

House BILL NO. 483

INTRODUCED BY

Mrs. ALLESTAD, Beaudry, Water, Knox, Hollenel
DENNY, Kasper, Ellis, Stordal

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM LICENSING; AMENDING SECTIONS 17-7-502, 37-42-102, 75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104, 75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111, 75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202, 75-6-203, 75-6-204, 75-6-205, 75-6-211, 75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224, MCA; REPEALING SECTIONS 75-5-1108, 75-6-213, AND 75-6-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;



1 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; ~~75-6-1108~~; 75-6-214; 75-11-313; 76-12-123;
2 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
3 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

4 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
5 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
6 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
7 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
8 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
9 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
10 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
11 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
12 July 1, 2001.)"

13

14 **Section 2.** Section 37-42-102, MCA, is amended to read:

15 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
16 definitions apply:

17 (1) "Certificate" means a certificate of competency issued by the department, stating that the
18 operator holding the certificate has met the requirements for the specified operator classification of the
19 certification program.

20 (2) "Community water system" means the term as defined in 75-6-102.

21 (3) "Council" means the water and wastewater operators' advisory council provided for in
22 2-15-2105.

23 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

24 (5) "Nontransient noncommunity water system" means a public water system, as defined in
25 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for
26 at least 6 months a year.

27 ~~(6)~~(6) "Operator" means the person in direct responsible charge of the operation of a water
28 treatment plant, water distribution system, or wastewater treatment plant.

29 ~~(7)~~(7) "State waters" means the term as defined in 75-6-102.

30 ~~(8)~~(8) "Wastewater treatment plant" means a facility that:

1 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
2 wastes, or other wastes;

3 (b) discharges an effluent directly into state waters; and

4 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
5 75-6-102.

6 ~~(8)~~(9) "Water distribution system" means that portion of the water supply system that conveys
7 water from the water treatment plant or other supply source to the premises of the consumer and that is
8 part of a community water system or a nontransient noncommunity water system.

9 ~~(9)~~(10) "Water supply system" means a system of pipes, structures, and facilities through which
10 water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by
11 humans and that is part of a community water system or a nontransient noncommunity water system.

12 ~~(10)~~(11) "Water treatment plant" means that portion of the water supply system that alters either
13 the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human
14 use."

15
16 **Section 3.** Section 75-5-1101, MCA, is amended to read:

17 "**75-5-1101. Short title.** This part may be cited as the ~~"Wastewater Treatment~~ "Water Pollution
18 Control State Revolving Fund Act"."

19
20 **Section 4.** Section 75-5-1102, MCA, is amended to read:

21 "**75-5-1102. Definitions.** Unless the context requires otherwise, in this part the following
22 definitions apply:

23 (1) "Administrative costs" means costs incurred by the department and the department of natural
24 resources and conservation in the administration of the program, including but not limited to costs of
25 servicing loans and issuing debt; program start-up costs; financial, management, and legal consulting fees;
26 and reimbursement costs for support services from other state agencies.

27 (2) "Cost" means, with reference to a ~~wastewater treatment works~~ project, all capital costs
28 incurred or to be incurred by a municipality or a private ~~entity~~ person, including but not limited to
29 engineering, construction, financing, and other fees, interest during construction, and a reasonable
30 allowance for contingencies to the extent permitted by the federal act and regulations promulgated

1 thereunder.

2 (3) "Federal act" means the Federal Water Pollution Control Act, also known as the Clean Water
3 Act, 33 U.S.C. 1251 through 1387, as amended.

4 (4) "Intended use plan" means the annual plan adopted by the department and submitted to the
5 environmental protection agency that describes how the state intends to use the money in the revolving
6 fund.

7 (4)(5) "Loan" means a loan of money from the revolving fund to a municipality or a private ~~concern~~
8 person.

9 (5)(6) "Municipality" means any state agency, city, town, or other ~~local government unit~~ having
10 ~~authority to own and operate a sewage system and wastewater treatment works~~ public body created
11 pursuant to state law.

12 (6)(7) "~~Private concern~~ person" means ~~an individual or other entity eligible for a loan or loans for~~
13 ~~a pollution control project for a nonpoint source under section 319 of the federal act~~ an individual,
14 corporation, partnership, or other nongovernmental legal entity.

15 (7)(8) "Program" means the ~~wastewater treatment works~~ water pollution control state revolving
16 fund loan program established by this part.

17 (8)(9) "Project" means ~~a wastewater treatment works or part of a wastewater treatment works for~~
18 an activity that is eligible for financing by the program under the federal act, including treatment works,
19 as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control
20 under section 1329 of the federal act (33 U.S.C. 1329), and for which a municipality or private ~~concern~~
21 person makes an application for a loan or other financial assistance.

22 (9)(10) "Revolving fund" means the fund established by 75-5-1106."
23

24 **Section 5.** Section 75-5-1103, MCA, is amended to read:

25 "75-5-1103. ~~Wastewater treatment works~~ Water pollution control state revolving fund loan
26 program. There is a program under which the state may provide financial assistance to municipalities and
27 private ~~concerns~~ persons to finance or refinance part or all of the cost of projects. The program must be
28 administered in accordance with this part and the federal act."
29

30 **Section 6.** Section 75-5-1104, MCA, is amended to read:

1 **"75-5-1104. Authorization of agreement -- content.** (1) The department may enter into a
2 capitalization grant agreement or other agreement with the United States environmental protection agency
3 to implement the program and may accept from that agency other grants and loans to carry out the
4 program.

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

6 (a) accept grant payments from the environmental protection agency in accordance with the
7 schedule established by the administrator of that agency and deposit the payments in the revolving fund
8 established in 75-5-1106;

9 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
10 amount of all capitalization grants made to the state as provided by 75-5-1106 on or before the date on
11 which each quarterly federal grant payment is made to the state;

12 (c) provide financial assistance to municipalities and private ~~concerns~~ persons in accordance with
13 this part in an amount equal to 120% of the amount of each grant payment within a time period not to
14 exceed 1 year after receipt of a grant;

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

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

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

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

23 (h) as a condition of making a loan or providing other financial assistance from the revolving fund,
24 require that the municipality or private ~~concern~~ person will maintain project accounts in accordance with
25 generally accepted government accounting standards;

26 (i) make annual reports to the environmental protection agency concerning the use of the revolving
27 fund as required by the federal act; and

28 (j) any other covenants, commitments, and obligations necessary to ensure that the state's
29 administration of the program is consistent with the provisions of this part."
30

1 **Section 7.** Section 75-5-1105, MCA, is amended to read:

2 **"75-5-1105. Rulemaking.** The department and the department of natural resources and
3 conservation may adopt rules to implement the provisions of this part, including rules:

4 (1) prescribing the form and content of applications for loans and refinancing agreements;

5 (2) governing the application of the criteria for awarding loans;

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

8 (4) establishing ceilings on the amount of individual loans to be made to municipalities and private
9 ~~concerns persons~~, if considered appropriate and necessary for the successful administration of the
10 program."

11

12 **Section 8.** Section 75-5-1106, MCA, is amended to read:

13 **"75-5-1106. Revolving fund.** (1) There is established in the state treasury a separate account
14 designated as the ~~wastewater treatment works~~ water pollution control state revolving fund. There are
15 established in the revolving fund as subaccounts a federal allocation account, a state allocation account,
16 an administration account, an investment income account, and a debt service account.

