with the provisions of [sections 1 through 15] and the federal  
14 act.

15 (3) as a condition of making a loan or providing other financial assistance from the revolving fund,  
16 the department shall require that the public water system maintain project accounts in accordance with  
17 generally accepted government accounting standards.

18

19 **NEW SECTION. Section 5. Rulemaking authority.** The board and the board of natural resources  
20 and conservation may adopt rules within their respective authorities established within the provisions of  
21 this part, including rules:

22 (1) prescribing the form and content of applications for loans and grants;

23 (2) governing the application of the criteria for awarding loans and grants;

24 (3) establishing additional terms and conditions for the making of loans and the security instruments  
25 and other necessary agreements;

26 (4) establishing ceilings on the amount of individual loans and grants to be made if considered  
27 appropriate and necessary for the successful administration of the program;

28 (5) regarding other matters that may be required to ensure compliance of the program with the  
29 provisions and the federal act and rules promulgated under the federal act, unless these matters are  
30 specifically governed by [sections 1 through 15]; and

1 (6) to maintain the financial integrity of the program.

2  
3 **NEW SECTION. Section 6. Revolving fund.** (1) There is established in the state treasury a  
4 separate account designated as the safe drinking water treatment revolving fund. The corpus of the fund  
5 must be available in perpetuity for providing assistance under [sections 1 through 15]. There are  
6 established within the revolving fund a federal allocation account, a state allocation account, an  
7 administration account, an investment income account, and a debt service account.

8 (2) There must be credited to:

9 (a) the federal allocation account all amounts received by the state pursuant to the federal act as  
10 capitalization grants for a state revolving fund to assist construction of or improvements to public water  
11 systems;

12 (b) the state allocation account the net proceeds of bonds of the state issued pursuant to [section  
13 15] and other money appropriated by the legislature;

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

16 (d) the investment account all money received from investment of amounts in those accounts in  
17 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the  
18 issuance of bonds; and

19 (e) the debt service account the interest portion of loan repayments.

20 (3) Each loan made as authorized by [section 15] must be funded and disbursed from the federal  
21 allocation account or the state allocation account, or both, by the department of natural resources and  
22 conservation as recommended by the department. All amounts received in payment of principal or interest  
23 on a loan must be credited to the revolving fund. If bonds have been issued pursuant to [section 15] and  
24 are outstanding, the interest payments must be transferred to the debt service account securing the bonds.  
25 Money in the debt service account that is not required for debt service may be transferred to other accounts  
26 within the revolving fund as provided in the resolution or trust indenture authorizing the bonds.

27 (4) The department of natural resources and conservation may establish additional accounts and  
28 subaccounts within the revolving fund that it considers necessary to account for the program money and  
29 to ensure compliance with the federal act and [sections 1 through 15].

30



1           **NEW SECTION. Section 7. Use of revolving fund.** (1) Money in the revolving fund must be used  
2 for providing financial assistance that is in the form of loans and grants to public water systems and that  
3 is of the type provided in [sections 1 through 15].

4           (2) (a) Financial assistance may be used by a public water system only for expenditures that the  
5 U.S. environmental protection agency has determined through its regulations are appropriate. Financial  
6 assistance may be used for acquisition, from willing sellers at fair market value, of real property or interests  
7 that are integral to establishing a public water system.

8           (b) Financial assistance may not be used for expenditures related to monitoring, operation, and  
9 maintenance.

10

11           **NEW SECTION. Section 8. Wellhead protection -- assessment and viability program.** The  
12 department may use up to 4% of the federal capitalization grants annually, to:

13           (1) establish wellhead protection programs;

14           (2) establish and implement source water assessment programs; and

15           (3) develop a viability program and assessment of viability programs consistent with Title 75,  
16 chapter 6, and the federal act.

17

18           **NEW SECTION. Section 9. Statutory appropriation.** Money in the revolving fund is statutorily  
19 appropriated, as provided in 17-7-502, for the purposes of providing financial assistance to public water  
20 systems. Money in the administration account authorized by [section 6] is subject to legislative  
21 appropriation, and expenditures from this account must be made from temporary appropriations, as  
22 described in 17-7-501(1) or (2), that are made for that purpose.

23

24           **NEW SECTION. Section 10. Grant program.** The department may make grants only to public  
25 water systems owned by a governmental agency, an intergovernmental agency, a nonprofit organization,  
26 an Indian tribe, or any combination of those entities that the state finds to be experiencing financial  
27 hardship or disadvantages. Grants may not be made in an aggregate amount that exceeds the sum of the  
28 interest collected on deposits in the revolving fund plus amounts deposited in the revolving fund by the  
29 state pursuant to [section 6]. The department shall establish rules for evaluating and determining financial  
30 hardship.

1           **NEW SECTION. Section 11. Loan program.** The department may provide financial assistance in  
2 the form of a loan to public water systems owned by a governmental agency, an intergovernmental agency,  
3 a nonprofit corporation, an Indian tribe, or any combination of those entities, subject to the requirements  
4 in [sections 12 through 14]. The department may provide financial assistance only in the form of a loan  
5 to an investor-owned public water system according to priorities established by the department, based on  
6 greatest public health needs and financial needs. Prior to making a loan to an investor-owned public water  
7 system, the department shall determine that the system has the ability to repay the loan according to its  
8 terms and conditions and may require a dedicated source of repayment and impose additional requirements.  
9 A loan to an investor-owned public water system is subject to the requirements of [sections 12 through  
10 14].  
11

12           **NEW SECTION. Section 12. Evaluation of projects.** After consultation with the department of  
13 natural resources and conservation, the department shall evaluate projects for loans and grants and place  
14 them on a priority list or intended use plan. In evaluating projects, the department shall consider the  
15 following factors:

- 16           (1) the viability of the public water system;
- 17           (2) the ability of the public water system to pay the costs of the project without the requested  
18 financial assistance;
- 19           (3) the amount available for financial assistance in the revolving fund;
- 20           (4) the total amount requested by other applications that have been received or that are likely to  
21 be received;
- 22           (5) the need for and the benefit to be derived from the project; and
- 23           (6) any other criteria that the department determines to be appropriate, considering the purposes  
24 of the program and the federal act.  
25

26           **NEW SECTION. Section 13. Applications for loans and grants.** (1) The department shall, after  
27 consultation with the department of natural resources and conservation, establish loan and grant application  
28 procedures, including forms for the applications. Each application for a loan must include:

- 29           (a) a reasonably detailed description of the project;
- 30           (b) a reasonably detailed estimate of the cost of the project;

- 1 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 2 (d) identification of the source or sources of funds to be used in addition to the proceeds of the loan  
3 to pay the cost of the project;
- 4 (e) the source or sources of revenue proposed to be used to repay the loan;
- 5 (f) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
6 or other obligations payable from the revenue of the public water system and, if so, a description of the  
7 bonds, notes, or other obligations; and
- 8 (g) any other information that the department or the department of natural resources and  
9 conservation may require to determine the feasibility of a project and the applicant's ability to repay the  
10 loan, including but not limited to:
- 11 (i) engineering reports;
- 12 (ii) economic feasibility studies; and
- 13 (iii) legal opinions.
- 14 (2) Each application for a grant must include:
- 15 (a) a reasonably detailed description of the project;
- 16 (b) a reasonably detailed estimate of the cost of the project;
- 17 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 18 (d) identification of the source or sources of funds to be used in addition to the proceeds of the  
19 grant to pay the cost of the project;
- 20 (e) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
21 or other obligations payable from the revenue of the public water system and, if so, a description of the  
22 bonds, notes, or other obligations;
- 23 (f) an explanation as to why a grant rather than a loan is requested; and
- 24 (g) any other information that the department or the department of natural resources and  
25 conservation may require.

26

27 **NEW SECTION. Section 14. Loan conditions.** (1) Upon approval of an application by the  
28 department, the department of natural resources and conservation may lend amounts on deposit in the  
29 revolving fund to a public water system to pay part or all of the cost of a project. The loan is subject to  
30 the applicant complying with the following conditions:

1 (a) meeting requirements of financial capability set by the department of natural resources and  
2 conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay  
3 the loan, including the establishment and maintenance by the applicant of a reserve or revolving fund to  
4 secure the payment of principal of and interest on the loan to the extent permitted by the applicable law  
5 governing the public water system or the applicant's financial authority;

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

8 (c) agreeing to maintain proper financial records in accordance with generally accepted government  
9 accounting standards and agreeing that all records are subject to audit;

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

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

14 (f) submitting an engineering report evaluating the proposed project, including information  
15 demonstrating its cost-effectiveness and environmental information necessary for the department and the  
16 department of natural resources and conservation to fulfill their responsibilities under the Montana  
17 Environmental Policy Act and rules adopted to implement that act;

18 (g) complying with plan and specification requirements for public water systems established by the  
19 board; and

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

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

25 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
26 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with  
27 other available funds in the revolving fund, including investment income, to enable the state to pay the  
28 principal of and interest on the bonds issued pursuant to [section 15].

29 (b) The interest rate may include any additional rate that the department of natural resources and  
30 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The

1 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the  
2 rate established for any other loans.

3 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
4 borrower, in a form prescribed or approved by the department of natural resources and conservation,  
5 except that the bond, note, or other evidence must include provisions required by the federal act and must  
6 be consistent with the provisions of [sections 1 through 15]. The bond, note, or other evidence is not  
7 required to be identical for all loans.

8 (5) As a condition to making a loan, the department of natural resources and conservation, with  
9 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
10 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees  
11 may be deposited:

12 (a) in a special administrative costs account that the department of natural resources and  
13 conservation may create for that purpose outside the revolving fund provided for in [section 6]; or

14 (b) in the administrative account provided for in [section 6]. In determining into which account the  
15 administrative fees are deposited, the department shall take into consideration the needs and requirements  
16 of the programs. Money deposited in the special administrative costs account or the administration account  
17 must be used for the payment of administrative costs of the program.