17 (2) There must be credited to:

18 (a) the federal allocation account, all amounts received by the state from the following sources:

19 (i) funds provided pursuant to the federal act as capitalization grants for a state revolving fund to
20 assist construction of ~~wastewater treatment works and projects;~~

21 (ii) grants or transfers of grants received under subchapter II of the federal act for ~~construction of~~
22 ~~wastewater treatment works projects; and~~

23 (iii) money transferred to the fund from the drinking water state revolving fund pursuant to
24 75-6-211;

25 (b) the state allocation account, the net proceeds of bonds of the state issued pursuant to
26 75-5-1121 and other money appropriated by the legislature;

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

29 (d) the investment account, all money received from investment of amounts in those accounts in
30 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the

1 issuance of bonds; and

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

3 (3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal
4 allocation account or the state allocation account, or both, by the department and the department of natural
5 resources and conservation as recommended by the department. All amounts received in payment of
6 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
7 to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account
8 securing the bonds. Money in the debt service account that is not required for debt service may be
9 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
10 authorizing the bonds.

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

14 (5) As allowed under the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and with the
15 governor's permission, up to 33% of each year's federal capitalization grant may be transferred from the
16 federal allocation account, established under subsection (2)(a), to the drinking water state revolving fund
17 federal allocation account established in 75-6-211."

18

19 **Section 9.** Section 75-5-1107, MCA, is amended to read:

20 **"75-5-1107. Uses of revolving fund.** Money in the revolving fund ~~may~~ must be used to:

21 (1) make loans to municipalities and private ~~concerns~~ persons to finance all or a portion of the cost
22 of a project;

23 (2) buy or refinance debt obligations of municipalities that were issued to finance projects within
24 the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

25 (3) guarantee or purchase insurance for obligations of municipalities that were issued to finance
26 projects in order to enhance credit or reduce interest rates;

27 (4) provide a source of revenue or security for general obligation bonds the proceeds of which are
28 deposited in the revolving fund;

29 (5) provide loan guarantees for similar revolving funds established by municipalities;

30 (6) earn interest on fund accounts; and

1 (7) pay reasonable administrative costs of the ~~revolving loan~~ program not to exceed 4%~~7~~ of all
 2 federal grant awards to the fund or the maximum amount allowed under the federal act~~7~~, ~~of all federal grant~~
 3 ~~awards to the fund.~~"

4

5 **Section 10.** Section 75-5-1111, MCA, is amended to read:

6 "**75-5-1111. Applications.** (1) The department shall, after consultation with the department of
 7 natural resources and conservation, establish loan application procedures, including forms for the
 8 applications. Each application for a loan to finance construction of a project must include:

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

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

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

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

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

15 (f) a current financial statement showing assets, liabilities, revenue, and expenses of the applicant;

16 ~~(f)~~(g) if the applicant is a municipality, a statement as to whether, at the time of application, there
 17 are any outstanding ~~bonds, loans,~~ notes, ~~bonds,~~ or other obligations of the municipality that were issued
 18 or incurred to finance any part of the municipality's ~~sewage project or system of which the project is a part~~
 19 and, if so, a description of the ~~bonds, loans,~~ notes, ~~bonds,~~ or other obligations; ~~and~~

20 (h) if the applicant is a private person, a statement as to whether, at the time of application, there
 21 are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the
 22 loans, notes, or other obligations; and

23 ~~(g)~~(i) any other information that the department or the department of natural resources and
 24 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
 25 loan, including but not limited to engineering reports, economic feasibility studies, and legal opinions.

26 (2) Each application for a loan to refinance a project, including a purchase of outstanding
 27 obligations issued by a municipality to finance a project in whole or in part, must include:

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

29 (b) a schedule of the cost of the project;

30 (c) the date on which construction of the project began;

1 (d) a description of the ~~bonds,~~ loans, notes, bonds, or other obligations to be refinanced and of
 2 any other loans, notes, bonds, or obligations issued or incurred to finance any part of the municipality's
 3 ~~sewage system project;~~ and

4 (e) any other information that the department or the department of natural resources and
 5 conservation may require.

6 (3) Each application for financial assistance in the form of a guaranty or the purchase of insurance
 7 for a municipal obligation must include all items required by subsection (1) and any other information the
 8 department may require."

9
 10 **Section 11.** Section 75-5-1112, MCA, is amended to read:

11 "**75-5-1112. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
 12 department of natural resources and conservation, ~~and~~ and the department shall evaluate projects ~~for loans and~~
 13 ~~other financial assistance and place them on a priority list or intended use plan~~ and loan applications. In
 14 evaluating projects and loan applications, the ~~department shall consider the~~ following factors must be
 15 considered:

16 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 17 design standards;

18 (2) the financial capacity of the municipality or private person to repay the loan;

19 (3) the financial, managerial, and technical ability of the municipality or private person to properly
 20 operate and maintain the project;

21 (4) the feasibility of project completion given the total financing available;

22 ~~(4)(5)~~ the ability of the municipality or private ~~person~~ person to pay the costs of the project
 23 without the requested financial assistance;

24 ~~(2)(6)~~ the total amount of loan funds available for financial assistance in the revolving fund;

25 ~~(3)(7)~~ the total amount requested ~~by~~ in other applications that have been received or that are likely
 26 to be received;

27 ~~(4)(8)~~ the ~~need for and benefit to be derived from the project~~ the ranking of the project on the
 28 priority list or intended use plan; and

29 ~~(5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing~~
 30 ~~as measured by a decrease in interest rates and whether the refinancing permits the construction of an~~

1 ~~additional project by the municipality; and~~

2 ~~(6),(9)~~ any other criteria that the department determines appropriate, considering the purposes of
3 the federal act and the program."

4
5 **Section 12.** Section 75-5-1113, MCA, is amended to read:

6 **"75-5-1113. Loans Conditions on loans.** (1) Upon approval of a project by the department, the
7 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
8 a municipality or private ~~entity~~ person to pay part or all of the cost of a project or to buy or refinance an
9 outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the
10 municipality or private ~~entity~~ person complying with the following conditions:

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

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

18 (c) agreeing to maintain proper financial records in accordance with ~~recognized government~~
19 generally accepted accounting ~~procedures~~ standards and agreeing that all records are subject to audit;

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

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

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

28 (g) complying with plan and specification requirements ~~for public wastewater systems and other~~
29 requirements established by the ~~board~~ department; and

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

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

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

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

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

15 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the
16 municipality or private ~~entity~~ person, in a form prescribed or approved by the department of natural
17 resources and conservation, except that the bond, note, or other evidence must include provisions required
18 by the federal act and must be consistent with the provisions of this part. The bond, note, or other
19 evidence is not required to be identical for all loans. The department of natural resources and conservation
20 may require that loans to private persons be further secured by a mortgage and other security interests in
21 the project that is being financed or other forms of additional security as considered necessary, including
22 personal guarantees and letters of credit.

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

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

29 (b) in the administration account. Money deposited in the administration account established in
30 75-6-211 must be used for the payment of administrative costs of the program. Money deposited in the

1 special administration costs account must be used for the payment of administrative costs of the program
2 unless not required for that purpose, in which case the money may be transferred to other funds and
3 accounts in the program."

4

5 **Section 13.** Section 75-5-1121, MCA, is amended to read:

6 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) Upon request of the
7 department of natural resources and conservation and upon certification by the department of ~~natural~~
8 ~~resources and conservation~~ that the state has entered into a capitalization grant agreement or other
9 agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants
10 have been made to the state for the program, the board of examiners is authorized to issue and sell bonds
11 of the state as authorized by the legislature to provide money for the ~~revolving loan~~ program. The bonds
12 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
13 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part
14 8.