18

19 **NEW SECTION. Section 15. Authorization of bonds -- appropriation of proceeds.** (1) The board  
20 of examiners is authorized, upon request of the department of natural resources and conservation, to issue  
21 and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds  
22 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for  
23 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part  
24 8.

25 (2) The proceeds of the bonds, other than any premium and accrued interest received, the amounts  
26 to be used to pay interest on the bonds, or the costs of issuing the bonds, are appropriated to the state  
27 allocation account of the revolving fund. Any premium and accrued interest and bond proceeds to be used  
28 to pay interest must be deposited in the debt service account of the revolving fund. Proceeds of bonds to  
29 be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established  
30 outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the

1 issuance of the bonds. For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost  
2 of issuance account constitute a capital projects account. The proceeds must be available to the  
3 department and the department of natural resources and conservation and may be used for the purposes  
4 authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

25  
26 **NEW SECTION. Section 16. Creation of debt.** The legislature, through enactment of this section,  
27 authorizes the creation of state debt in an amount not to exceed \$10 million and authorizes the issuance  
28 and sale of general obligation bonds in this amount for the purpose of providing the state's share of the  
29 drinking water program.

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

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
4 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

10           (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
11 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
12 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;  
13 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;  
14 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;  
15 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;  
16 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;  
17 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;  
18 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;  
19 75-1-1101; 75-5-507; 75-5-1108; [section 9]; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;  
20 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;  
21 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

22           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
26 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
27 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
28 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
29 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates  
30 July 1, 1995.)"

1           **Section 18.** Section 75-5-1112, MCA, is amended to read:

2           **"75-5-1112. Evaluation of ~~applications~~ projects.** After consultation with the department of natural  
3 resources and conservation, the department shall evaluate projects ~~and annually rank applications~~ for loans  
4 and other financial assistance and place them on a priority list or intended use plan. In ~~ranking the~~  
5 ~~applications~~ evaluating projects, the department ~~must~~ shall consider the following factors:

6           (1) the ability of the municipality or private concern to pay the costs of the project without the  
7 requested financial assistance;

8           (2) the amount available for financial assistance in the revolving fund;

9           (3) the total amount requested by other applications that have been received or that are likely to  
10 be received;

11           (4) the need for and benefit to be derived from the project;

12           (5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing  
13 as measured by a decrease in interest rates and whether the refinancing permits the construction of an  
14 additional project by the municipality; and

15           (6) any other criteria that the department determines appropriate, considering the purposes of the  
16 federal act and the program."

17

18           **Section 19.** Section 75-5-1113, MCA, is amended to read:

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

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

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



- 1 (c) agreeing to maintain proper financial records in accordance with recognized government  
2 accounting procedures and agreeing that all records are subject to audit;
- 3 (d) meeting the requirements listed in the federal act for projects constructed with funds directly  
4 made available by federal capitalization grants;
- 5 (e) providing legal assurance that all necessary property titles, easements, and rights-of-way have  
6 been obtained to construct, operate, and maintain the project;
- 7 (f) submitting an engineering report evaluating the proposed project, including information  
8 demonstrating its cost-effectiveness and environmental information necessary for the department and the  
9 department of natural resources and conservation to fulfill their responsibilities under the Montana  
10 Environmental Policy Act and rules adopted to implement that act;
- 11 (g) complying with plan and specification requirements for public wastewater systems established  
12 by the board; and
- 13 (h) providing for proper construction inspection and project management.
- 14 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest  
15 paid in annual or more frequent installments, the first of which must be received not more than 1 year after  
16 the completion date of the project and the last of which must be received not more than 20 years after the  
17 completion date.
- 18 (3) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
19 interest payments on the loan and on other outstanding loans will be sufficient, if paid timely and in full,  
20 with other available funds in the revolving fund, including investment income, to enable the state to pay  
21 the principal of and interest on the bonds issued pursuant to 75-5-1121.
- 22 (a) The interest rate must be determined as of the date the loan is authorized by the department  
23 of natural resources and conservation.
- 24 (b) The rate may include any additional rate that the department of natural resources and  
25 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The  
26 additional rate may be fixed or variable or may be calculated according to a formula, and it may differ from  
27 the rate established for any other loan.
- 28 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
29 municipality or private concern, in a form prescribed or approved by the department of natural resources  
30 and conservation, except that the bond, note, or other evidence must include provisions required by the

1 federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is  
2 not required to be identical for all loans.

3 (5) As a condition to making a loan, the department of natural resources and conservation, with  
4 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
5 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees may  
6 be deposited:

7 (a) in a special administrative costs account that the department of natural resources and  
8 conservation may create for that purpose outside the revolving fund provided for in 75-5-1106; or

9 (b) in the administration account. Money deposited in the ~~special administrative costs account or~~  
10 ~~the administration account~~ established in [section 6] must be used for the payment of administrative costs  
11 of the program. Money deposited in the special administration costs account must be used for the payment  
12 of administrative costs of the program unless not required for that purpose, in which case the money may  
13 be transferred to other funds and accounts in the program."

14

15 **Section 20.** Section 75-5-1121, MCA, is amended to read:

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

22 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts  
23 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state  
24 allocation account of the wastewater treatment works revolving fund. Any premium and accrued interest  
25 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of  
26 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account  
27 established outside of the revolving fund by the board of examiners in the resolution or trust indenture  
28 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state  
29 allocation account and the cost of issuance account constitute a capital projects account. The proceeds  
30 must be available to the department and the department of natural resources and conservation and may

1 be used for the purposes authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

22

23 **NEW SECTION. Section 21. Creation of debt.** The legislature through enactment of [this section],  
24 authorizes the creation of state debt in an amount not to exceed \$5 million and the issuance and sale of  
25 general obligation bonds in this amount for the purpose of providing the state's share of the waste water  
26 treatment works revolving loan program.

27

28 **NEW SECTION. Section 22. Two-thirds vote required.** Because [sections 16 and 21] authorize  
29 the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds  
30 of the members of each house of the legislature for passage.

1           **NEW SECTION. Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are  
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
3 applications, the part remains in effect in all valid applications that are severable from the invalid  
4 applications.

5  
6           **NEW SECTION. Section 24. Codification instruction.** [Sections 1 through 15] are intended to be  
7 codified as an integral part of Title 75, chapter 6, and the provisions of Title 75, chapter 6, apply to  
8 [sections 1 through 15].

9  
10           **NEW SECTION. Section 25. Effective date.** [This act] is effective on passage and approval.

11

-END-

1 House BILL NO. 493  
 2 INTRODUCED BY ~~Senators~~ ~~McCam~~ ~~Lawson~~ ~~HARP~~ ~~SPINDE~~ ~~Boyer~~  
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
 4 Grosfield V. Veltkamp  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFE DRINKING WATER TREATMENT  
 6 REVOLVING FUND ACT; AUTHORIZING THE ISSUANCE OF \$10 MILLION IN GENERAL OBLIGATION  
 7 BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE SAFE DRINKING WATER TREATMENT  
 8 REVOLVING FUND; AUTHORIZING THE ISSUANCE OF \$5 MILLION IN GENERAL OBLIGATION BONDS TO

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

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 4, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 493 (third reading copy -- blue), respectfully report that HB 493 be amended as follows and as so amended be concurred in.

Signed:   
Senator Gary Aklestad, Chair

That such amendments read:

1. Page 15, lines 16 and 17.

Following: "(1)" on line 16

Strike: remainder of line 16 through "upon" on line 17

Insert: "Upon"

Following: "conservation" on line 17

Insert: "and upon certification by the department of natural resources and conservation that the state has entered into a capitalization grant agreement or other agreement with the United States government pursuant to [section 4] and that federal capitalization grants have been made to the state for the program"


Following: ", "

Insert: "the board of examiners is authorized"

-END-

  
GA

Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

HB 493

SENATE

771616SC.SRF

## 1 HOUSE BILL NO. 493

2 INTRODUCED BY EWER, MCCANN, LARSON, HARP, GRINDE, GAGE, GROSFIELD, VAN VALKENBURG  
3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFE DRINKING WATER TREATMENT  
6 REVOLVING FUND ACT; AUTHORIZING THE ISSUANCE OF \$10 MILLION IN GENERAL OBLIGATION  
7 BONDS TO PROVIDE THE STATE MATCHING FUNDS FOR THE SAFE DRINKING WATER TREATMENT  
8 REVOLVING FUND; AUTHORIZING THE ISSUANCE OF \$5 MILLION IN GENERAL OBLIGATION BONDS TO  
9 PROVIDE THE STATE MATCHING FUNDS FOR THE STATE WASTE WATER TREATMENT REVOLVING  
10 FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 75-5-1112,  
11 75-5-1113, AND 75-5-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
12

## 13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because rulemaking authority is granted to the board  
15 of health and environmental sciences and the board of natural resources and conservation to implement a  
16 new state financial assistance program for communities that need to improve their public water systems.  
17 The legislature understands and anticipates that the program will provide low interest loans and grants to  
18 Montana entities to construct needed improvements for water supply and treatment systems and that  
19 program will be supported through federal grant funds and state matching funds raised through the issuance  
20 of general obligation bonds and repaid by interest charges of the loan. The bill requires rulemaking by both  
21 boards to establish procedures and criteria by which these loans and grants are awarded. In developing  
22 these rules, the legislature desires that the application review process should be straightforward and  
23 efficient for both the agencies and the applicant. Also, the criteria for awarding grants and loans should  
24 be clear and maximize the potential for state grants and loans to communities that need the funding.

25 Fundamentally, the legislature views this bill as providing a funding source for Montana entities  
26 required to meet drinking water standards or faced with upgrading or expanding their systems. Therefore,  
27 the rules should facilitate availability of this funding to the widest number of eligible entities at the lowest  
28 possible costs, taking into consideration the state's interest in protecting the viability of the program.  
29

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

1           **NEW SECTION. Section 1. Short title.** [Sections 1 through 15] may be cited as the "Safe Drinking  
2 Water Treatment Revolving Fund Act".