15 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts
16 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state
17 allocation account of the ~~wastewater treatment works~~ revolving fund. Any premium and accrued interest
18 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of
19 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account
20 established outside of the revolving fund by the board of examiners in the resolution or trust indenture
21 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state
22 allocation account and the cost of issuance account constitute a capital projects account. The proceeds
23 must be available to the department and the department of natural resources and conservation and may
24 be used for the purposes authorized in this part without further budgetary authorization.

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

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

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

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

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

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

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

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

15

16 **Section 14.** Section 75-6-201, MCA, is amended to read:

17 **"75-6-201. Short title.** This part may be cited as the "~~Safe Drinking Water Treatment State~~
18 Revolving Fund Act"."

19

20 **Section 15.** Section 75-6-202, MCA, is amended to read:

21 **"75-6-202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
22 apply:

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

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

26 (b) program startup costs;

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

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

29 (2) "Community water system" means a public water system that is either privately or publicly
30 owned and that serves at least 15 service connections used by year-round residents of the area served by

1 the system or regularly serves at least 25 year-round residents. The term does not include a public water
2 system that is owned by the federal government.

3 ~~(2)~~(3) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a
4 public water system, including but not limited to:

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

6 (b) interest during construction; ~~and~~

7 (c) construction; and

8 ~~(e)~~(d) a reasonable allowance for contingencies to the extent permitted by the federal act and rules
9 promulgated under the federal act.

10 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

11 (5) "Disadvantaged community" means one in which the service area of a public water system
12 meets the affordability criteria established by rule adopted pursuant to this part.

13 ~~(3)~~(6) "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that
14 act read on [the effective date of this act].

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

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

18 ~~(6)~~(7) "Indian tribe" means an Indian tribe within the state of Montana that is recognized by the
19 secretary of the U.S. department of interior that has a federally recognized governing body carrying out
20 substantial governmental duties and powers over any area.

21 (8) "Intended use plan" means the annual plan adopted by the department and submitted to the
22 environmental protection agency that describes how the state intends to use the money in the revolving
23 fund.

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)~~(9) "Loan" means a loan of money from the revolving fund for project costs.

28 (10) "Municipality" means a state agency, city, town, or other public body created pursuant to
29 state law or an Indian tribe.

30 (11) "Noncommunity water system" means a public water system that is not a community water

1 system.

2 ~~(9)(12)~~ "Nonprofit ~~organization~~ noncommunity water system" means a noncommunity water
3 system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt
4 organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

5 (13) "Private person" means an individual, corporation, partnership, or company.

6 ~~(10)(14)~~ "Program" means the ~~safe drinking water treatment state revolving loan fund~~ state revolving loan fund program
7 established by this part.

8 ~~(11)(15)~~ "Project" means improvements or activities that are:

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

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

12 ~~(12)(16)~~ "Public water system" means a system for the provision to the public of ~~pipe~~ water for
13 human consumption, through pipes or other constructed conveyances, if that system has at least 15
14 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment,
15 storage, and distribution facilities under control of an operator of a system that are used primarily in
16 connection with a system and any collection or pretreatment storage facilities not under control of ~~the~~ an
17 operator and that are used primarily in connection with a system.

18 ~~(13)(17)~~ "Revolving fund" means the ~~safe drinking water treatment state revolving fund~~ state revolving fund established
19 by 75-6-211."

20

21 **Section 16.** Section 75-6-203, MCA, is amended to read:

22 "75-6-203. ~~Safe drinking~~ Drinking water treatment state revolving fund program. There is a
23 program under which the state may provide financial assistance to ~~public community~~ water systems and
24 nonprofit noncommunity water systems. The program must be administered in accordance with this part
25 and the federal act."

26

27 **Section 17.** Section 75-6-204, MCA, is amended to read:

28 "75-6-204. **Authorization of agreement -- content.** (1) The department may enter into a
29 capitalization grant agreement or other agreement with the ~~U.S.~~ environmental protection agency to
30 implement the program and may accept from that agency other grants and loans to carry out the program.

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

2 (a) accept grant payments from the ~~U.S.~~ environmental protection agency in accordance with the
3 schedule established by the administrator of that agency and deposit the payments in the revolving fund
4 established in 75-6-211;

5 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
6 amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on
7 which each federal grant payment is made to the state;

8 (c) deposit in the nonproject account for department programs authorized under section
9 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)) a state match equal dollar-for-dollar to the
10 capitalization grant deposited in the account;

11 ~~(d)~~ provide financial and technical assistance to a public water system in accordance with this
12 part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year
13 after receipt of a grant;

14 ~~(e)~~ expend all funds in the revolving fund in an expeditious and timely manner;

15 ~~(f)~~ use all funds deposited in the revolving fund as a result of the capitalization grant to ensure
16 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and
17 requirements of the federal act;

18 ~~(g)~~ expend each grant payment in accordance with the laws and procedures applicable to
19 commitment or expenditure of ~~revenues~~ revenue of the state;

20 ~~(h)~~ use accounting, audit, and fiscal procedures conforming to generally accepted government
21 accounting standards;

22 ~~(i)~~ make annual biennial reports and provide annual audits to the ~~U.S.~~ environmental protection
23 agency concerning the use of the revolving fund as required by the federal act; and

24 ~~(j)~~ any other covenants, commitments, and obligations necessary to ensure that the state's
25 administration of the program is consistent with the provisions of this part and the federal act.

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

29

30 **Section 18.** Section 75-6-205, MCA, is amended to read:

1 **"75-6-205. Rulemaking authority.** The ~~board~~ department and the ~~board~~ department of natural
2 resources and conservation may adopt rules within their respective authorities established within the
3 provisions of this part, including rules:

4 (1) prescribing the form and content of applications for loans and ~~grants~~ technical assistance;

5 (2) governing the application of the criteria for awarding loans and ~~grants~~ technical assistance;

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

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

10 (5) establishing affordability criteria to be used in awarding subsidies to disadvantaged
11 communities;

12 ~~(6)(6)~~ regarding other matters that may be required to ensure compliance of the program with the
13 provisions ~~and of~~ the federal act and rules promulgated under the federal act, unless these matters are
14 specifically governed by this part; and

15 ~~(6)(7)~~ to maintain the financial integrity of the program."

16
17 **Section 19.** Section 75-6-211, MCA, is amended to read:

18 **"75-6-211. Revolving fund.** (1) There is established in the state treasury a separate account
19 designated as the ~~safe drinking water treatment~~ state revolving fund. The corpus of the fund must be
20 available in perpetuity for providing assistance under this part. There are established within the revolving
21 fund a federal allocation account, a state allocation account, an administration account, an investment
22 income account, ~~and a debt service account, and a nonproject account.~~

23 (2) There must be credited to:

24 (a) the federal allocation account;

25 (i) all amounts received by the state pursuant to the federal act as capitalization grants for a state
26 revolving fund to assist construction of or improvements to public provide loans or other assistance, as
27 authorized under this part, to community water systems and nonprofit noncommunity water systems; and

28 (ii) all amounts transferred to the fund from the water pollution control state revolving fund under
29 75-5-1106;

30 (b) the state allocation account;

- 1 (i) the net proceeds of bonds of the state issued pursuant to 75-6-225; and
2 (ii) other money appropriated by the legislature; and
3 (iii) other available qualifying funds;
4 (c) the administration account, 4% of the federal capitalization grant award or the maximum
5 amount allowed by the federal act for payment of administrative costs;
6 (d) the investment account, all money received from investment of amounts in those accounts in
7 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the
8 issuance of bonds; and
9 (e) the debt service account, the interest portion of loan repayments; and
10 (f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the
11 federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as
12 described in 75-6-204.

13 (3) Each loan made ~~as authorized by 75-6-225~~ under this part must be funded and disbursed from
14 the federal allocation account or the state allocation account, or both, by the department of natural
15 resources and conservation as recommended by the department. All amounts received in payment of
16 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
17 to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account
18 securing the bonds. Money in the debt service account that is not required for debt service may be
19 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
20 authorizing the bonds.

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

24 (5) As allowed under the federal act and with the governor's permission, the department may
25 transfer up to 33% of each year's federal capitalization grant from the federal allocation account,
26 established under subsection (2)(a), to the water pollution control state revolving fund federal allocation
27 account established in 75-5-1106. The transfer of funds must be included in the intended use plan in
28 [section 22]."

29
30 **Section 20.** Section 75-6-212, MCA, is amended to read:

1 **"75-6-212. Use of revolving fund.** (1) Money in the revolving fund ~~must~~ may be used to:

2 ~~(a) for providing financial assistance that is in the form of make loans and grants to public water~~
3 ~~systems and that is of the type to community water systems and nonprofit noncommunity water systems~~
4 ~~as provided in this part;~~

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

9 (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed
10 market rates, provided that the obligations were incurred and construction of the project began after July
11 1, 1993;

12 (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for
13 obligations of municipalities that are issued to finance eligible projects;

14 (d) leverage the total amount of revolving funds available by providing a source of revenue or
15 security for the payment of principal and interest on revenue or general obligation bonds issued by the
16 state, the net proceeds of which are deposited in the revolving fund;

17 (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual
18 capitalization grant or the maximum amount allowed under the federal act;

19 (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to
20 exceed 10% of the annual capitalization grant for the following:

21 (i) public water system supervision programs;

22 (ii) administering or providing technical assistance through source water protection programs;

23 (iii) developing and implementing a capacity development strategy under section 300g-9 of the
24 federal act (42 U.S.C. 300g-9);

25 (iv) administering an operator certification program in order to meet the requirements of section
26 300g-8 of the federal act (42 U.S.C. 300g-8); and

27 (v) payment of the department's costs in an amount not to exceed 2% of the annual capitalization
28 grant for the purpose of providing technical assistance to public water systems serving 10,000 or fewer
29 persons.

30 ~~(b)(2) Financial assistance~~ Except as provided in subsection (3), money in the fund may not be used

1 for;

2 (a) expenditures related to monitoring, operation, and maintenance;

3 (b) the acquisition of real property or any interest in real property, unless the acquisition is integral
4 to a project authorized under this part and the purchase is from a willing seller;

5 (c) providing assistance to a public water system that:

6 (i) does not have the financial, managerial, and technical capability to ensure compliance with the
7 requirements of the federal act; or

8 (ii) is in significant noncompliance with any requirement of a national primary drinking water
9 regulation or variance; or

10 (d) any other activity prohibited from funding under the federal act.

11 (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part
12 if:

13 (i) the use of the assistance will ensure compliance; and

14 (ii) for a system that the department has determined does not have the financial, managerial, or
15 technical capability to ensure compliance with the federal act, the owner or operator of the system agrees
16 to undertake feasible and appropriate changes in operations, including ownership, management, accounting,
17 rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary
18 by the department to ensure compliance.

19 (b) Prior to providing assistance to a public water system that is in significant noncompliance with
20 any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the
21 department shall determine whether the provisions of subsection (2)(c)(i) apply to the system."

22

23 **NEW SECTION. Section 21. Loan subsidy for disadvantaged communities.** (1) Notwithstanding
24 any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged
25 community or to a community that the department expects to become a disadvantaged community as a
26 result of a proposed project, the department may provide additional subsidization in the form of a reduced
27 interest rate.

28 (2) The total annual amount of loan subsidies made by the department pursuant to subsection (1)
29 may not exceed 30% of the capitalization grant received by the department for each fiscal year.

30

1 **NEW SECTION. Section 22. Intended use plan.** (1) The department shall prepare an annual
2 intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act (42
3 U.S.C. 300j-12(b)).

4 (2) The intended use plan must include:

5 (a) a list of projects in the state that are eligible for assistance, including both the priority assigned
6 to each project based on public health needs and on the financial needs of the project and, to the extent
7 known, the expected funding schedule for each project; and

8 (b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and
9 funds to be transferred to or received by the water pollution control state revolving fund, as allowed in
10 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

11 (3) Before finalizing an intended use plan, the department shall prepare a draft document containing
12 the information required in subsection (2) and shall provide public notice and opportunity to comment on
13 the draft document.

14
15 **NEW SECTION. Section 23. Insurance and guarantee program.** (1) The revolving fund may be used
16 to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation
17 issued by a municipality if the department of natural resources and conservation determines that the
18 guarantee or insurance would improve the credit market access of the municipality or reduce the interest
19 rate on the municipal obligation.

20 (2) The department of natural resources and conservation shall adopt rules setting forth the
21 conditions under which the program will guarantee or insure municipal obligations, including the amount
22 of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any,
23 to be established in the fund to cover any guarantee. The program may not be used to guarantee a
24 municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the
25 extent that they are inconsistent with the guarantee.

26
27 **Section 24.** Section 75-6-221, MCA, is amended to read:

28 "**75-6-221. ~~Loan program~~ General loan and assistance program.** (1) ~~The department may provide~~
29 ~~financial assistance in the form of a loan to public water systems owned by a governmental agency, an~~
30 ~~intergovernmental agency, a nonprofit corporation, an Indian tribe, or any combination of those entities~~

1 program may, subject to the requirements in 75-6-222 through 75-6-224-, make loans to community water
2 systems and nonprofit noncommunity water systems that:

3 (a) will facilitate compliance with national primary drinking water regulations pursuant to the federal
4 act; or

5 (b) will further the health protection objectives of the federal act, including but not limited to
6 projects that involve:

7 (i) upgrading and replacing infrastructure;

8 (ii) addressing exceedances of the federal act or preventing future violations;

9 (iii) consolidating water supplies;

10 (iv) a system that meets the definition of a public water system contained in section 300f(4) of the
11 federal act (42 U.S.C. 300f(4));

12 (v) the acquisition of land, at fair market value, that is integral to the project;

13 (vi) planning and designing of a project; and

14 (vii) other activities allowed under the federal act.

15 (2) In addition to loans authorized under subsection (1), the program may make loans to public
16 water systems for one or more of the following purposes:

17 (a) to a community water system or nonprofit noncommunity water system to acquire land or a
18 conservation easement from a willing party if the land is necessary to ensure compliance with the national
19 primary drinking water regulations or to protect the source of water from contamination;

20 (b) to a community water system to implement local, voluntary source water protection measures
21 in order to protect source water in areas delineated under a source water assessment program in order to
22 facilitate compliance with the national primary drinking water regulations or otherwise significantly further
23 the health protection objectives of the federal act;

24 (c) to a community water system to provide funding for the development and implementation of a
25 source water quality assessment, contingency plans, and demonstration projects for partners within a
26 delineated source water area.

27 (3) The department may:

28 (a) provide financial and technical assistance to any public water system as part of a capacity
29 development strategy developed and implemented in accordance with the federal act;

30 (b) make expenditures from the capitalization grant to delineate and assess source water protection

1 areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and

2 (c) make expenditures from the fund for the establishment and implementation of wellhead
3 protection programs.

4 (4) The department program may provide financial assistance only in the form of a loan to an
5 investor-owned to a public water system according to priorities established by the department in the
6 department's intended use plan adopted pursuant to [section 22], based on greatest public health needs
7 and financial needs. Prior to making a loan to an investor-owned a public water system, the department
8 shall determine that the system has the ability to repay the loan according to its terms and conditions and
9 may require a dedicated source of repayment and impose additional requirements. A loan to an
10 investor-owned public water system is subject to the requirements of 75-6-222 through 75-6-224.