3

4           **NEW SECTION. Section 2. Definitions.** Unless the context requires otherwise, in [sections 1  
5 through 15], the following definitions apply:

6           (1) "Administrative costs" means costs incurred by the department and the department of natural  
7 resources and conservation in the administration of the program, including but not limited to:

8           (a) costs of servicing loans and issuing debt;

9           (b) program startup costs;

10           (c) financial, management, and legal consulting fees; and

11           (d) reimbursement costs for support services from other state agencies.

12           (2) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a  
13 public water system, including but not limited to:

14           (a) engineering, financing, and other fees;

15           (b) interest during construction; and

16           (c) a reasonable allowance for contingencies to the extent permitted by the federal act and rules  
17 promulgated under the federal act.

18           (3) "Federal act" means the federal Safe Drinking Water Act.

19           (4) "Governmental agency" means a city, county, water and sewer district, or other local  
20 government unit having authority to own, construct, or operate a public water system.

21           (5) "Grant" means a grant of money from the revolving fund for project costs.

22           (6) "Indian tribe" means an Indian tribe within the state of Montana that is recognized by the  
23 secretary of the U.S. department of interior.

24           (7) "Investor-owned public water system" means a public water system that is not owned by a  
25 governmental agency, an intergovernmental agency, a nonprofit organization, an Indian tribe, or a  
26 combination of governmental entities.

27           (8) "Loan" means a loan of money from the revolving fund for project costs.

28           (9) "Nonprofit organization" means an organization that is organized under Montana law and that  
29 qualifies as a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue  
30 Code.



1 (10) "Program" means the safe drinking water treatment revolving loan program established by this  
2 part.

3 (11) "Project" means improvements that are:

4 (a) to be undertaken for a public water system and that are of a type that will facilitate compliance  
5 with the national primary drinking water regulations applicable to the system; or

6 (b) to further the health protection objectives of the federal act.

7 (12) "Public water system" means a system for the provision to the public of piped water for human  
8 consumption, if that system has at least 15 service connections or regularly serves at least 25 individuals.  
9 The term includes any collection, treatment, storage, and distribution facilities under control of an operator  
10 of a system that are used primarily in connection with a system and any collection or pretreatment storage  
11 facilities not under control of the operator and that are used primarily in connection with a system.

12 (13) "Revolving fund" means the safe drinking water treatment revolving fund established by  
13 [section 6].

14  
15 **NEW SECTION. Section 3. Safe drinking water treatment revolving fund program.** There is a  
16 program under which the state may provide financial assistance to public water systems. The program  
17 must be administered in accordance with [sections 1 through 15] and the federal act.

18  
19 **NEW SECTION. Section 4. Authorization of agreement -- content.** (1) The department may enter  
20 into a capitalization grant agreement or other agreement with the U.S. environmental protection agency to  
21 implement the program and may accept from that agency other grants and loans to carry out the program.

22 (2) In entering into an agreement, the director of the department may commit the state to:

23 (a) accept grant payments from the U.S. environmental protection agency in accordance with the  
24 schedule established by the administrator of that agency and deposit the payments in the revolving fund  
25 established in [section 6];

26 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total  
27 amount of all capitalization grants made to the state as provided by [section 6] on or before the date on  
28 which each federal grant payment is made to the state;

29 (c) provide financial and technical assistance to a public water system in accordance with [sections  
30 1 through 15] in an amount equal to 120% of the amount of each grant payment within a period not to

1 exceed 1 year after receipt of a grant;

2 (d) expend all funds in the revolving fund in an expeditious and timely manner;

3 (e) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure  
4 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and  
5 requirements of the federal act;

6 (f) expend each grant payment in accordance with the laws and procedures applicable to  
7 commitment or expenditure of revenues of the state;

8 (g) use accounting, audit, and fiscal procedures conforming to generally accepted government  
9 accounting standards;

10 (h) make annual reports to the U.S. environmental protection agency concerning the use of the  
11 revolving fund as required by the federal act; and

12 (i) any other covenants, commitments, and obligations necessary to ensure that the state's  
13 administration of the program is consistent with the provisions of [sections 1 through 15] and the federal  
14 act.

15 (3) as a condition of making a loan or providing other financial assistance from the revolving fund,  
16 the department shall require that the public water system maintain project accounts in accordance with  
17 generally accepted government accounting standards.

18

19 **NEW SECTION. Section 5. Rulemaking authority.** The board and the board of natural resources  
20 and conservation may adopt rules within their respective authorities established within the provisions of  
21 this part, including rules:

22 (1) prescribing the form and content of applications for loans and grants;

23 (2) governing the application of the criteria for awarding loans and grants;

24 (3) establishing additional terms and conditions for the making of loans and the security instruments  
25 and other necessary agreements;

26 (4) establishing ceilings on the amount of individual loans and grants to be made if considered  
27 appropriate and necessary for the successful administration of the program;

28 (5) regarding other matters that may be required to ensure compliance of the program with the  
29 provisions and the federal act and rules promulgated under the federal act, unless these matters are  
30 specifically governed by [sections 1 through 15]; and

1 (6) to maintain the financial integrity of the program.