11 (5) The total amount of assistance provided and expenditures made by the department under
12 subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by the
13 department for that year and may not exceed 10% of that amount for any one of the activities listed under
14 subsection (2) or (3)."

15
16 **Section 25.** Section 75-6-222, MCA, is amended to read:

17 **"75-6-222. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
18 department and the department of natural resources and conservation, ~~the department~~ shall evaluate
19 projects ~~for loans and grants and place them on a priority list or intended use plan~~ and loan applications.
20 In evaluating projects and applications, the ~~department shall consider the~~ following factors must be
21 considered:

22 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
23 design standards;

24 (2) the financial capacity of the applicant;

25 (3) the financial, managerial, and technical ability of the applicant to properly operate and maintain
26 the project;

27 (4) the total financing of the project to ensure completion;

28 ~~(4)(5)~~ the viability of the public water system;

29 ~~(2)(6)~~ the ability of the public water system to pay the costs of the project without the requested
30 financial assistance;

- 1 ~~(3)~~(7) the total amount of loan funds available for financial assistance in the revolving fund;
- 2 ~~(4)~~(8) the total amount requested by other applications that have been received or that are likely
- 3 to be received;
- 4 ~~(5)~~(9) ~~the need for and the benefit to be derived from the project~~ the ranking of the project on the
- 5 priority list in the intended use plan; and
- 6 ~~(6)~~(10) any other criteria that the department determines to be appropriate, considering the
- 7 purposes of the program and the federal act."

8

9 **Section 26.** Section 75-6-223, MCA, is amended to read:

10 "**75-6-223. Applications for loans and grants.** (1) The department shall, after consultation with

11 the department of natural resources and conservation, establish loan ~~and grant~~ application procedures,

12 including forms for the applications. Each application for a loan must include:

- 13 (a) a reasonably detailed description of the project;
- 14 (b) a reasonably detailed estimate of the cost of the project;
- 15 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 16 (d) identification of the source or sources of funds to be used in addition to the proceeds of the
- 17 loan to pay the cost of the project;
- 18 (e) the source or sources of revenue proposed to be used to repay the loan;
- 19 (f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;
- 20 ~~(g)~~ a statement as to whether, at the time of application, there are any outstanding ~~bonds, loans,~~
- 21 notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a
- 22 description of the ~~bonds, loans,~~ notes, bonds, or other obligations; ~~and~~
- 23 (h) if the applicant is a private person, a statement as to whether, at the time of the application,
- 24 there are any outstanding loans, notes, or other obligations of the private person and, if so, a description
- 25 of the loans, notes, or other obligations; and
- 26 ~~(g)~~(i) any other information that the department or the department of natural resources and
- 27 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
- 28 loan, including but not limited to:
- 29 (i) engineering reports;
- 30 (ii) economic feasibility studies; and

1 (iii) legal opinions.

2 (2) Each application for a ~~grant~~ loan subsidy must include:

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

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

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

6 (d) identification of the source or sources of funds to be used in addition to the proceeds of the
7 ~~grant~~ loan to pay the cost of the project;

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

11 (f) an explanation, including supporting information, as to why a ~~grant rather than a loan subsidy~~
12 is requested; ~~and~~

13 (g) evidence that the applicant qualifies as a disadvantaged community; and

14 ~~(g)(h)~~ any other information that the department or the department of natural resources and
15 conservation may require."

16
17 **Section 27.** Section 75-6-224, MCA, is amended to read:

18 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the
19 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
20 a public water system to pay part or all of the cost of a project. The loan is subject to the applicant
21 complying with the following conditions:

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

28 (b) in the case of a privately owned system, in addition to establishing a dedicated source of
29 revenue, which may include the pledge of accounts receivable, providing, as required by the department
30 of natural resources and conservation, credit enhancements, a pledge of collateral, or other types of

- 1 security, such as a corporate or personal guarantee;
- 2 ~~(b)(c)~~ agreeing to operate and maintain the project properly over its structural and material design
- 3 life, which may not be less than ~~20 years~~ the term of the loan;
- 4 ~~(c)(d)~~ agreeing to maintain proper financial records in accordance with generally accepted
- 5 ~~government~~ accounting standards and agreeing that all records are subject to audit;
- 6 ~~(d)(e)~~ meeting the requirements listed in the federal act for projects constructed with funds directly
- 7 made available by federal capitalization grants;
- 8 ~~(e)(f)~~ providing legal assurance that all necessary property titles, easements, and rights-of-way have
- 9 been obtained to construct, operate, and maintain the project;
- 10 ~~(f)(g)~~ submitting an engineering report evaluating the proposed project, including information
- 11 demonstrating its cost-effectiveness and environmental information necessary for the department and the
- 12 department of natural resources and conservation to fulfill their responsibilities under the Montana
- 13 Environmental Policy Act and rules adopted to implement that act;
- 14 ~~(g)(h)~~ complying with plan, ~~and~~ specification, and other requirements for public water systems
- 15 established by the ~~board~~ department; and
- 16 ~~(h)(i)~~ providing for proper construction inspection and project management; and
- 17 (i) meeting requirements of financial, managerial, and technical capability to maintain compliance
- 18 with the federal act.
- 19 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest
- 20 paid in annual or more frequent installments, the first of which must be received not more than 1 year after
- 21 the completion date of the project and the last of which must be received not more than 20 years after the
- 22 completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan
- 23 subsidy, the department may determine that the last installment must be received not more than 30 years
- 24 after the completion date, provided that the period of the loan does not exceed the expected design life of
- 25 the project.
- 26 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the
- 27 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with
- 28 other available funds in the revolving fund, including investment income, to enable the state to pay the
- 29 principal of and interest on the bonds issued pursuant to 75-6-225.
- 30 (b) The interest rate may include any additional rate that the department of natural resources and

1 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The
2 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the
3 rate established for any other loans.

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

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

13 (a) in a special administrative costs account that the department of natural resources and
14 conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

15 (b) in the administrative account provided for in 75-6-211. In determining into which account the
16 administrative fees are deposited, the department shall take into consideration the needs and requirements
17 of the programs. Money deposited in the special administrative costs account or the administration account
18 must be used for the payment of administrative costs of the program."

19

20 **NEW SECTION. Section 28. Repealer.** Sections 75-5-1108, 75-6-213, and 75-6-215, MCA, are
21 repealed.

22

23 **NEW SECTION. Section 29. Codification instruction.** [Sections 21 through 23] are intended to
24 be codified as an integral part of Title 75, chapter 6, part 2, and the provisions of Title 75, chapter 6, part
25 2, apply to [sections 21 through 23].

26

27 **NEW SECTION. Section 30. Saving clause.** (1) [This act] does not affect rights and duties that
28 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
29 act].

30 (2) Rules that were adopted pursuant to Title 75, chapter 5, part 11, or Title 75, chapter 6, part

1 2, prior to [the effective date of this act] continue in force until amended or repealed pursuant to those
2 parts.

3

4 **NEW SECTION. Section 31. Effective date -- applicability.** (1) [This act] is effective on passage
5 and approval.

6 (2) [Section 2] applies to the licensing of nontransient noncommunity water system operators on
7 or after July 1, 1998.

8

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0483, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to the safe drinking water and wastewater treatment revolving funds and to water system licensing.

ASSUMPTIONS:

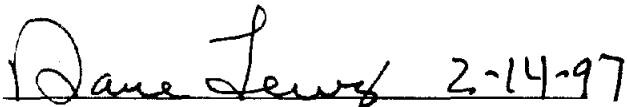
Department of Environmental Quality: (DEQ)

1. Under the federal Safe Drinking Water Act amendments, DEQ will receive a capitalization grant from the Environmental Protection Agency totaling \$14.8 million during the first year of operation, then totaling at least \$12 million per year for the next several years.
2. The State of Montana is required to provide a 20% match to the federal funds. This state match will come from general obligation (GO) bond proceeds that are combined with the federal funds to provide loans for projects and to pay for program administration. The bonds will be repaid through repayment of loans made to municipalities and private persons.
3. Loans made from these funds do not require an appropriation.
4. DEQ currently operates the Wastewater State Revolving Fund with 5 engineers, 1 financial position, and a portion of a clerical position. This program has been in place since 1991. To date, the state has \$38 million in assets and has estimated loans coming in the next 2 years for \$10 million.
5. The new program will require 7.00 FTE comprised of 5.00 FTE engineers grade 15 at 95% of market, 1.00 FTE administrative support grade 9, and 1.00 FTE support grade 8 for total personal services of \$241,974 per year. By providing administrative support, the technical staff will have more time to review and approve facilities plans and oversee project implementation.
6. Repealing wellhead protection and grants for wastewater facilities has no impact because the protection is elsewhere in substantive law and the grants are replaced by the revolving fund.
7. DEQ contracts with DNRC for bond accounting and loan origination services. DNRC impacts follow.

Department Natural Resources and Conservation: (DNRC)

8. The DNRC will operate a Drinking Water Revolving Fund Program similar to the current Wastewater Revolving Fund Program, which will not change and will continue loaning money for wastewater.
9. The DNRC will administer both loan programs and the DEQ will administer technical review for both programs.
10. Projects for nonpoint source pollution will be eligible through the wastewater program.
11. The state will issue GO bonds to match the EPA capitalization grant. Borrowers will repay the GO bonds and the state could potentially have revolving loan fund assets of up to \$80 million.
12. Administrative fees will be paid by the borrowers for engineering and technical review, loan processing costs, and financial review.
13. Revenues will come from GO bonds (\$10 million) and capitalization grants (\$80 million) loan payments.
14. There is no effect on the general fund.

(Continued)


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


DOUG MOOD, PRIMARY SPONSOR DATE

Fiscal Note for HB0483, as introduced

HB 483

FISCAL IMPACT:

Department of Environmental Quality:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	7.00	7.00
Personal Services	241,974	241,974
Operating Expenses	711,726	656,486
Equipment	<u>12,000</u>	<u>7,500</u>
Total	965,700	905,960
<u>Funding:</u>		
Bond Proceeds (02)	123,442	113,482
Federal EPA (03)	<u>842,258</u>	<u>792,478</u>
Total	965,700	905,960
<u>Revenues:</u>		
EPA Capitalization Grant	14,862,000	12,000,000
<u>Net Impact on Fund Balance:</u>		
General Fund (01)	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. This bill will have an effect on local government revenue and expenditures. The vast majority of loans will be for construction of and improvements to public drinking water and wastewater systems, operated by cities, towns, counties and local water and/or sewer districts. The state revolving fund will provide a source of below-market financing for these projects. Local governments will typically repay these loans through increased user rates.
2. Because the users must approve debt incurrence either through debt elections or a public hearing process, there will not be any effect without local approval. The drinking water program should be a very low-cost funding source for communities to borrow funds. The wastewater program interest rate is 4% and DNRC assumes this new program will be similar.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. The loans to borrowers can be issued out 20 years if needed. When loans are repaid, the loan fund can reloan the funds to other communities.
2. Effective operation of the Safe Drinking Water and Wastewater Revolving Funds likely would help communities put together financial packages for using Community Development Block Grant and Treasure State Endowment Program funding.

1 HOUSE BILL NO. 483

2 INTRODUCED BY MOOD, AKLESTAD, BEAUDRY, WALTERS, KNOX, HOLLAND, DEVANEY, DENNY,
3 KITZENBERG, BROOKE, OHS, ELLIS, STOVALL, SQUIRES, HIBBARD, SCHMIDT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE
6 DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM
7 LICENSING; AMENDING SECTIONS ~~17-7-502, 37-42-102, 75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104,~~
8 ~~75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111, 75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202,~~
9 ~~75-6-203, 75-6-204, 75-6-205, 75-6-211, 75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224,~~
10 MCA; REPEALING SECTIONS ~~75-5-1108,~~ 75-6-213, AND 75-6-215, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

14
15 **Section 1.** ~~Section 17-7-502, MCA, is amended to read:~~

16 ~~"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory~~
17 ~~appropriation is an appropriation made by permanent law that authorizes spending by a state agency~~
18 ~~without the need for a biennial legislative appropriation or budget amendment.~~

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

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

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

24 ~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-106;~~
25 ~~2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;~~
26 ~~15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;~~
27 ~~16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;~~
28 ~~18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;~~
29 ~~19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;~~
30 ~~23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;~~

1 ~~39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;~~
 2 ~~53-6-703; 53-24-206; 60-2-220; 67-3-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;~~
 3 ~~80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;~~
 4 ~~90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

5 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 6 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 7 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 8 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 9 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 10 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.~~
 11 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 12 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 13 ~~July 1, 2001.)"~~

14

15 **Section 1.** Section 37-42-102, MCA, is amended to read:

16 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 17 definitions apply:

18 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 19 operator holding the certificate has met the requirements for the specified operator classification of the
 20 certification program.

21 (2) "Community water system" means the term as defined in 75-6-102.

22 (3) "Council" means the water and wastewater operators' advisory council provided for in
 23 2-15-2105.

24 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

25 (5) "Nontransient noncommunity water system" means a public water system, as defined in
 26 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for
 27 at least 6 months a year.

28 ~~(6)~~(6) "Operator" means the person in direct responsible charge of the operation of a water
 29 treatment plant, water distribution system, or wastewater treatment plant.

30 ~~(6)~~(7) "State waters" means the term as defined in 75-6-102.

1 ~~(7)~~(8) "Wastewater treatment plant" means a facility that:

2 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
3 wastes, or other wastes;

4 (b) discharges an effluent directly into state waters; and

5 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
6 75-6-102.

7 ~~(8)~~(9) "Water distribution system" means that portion of the water supply system that conveys
8 water from the water treatment plant or other supply source to the premises of the consumer and that is
9 part of a community water system or a nontransient noncommunity water system.

10 ~~(9)~~(10) "Water supply system" means a system of pipes, structures, and facilities through which
11 water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by
12 humans and that is part of a community water system or a nontransient noncommunity water system.

13 ~~(10)~~(11) "Water treatment plant" means that portion of the water supply system that alters either
14 the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human
15 use."

16

17 **Section 2.** Section 75-5-1101, MCA, is amended to read:

18 "**75-5-1101. Short title.** This part may be cited as the ~~"Wastewater Treatment~~ "Water Pollution
19 Control State Revolving Fund Act"."

20

21 **Section 3.** Section 75-5-1102, MCA, is amended to read:

22 "**75-5-1102. Definitions.** Unless the context requires otherwise, in this part the following
23 definitions apply:

24 (1) "Administrative costs" means costs incurred by the department and the department of natural
25 resources and conservation in the administration of the program, including but not limited to costs of
26 servicing loans and issuing debt; program start-up costs; financial, management, and legal consulting fees;
27 and reimbursement costs for support services from other state agencies.

28 (2) "Cost" means, with reference to a ~~wastewater treatment works~~ project, all capital costs
29 incurred or to be incurred by a municipality or a private ~~entity~~ person, including but not limited to
30 engineering, construction, financing, and other fees, interest during construction, and a reasonable

1 allowance for contingencies to the extent permitted by the federal act and regulations promulgated
2 thereunder.