2  
3 **NEW SECTION. Section 6. Revolving fund.** (1) There is established in the state treasury a  
4 separate account designated as the safe drinking water treatment revolving fund. The corpus of the fund  
5 must be available in perpetuity for providing assistance under [sections 1 through 15]. There are  
6 established within the revolving fund a federal allocation account, a state allocation account, an  
7 administration account, an investment income account, and a debt service account.

8 (2) There must be credited to:

9 (a) the federal allocation account all amounts received by the state pursuant to the federal act as  
10 capitalization grants for a state revolving fund to assist construction of or improvements to public water  
11 systems;

12 (b) the state allocation account the net proceeds of bonds of the state issued pursuant to [section  
13 15] and other money appropriated by the legislature;

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

16 (d) the investment account all money received from investment of amounts in those accounts in  
17 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the  
18 issuance of bonds; and

19 (e) the debt service account the interest portion of loan repayments.

20 (3) Each loan made as authorized by [section 15] must be funded and disbursed from the federal  
21 allocation account or the state allocation account, or both, by the department of natural resources and  
22 conservation as recommended by the department. All amounts received in payment of principal or interest  
23 on a loan must be credited to the revolving fund. If bonds have been issued pursuant to [section 15] and  
24 are outstanding, the interest payments must be transferred to the debt service account securing the bonds.  
25 Money in the debt service account that is not required for debt service may be transferred to other accounts  
26 within the revolving fund as provided in the resolution or trust indenture authorizing the bonds.

27 (4) The department of natural resources and conservation may establish additional accounts and  
28 subaccounts within the revolving fund that it considers necessary to account for the program money and  
29 to ensure compliance with the federal act and [sections 1 through 15].  
30

1           **NEW SECTION. Section 7. Use of revolving fund.** (1) Money in the revolving fund must be used  
2 for providing financial assistance that is in the form of loans and grants to public water systems and that  
3 is of the type provided in [sections 1 through 15].

4           (2) (a) Financial assistance may be used by a public water system only for expenditures that the  
5 U.S. environmental protection agency has determined through its regulations are appropriate. Financial  
6 assistance may be used for acquisition, from willing sellers at fair market value, of real property or interests  
7 that are integral to establishing a public water system.

8           (b) Financial assistance may not be used for expenditures related to monitoring, operation, and  
9 maintenance.

10

11           **NEW SECTION. Section 8. Wellhead protection -- assessment and viability program.** The  
12 department may use up to 4% of the federal capitalization grants annually, to:

- 13           (1) establish wellhead protection programs;
- 14           (2) establish and implement source water assessment programs; and
- 15           (3) develop a viability program and assessment of viability programs consistent with Title 75,  
16 chapter 6, and the federal act.

17

18           **NEW SECTION. Section 9. Statutory appropriation.** Money in the revolving fund is statutorily  
19 appropriated, as provided in 17-7-502, for the purposes of providing financial assistance to public water  
20 systems. Money in the administration account authorized by [section 6] is subject to legislative  
21 appropriation, and expenditures from this account must be made from temporary appropriations, as  
22 described in 17-7-501(1) or (2), that are made for that purpose.

23

24           **NEW SECTION. Section 10. Grant program.** The department may make grants only to public  
25 water systems owned by a governmental agency, an intergovernmental agency, a nonprofit organization,  
26 an Indian tribe, or any combination of those entities that the state finds to be experiencing financial  
27 hardship or disadvantages. Grants may not be made in an aggregate amount that exceeds the sum of the  
28 interest collected on deposits in the revolving fund plus amounts deposited in the revolving fund by the  
29 state pursuant to [section 6]. The department shall establish rules for evaluating and determining financial  
30 hardship.

1           **NEW SECTION. Section 11. Loan program.** The department may provide financial assistance in  
2 the form of a loan to public water systems owned by a governmental agency, an intergovernmental agency,  
3 a nonprofit corporation, an Indian tribe, or any combination of those entities, subject to the requirements  
4 in [sections 12 through 14]. The department may provide financial assistance only in the form of a loan  
5 to an investor-owned public water system according to priorities established by the department, based on  
6 greatest public health needs and financial needs. Prior to making a loan to an investor-owned public water  
7 system, the department shall determine that the system has the ability to repay the loan according to its  
8 terms and conditions and may require a dedicated source of repayment and impose additional requirements.  
9 A loan to an investor-owned public water system is subject to the requirements of [sections 12 through  
10 14].

11  
12           **NEW SECTION. Section 12. Evaluation of projects.** After consultation with the department of  
13 natural resources and conservation, the department shall evaluate projects for loans and grants and place  
14 them on a priority list or intended use plan. In evaluating projects, the department shall consider the  
15 following factors:

- 16           (1) the viability of the public water system;
- 17           (2) the ability of the public water system to pay the costs of the project without the requested  
18 financial assistance;
- 19           (3) the amount available for financial assistance in the revolving fund;
- 20           (4) the total amount requested by other applications that have been received or that are likely to  
21 be received;
- 22           (5) the need for and the benefit to be derived from the project; and
- 23           (6) any other criteria that the department determines to be appropriate, considering the purposes  
24 of the program and the federal act.

25  
26           **NEW SECTION. Section 13. Applications for loans and grants.** (1) The department shall, after  
27 consultation with the department of natural resources and conservation, establish loan and grant application  
28 procedures, including forms for the applications. Each application for a loan must include:

- 29           (a) a reasonably detailed description of the project;
- 30           (b) a reasonably detailed estimate of the cost of the project;

- 1 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 2 (d) identification of the source or sources of funds to be used in addition to the proceeds of the loan  
3 to pay the cost of the project;
- 4 (e) the source or sources of revenue proposed to be used to repay the loan;
- 5 (f) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
6 or other obligations payable from the revenue of the public water system and, if so, a description of the  
7 bonds, notes, or other obligations; and
- 8 (g) any other information that the department or the department of natural resources and  
9 conservation may require to determine the feasibility of a project and the applicant's ability to repay the  
10 loan, including but not limited to:
- 11 (i) engineering reports;
- 12 (ii) economic feasibility studies; and
- 13 (iii) legal opinions.
- 14 (2) Each application for a grant must include:
- 15 (a) a reasonably detailed description of the project;
- 16 (b) a reasonably detailed estimate of the cost of the project;
- 17 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 18 (d) identification of the source or sources of funds to be used in addition to the proceeds of the  
19 grant to pay the cost of the project;
- 20 (e) a statement as to whether, at the time of application, there are any outstanding bonds, notes,  
21 or other obligations payable from the revenue of the public water system and, if so, a description of the  
22 bonds, notes, or other obligations;
- 23 (f) an explanation as to why a grant rather than a loan is requested; and
- 24 (g) any other information that the department or the department of natural resources and  
25 conservation may require.

26

27 **NEW SECTION. Section 14. Loan conditions.** (1) Upon approval of an application by the  
28 department, the department of natural resources and conservation may lend amounts on deposit in the  
29 revolving fund to a public water system to pay part or all of the cost of a project. The loan is subject to  
30 the applicant complying with the following conditions:

1 (a) meeting requirements of financial capability set by the department of natural resources and  
2 conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay  
3 the loan, including the establishment and maintenance by the applicant of a reserve or revolving fund to  
4 secure the payment of principal of and interest on the loan to the extent permitted by the applicable law  
5 governing the public water system or the applicant's financial authority;

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

8 (c) agreeing to maintain proper financial records in accordance with generally accepted government  
9 accounting standards and agreeing that all records are subject to audit;

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

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

14 (f) submitting an engineering report evaluating the proposed project, including information  
15 demonstrating its cost-effectiveness and environmental information necessary for the department and the  
16 department of natural resources and conservation to fulfill their responsibilities under the Montana  
17 Environmental Policy Act and rules adopted to implement that act;

18 (g) complying with plan and specification requirements for public water systems established by the  
19 board; and

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

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

25 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
26 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with  
27 other available funds in the revolving fund, including investment income, to enable the state to pay the  
28 principal of and interest on the bonds issued pursuant to [section 15].

29 (b) The interest rate may include any additional rate that the department of natural resources and  
30 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The

1 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the  
2 rate established for any other loans.

3 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
4 borrower, in a form prescribed or approved by the department of natural resources and conservation,  
5 except that the bond, note, or other evidence must include provisions required by the federal act and must  
6 be consistent with the provisions of [sections 1 through 15]. The bond, note, or other evidence is not  
7 required to be identical for all loans.

8 (5) As a condition to making a loan, the department of natural resources and conservation, with  
9 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
10 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees  
11 may be deposited:

12 (a) in a special administrative costs account that the department of natural resources and  
13 conservation may create for that purpose outside the revolving fund provided for in [section 6]; or

14 (b) in the administrative account provided for in [section 6]. In determining into which account the  
15 administrative fees are deposited, the department shall take into consideration the needs and requirements  
16 of the programs. Money deposited in the special administrative costs account or the administration account  
17 must be used for the payment of administrative costs of the program.

18

19 **NEW SECTION. Section 15. Authorization of bonds -- appropriation of proceeds.** (1) The board  
20 of examiners is authorized, upon request of the department of natural resources and conservation, to issue  
21 and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds  
22 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for  
23 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part  
24 8.

25 (2) The proceeds of the bonds, other than any premium and accrued interest received, the amounts  
26 to be used to pay interest on the bonds, or the costs of issuing the bonds, are appropriated to the state  
27 allocation account of the revolving fund. Any premium and accrued interest and bond proceeds to be used  
28 to pay interest must be deposited in the debt service account of the revolving fund. Proceeds of bonds to  
29 be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established  
30 outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the



1 issuance of the bonds. For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost  
2 of issuance account constitute a capital projects account. The proceeds must be available to the  
3 department and the department of natural resources and conservation and may be used for the purposes  
4 authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

25  
26 **NEW SECTION. Section 16. Creation of debt.** The legislature, through enactment of this section,  
27 authorizes the creation of state debt in an amount not to exceed \$10 million and authorizes the issuance  
28 and sale of general obligation bonds in this amount for the purpose of providing the state's share of the  
29 drinking water program.