3 (3) "Federal act" means the Federal Water Pollution Control Act, also known as the Clean Water
4 Act, 33 U.S.C. 1251 through 1387, as amended.

5 (4) "Intended use plan" means the annual plan adopted by the department and submitted to the
6 environmental protection agency that describes how the state intends to use the money in the revolving
7 fund.

8 ~~(4)(5)~~ "Loan" means a loan of money from the revolving fund to a municipality or a private ~~concern~~
9 person.

10 ~~(5)(6)~~ "Municipality" means any state agency, city, town, or other ~~local government unit having~~
11 ~~authority to own and operate a sewage system and wastewater treatment works~~ public body created
12 pursuant to state law.

13 ~~(6)(7)~~ "Private ~~concern~~ person" means ~~an individual or other entity eligible for a loan or loans for~~
14 ~~a pollution control project for a nonpoint source under section 319 of the federal act~~ an individual,
15 corporation, partnership, or other nongovernmental legal entity.

16 ~~(7)(8)~~ "Program" means the ~~wastewater treatment works~~ water pollution control state revolving
17 fund ~~loan~~ program established by this part.

18 ~~(8)(9)~~ "Project" means ~~a wastewater treatment works or part of a wastewater treatment works for~~
19 an activity that is eligible for financing by the program under the federal act, including treatment works,
20 as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control
21 under section 1329 of the federal act (33 U.S.C. 1329), EXCEPT A SOLID WASTE MANAGEMENT
22 SYSTEM OR RESOURCE RECOVERY FACILITY REGULATED UNDER AND DEFINED IN TITLE 75, CHAPTER
23 10, and for which a municipality or private ~~concern~~ person makes an application for a loan or other financial
24 assistance.

25 ~~(9)(10)~~ "Revolving fund" means the fund established by 75-5-1106."
26

27 **Section 4.** Section 75-5-1103, MCA, is amended to read:

28 **"75-5-1103. ~~Wastewater treatment works~~ Water pollution control state revolving fund ~~loan~~**
29 **program.** There is a program under which the state may provide financial assistance to municipalities and
30 private ~~concerns~~ persons to finance or refinance part or all of the cost of projects. The program must be

1 administered in accordance with this part and the federal act."

2

3 **Section 5.** Section 75-5-1104, MCA, is amended to read:

4 **"75-5-1104. Authorization of agreement -- content.** (1) The department may enter into a
5 capitalization grant agreement or other agreement with the United States environmental protection agency
6 to implement the program and may accept from that agency other grants and loans to carry out the
7 program.

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

9 (a) accept grant payments from the environmental protection agency in accordance with the
10 schedule established by the administrator of that agency and deposit the payments in the revolving fund
11 established in 75-5-1106;

12 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
13 amount of all capitalization grants made to the state as provided by 75-5-1106 on or before the date on
14 which each quarterly federal grant payment is made to the state;

15 (c) provide financial assistance to municipalities and private ~~concerns~~ persons in accordance with
16 this part in an amount equal to 120% of the amount of each grant payment within a time period not to
17 exceed 1 year after receipt of a grant;

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

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

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

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

26 (h) as a condition of making a loan or providing other financial assistance from the revolving fund,
27 require that the municipality or private ~~concern~~ person will maintain project accounts in accordance with
28 generally accepted government accounting standards;

29 (i) make annual reports to the environmental protection agency concerning the use of the revolving
30 fund as required by the federal act; and

1 (j) any other covenants, commitments, and obligations necessary to ensure that the state's
2 administration of the program is consistent with the provisions of this part."

3
4 **Section 6.** Section 75-5-1105, MCA, is amended to read:

5 **"75-5-1105. Rulemaking.** The department and the department of natural resources and
6 conservation may adopt rules to implement the provisions of this part, including rules:

7 (1) prescribing the form and content of applications for loans and refinancing agreements;

8 (2) governing the application of the criteria for awarding loans;

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

11 (4) establishing ceilings on the amount of individual loans to be made to municipalities and private
12 ~~persons~~ persons, if considered appropriate and necessary for the successful administration of the
13 program."

14
15 **Section 7.** Section 75-5-1106, MCA, is amended to read:

16 **"75-5-1106. Revolving fund.** (1) There is established in the state treasury a separate account
17 designated as the ~~wastewater treatment works~~ water pollution control state revolving fund. There are
18 established in the revolving fund as subaccounts a federal allocation account, a state allocation account,
19 an administration account, an investment income account, and a debt service account.

20 (2) There must be credited to:

21 (a) the federal allocation account, all amounts received by the state from the following sources:

22 (i) funds provided pursuant to the federal act as capitalization grants for a state revolving fund to
23 assist construction of ~~wastewater treatment works and~~ projects;

24 (ii) grants or transfers of grants received under subchapter II of the federal act for construction of
25 ~~wastewater treatment works~~ projects; and

26 (iii) money transferred to the fund from the drinking water state revolving fund pursuant to
27 75-6-211;

28 (b) the state allocation account, the net proceeds of bonds of the state issued pursuant to
29 75-5-1121 and other money appropriated by the legislature;

30 (c) the administration account, 4% of the capitalization grant award, or the maximum amount

1 allowed by the federal act, ~~of the capitalization grant award~~ for payment of administrative costs;

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

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

6 (3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal
7 allocation account or the state allocation account, or both, by the department and the department of natural
8 resources and conservation as recommended by the department. All amounts received in payment of
9 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
10 to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account
11 securing the bonds. Money in the debt service account that is not required for debt service may be
12 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
13 authorizing the bonds.

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

17 (5) As allowed under the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and with the
18 governor's permission, AN AMOUNT EQUIVALENT TO up to 33% of each year's DRINKING WATER STATE
19 REVOLVING FUND federal capitalization grant may be transferred from the federal allocation account,
20 established under subsection (2)(a), to the drinking water state revolving fund federal allocation account
21 established in 75-6-211."

22
23 **Section 8.** Section 75-5-1107, MCA, is amended to read:

24 **"75-5-1107. Uses of revolving fund.** Money in the revolving fund ~~may~~ must be used to:

25 (1) make loans to municipalities ~~and private concerns persons~~ to finance all or a portion of the cost
26 of a project AND TO MAKE LOANS TO PRIVATE PERSONS TO FINANCE ALL OR A PORTION OF THE
27 COST OF NONPOINT SOURCE POLLUTION CONTROL PROJECTS;

28 (2) buy or refinance debt obligations of municipalities that were issued to finance projects within
29 the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

30 (3) guarantee or purchase insurance for obligations of municipalities that were issued to finance

1 projects in order to enhance credit or reduce interest rates;

2 (4) provide a source of revenue or security for general obligation bonds the proceeds of which are
3 deposited in the revolving fund;

4 (5) provide loan guarantees for similar revolving funds established by municipalities;

5 (6) earn interest on fund accounts; and

6 (7) pay reasonable administrative costs of the ~~revolving loan~~ program not to exceed 4% of all
7 federal grant awards to the fund or the maximum amount allowed under the federal act, ~~of all federal grant~~
8 ~~awards to the fund.~~"

9
10 **Section 9.** Section 75-5-1111, MCA, is amended to read:

11 **"75-5-1111. Applications.** (1) The department shall, after consultation with the department of
12 natural resources and conservation, establish loan application procedures, including forms for the
13 applications. Each application for a loan to finance construction of a project must include:

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

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

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

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

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

20 (f) a current financial statement showing assets, liabilities, revenue, and expenses of the applicant;

21 ~~(f)~~(g) if the applicant is a municipality, a statement as to whether, at the time of application, there
22 are any outstanding ~~bonds, loans,~~ notes, ~~bonds,~~ or other obligations of the municipality that were issued
23 or incurred to finance any part of the municipality's sewage project or system of which the project is a part
24 and, if so, a description of the ~~bonds, loans,~~ notes, ~~bonds,~~ or other obligations; ~~and~~

25 (h) if the applicant is a private person, a statement as to whether, at the time of application, there
26 are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the
27 loans, notes, or other obligations; and

28 ~~(g)~~(i) any other information that the department or the department of natural resources and
29 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
30 loan, including but not limited to engineering reports, economic feasibility studies, and legal opinions.