30

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

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
4 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

10           (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
11 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
12 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;  
13 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;  
14 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;  
15 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;  
16 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;  
17 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;  
18 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;  
19 75-1-1101; 75-5-507; 75-5-1108; [section 9]; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;  
20 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;  
21 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

22           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
26 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
27 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
28 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
29 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates  
30 July 1, 1995.)"

1           **Section 18.** Section 75-5-1112, MCA, is amended to read:

2           **"75-5-1112. Evaluation of ~~applications~~ projects.** After consultation with the department of natural  
3 resources and conservation, the department shall evaluate projects ~~and annually rank applications~~ for loans  
4 and other financial assistance and place them on a priority list or intended use plan. In ~~ranking the~~  
5 ~~applications~~ evaluating projects, the department ~~must~~ shall consider the following factors:

6           (1) the ability of the municipality or private concern to pay the costs of the project without the  
7 requested financial assistance;

8           (2) the amount available for financial assistance in the revolving fund;

9           (3) the total amount requested by other applications that have been received or that are likely to  
10 be received;

11           (4) the need for and benefit to be derived from the project;

12           (5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing  
13 as measured by a decrease in interest rates and whether the refinancing permits the construction of an  
14 additional project by the municipality; and

15           (6) any other criteria that the department determines appropriate, considering the purposes of the  
16 federal act and the program."

17

18           **Section 19.** Section 75-5-1113, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

18 (3) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the  
19 interest payments on the loan and on other outstanding loans will be sufficient, if paid timely and in full,  
20 with other available funds in the revolving fund, including investment income, to enable the state to pay  
21 the principal of and interest on the bonds issued pursuant to 75-5-1121.

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

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

28 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the  
29 municipality or private concern, in a form prescribed or approved by the department of natural resources  
30 and conservation, except that the bond, note, or other evidence must include provisions required by the

1 federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is  
2 not required to be identical for all loans.

3 (5) As a condition to making a loan, the department of natural resources and conservation, with  
4 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the  
5 proceeds of the loan or other available funds of the municipality or private concern. Administrative fees may  
6 be deposited:

7 (a) in a special administrative costs account that the department of natural resources and  
8 conservation may create for that purpose outside the revolving fund provided for in 75-5-1106; or

9 (b) in the administration account. Money deposited in the ~~special administrative costs account or~~  
10 ~~the administration account established in [section 6]~~ must be used for the payment of administrative costs  
11 of the program. Money deposited in the special administration costs account must be used for the payment  
12 of administrative costs of the program unless not required for that purpose, in which case the money may  
13 be transferred to other funds and accounts in the program."

14

15 **Section 20.** Section 75-5-1121, MCA, is amended to read:

16 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) ~~The board of examiners is~~  
17 ~~authorized, upon UPON~~ request of the department of natural resources and conservation AND UPON  
18 CERTIFICATION BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION THAT THE  
19 STATE HAS ENTERED INTO A CAPITALIZATION GRANT AGREEMENT OR OTHER AGREEMENT WITH THE  
20 UNITED STATES GOVERNMENT PURSUANT TO [SECTION 4] AND THAT FEDERAL CAPITALIZATION  
21 GRANTS HAVE BEEN MADE TO THE STATE FOR THE PROGRAM, THE BOARD OF EXAMINERS IS  
22 AUTHORIZED to issue and sell bonds of the state ~~in an aggregate principal amount not exceeding \$10~~  
23 ~~million as authorized by the legislature~~ to provide money for the revolving loan program. The bonds are  
24 general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment  
25 of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

26 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts  
27 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state  
28 allocation account of the wastewater treatment works revolving fund. Any premium and accrued interest  
29 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of  
30 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account

1 established outside of the revolving fund by the board of examiners in the resolution or trust indenture  
2 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state  
3 allocation account and the cost of issuance account constitute a capital projects account. The proceeds  
4 must be available to the department and the department of natural resources and conservation and may  
5 be used for the purposes authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

26  
27 **NEW SECTION. Section 21. Creation of debt.** The legislature through enactment of [this section],  
28 authorizes the creation of state debt in an amount not to exceed \$5 million and the issuance and sale of  
29 general obligation bonds in this amount for the purpose of providing the state's share of the waste water  
30 treatment works revolving loan program.

1           **NEW SECTION.** **Section 22. Two-thirds vote required.** Because [sections 16 and 21] authorize  
2 the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds  
3 of the members of each house of the legislature for passage.  
4

5           **NEW SECTION.** **Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are  
6 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
7 applications, the part remains in effect in all valid applications that are severable from the invalid  
8 applications.  
9

10           **NEW SECTION.** **Section 24. Codification instruction.** [Sections 1 through 15] are intended to be  
11 codified as an integral part of Title 75, chapter 6, and the provisions of Title 75, chapter 6, apply to  
12 [sections 1 through 15].  
13

14           **NEW SECTION.** **Section 25. Effective date.** [This act] is effective on passage and approval.  
15

-END-