1 (2) Each application for a loan to refinance a project, including a purchase of outstanding
2 obligations issued by a municipality to finance a project in whole or in part, must include:

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

4 (b) a schedule of the cost of the project;

5 (c) the date on which construction of the project began;

6 (d) a description of the ~~bonds, loans, notes, bonds,~~ or other obligations to be refinanced and of
7 any other loans, notes, bonds, or obligations issued or incurred to finance any part of the municipality's
8 ~~sewage system project~~; and

9 (e) any other information that the department or the department of natural resources and
10 conservation may require.

11 (3) Each application for financial assistance in the form of a guaranty or the purchase of insurance
12 for a municipal obligation must include all items required by subsection (1) and any other information the
13 department may require."
14

15 **Section 10.** Section 75-5-1112, MCA, is amended to read:

16 "**75-5-1112. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
17 department of natural resources and conservation, and the department shall evaluate projects for loans and
18 ~~other financial assistance and place them on a priority list or intended use plan~~ and loan applications. In
19 evaluating projects and loan applications, the ~~department shall consider the~~ following factors must be
20 considered:

21 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
22 design standards;

23 (2) the financial capacity of the municipality or private person to repay the loan;

24 (3) the financial, managerial, and technical ability of the municipality or private person to properly
25 operate and maintain the project;

26 (4) the feasibility of project completion given the total financing available;

27 ~~(4)(5)~~ (5) the ability of the municipality or private ~~person~~ person to pay the costs of the project
28 without the requested financial assistance;

29 ~~(2)(6)~~ (6) the total amount of loan funds available for financial assistance in the revolving fund;

30 ~~(3)(7)~~ (7) the total amount requested by in other applications that have been received or that are likely

1 to be received;

2 ~~(4)(8) the need for and benefit to be derived from the project~~ the ranking of the project on the
3 priority list or intended use plan; and

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

7 ~~(6)(9) any other criteria that the department determines appropriate, considering the purposes of~~
8 the federal act and the program."

9

10 **Section 11.** Section 75-5-1113, MCA, is amended to read:

11 **"75-5-1113. Loans Conditions on loans.** (1) Upon approval of a project by the department, the
12 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
13 a municipality or private ~~entity~~ person to pay part or all of the cost of a project or to buy or refinance an
14 outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the
15 municipality or private ~~entity~~ person complying with the following conditions:

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

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

23 (c) agreeing to maintain proper financial records in accordance with ~~recognized government~~
24 generally accepted accounting ~~procedures~~ standards and agreeing that all records are subject to audit;

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

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

29 (f) submitting an engineering report evaluating the proposed project, including information
30 demonstrating its cost-effectiveness and environmental information necessary for the department and the

1 department of natural resources and conservation to fulfill their responsibilities under the Montana
2 Environmental Policy Act and rules adopted to implement that act;

3 (g) complying with plan and specification requirements ~~for public wastewater systems~~ and other
4 requirements established by the ~~board~~ department; and

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

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

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

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

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

20 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the
21 municipality or private ~~entity~~ person, in a form prescribed or approved by the department of natural
22 resources and conservation, except that the bond, note, or other evidence must include provisions required
23 by the federal act and must be consistent with the provisions of this part. The bond, note, or other
24 evidence is not required to be identical for all loans. The department of natural resources and conservation
25 may require that loans to private persons be further secured by a mortgage and other security interests in
26 the project that is being financed or other forms of additional security as considered necessary, including
27 personal guarantees and letters of credit.

28 (5) As a condition to making a loan, the department of natural resources and conservation, with
29 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the
30 proceeds of the loan or other available funds of the municipality or private ~~entity~~ person. Administrative

1 fees may be deposited:

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

4 (b) in the administration account. Money deposited in the administration account established in
5 75-6-211 must be used for the payment of administrative costs of the program. Money deposited in the
6 special administration costs account must be used for the payment of administrative costs of the program
7 unless not required for that purpose, in which case the money may be transferred to other funds and
8 accounts in the program."

9

10 **Section 12.** Section 75-5-1121, MCA, is amended to read:

11 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) Upon request of the
12 department of natural resources and conservation and upon certification by the department of ~~natural~~
13 ~~resources and conservation~~ that the state has entered into a capitalization grant agreement or other
14 agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants
15 have been made to the state for the program, the board of examiners is authorized to issue and sell bonds
16 of the state as authorized by the legislature to provide money for the ~~revolving loan~~ program. The bonds
17 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
18 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part
19 8.

20 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts
21 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state
22 allocation account of the ~~wastewater treatment works~~ revolving fund. Any premium and accrued interest
23 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of
24 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account
25 established outside of the revolving fund by the board of examiners in the resolution or trust indenture
26 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state
27 allocation account and the cost of issuance account constitute a capital projects account. The proceeds
28 must be available to the department and the department of natural resources and conservation and may
29 be used for the purposes authorized in this part without further budgetary authorization.

30 (3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon

1 the request of the department of natural resources and conservation, may create separate accounts or
2 subaccounts to provide for the payment security of the bonds and may pledge the interest component of
3 the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

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

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

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

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

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

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

20
21 **Section 13.** Section 75-6-201, MCA, is amended to read:

22 "75-6-201. **Short title.** This part may be cited as the "Safe Drinking Water Treatment State
23 Revolving Fund Act"."

24
25 **Section 14.** Section 75-6-202, MCA, is amended to read:

26 "75-6-202. **Definitions.** Unless the context requires otherwise, in this part, the following definitions
27 apply:

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

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

1 (b) program startup costs;

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

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

4 (2) "Community water system" means a public water system that is either privately or publicly
 5 owned BY A PRIVATE PERSON OR A MUNICIPALITY and that serves at least 15 service connections used
 6 by year-round residents of the area served by the system or regularly serves at least 25 year-round
 7 residents. The term does not include a public water system that is owned by the federal government.

8 ~~(2)~~(3) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a
 9 public water system, including but not limited to:

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

11 (b) interest during construction; ~~and~~

12 (c) construction; and

13 ~~(e)~~(d) a reasonable allowance for contingencies to the extent permitted by the federal act and rules
 14 promulgated under the federal act.

15 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

16 (5) "Disadvantaged community" means one in which the service area of a public water system
 17 meets the affordability criteria established by rule adopted pursuant to this part.

18 ~~(3)~~(6) "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that
 19 act read on [the effective date of this act].

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

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

23 ~~(6)~~(7) "Indian tribe" means an Indian tribe ~~within the state of Montana that is recognized by the~~
 24 ~~secretary of the U.S. department of interior~~ that has a federally recognized governing body carrying out
 25 substantial governmental duties and powers over any area.

26 (8) "Intended use plan" means the annual plan adopted by the department and submitted to the
 27 environmental protection agency that describes how the state intends to use the money in the revolving
 28 fund.

29 ~~(7) "Investor owned public water system" means a public water system that is not owned by a~~
 30 ~~governmental agency, an intergovernmental agency, a nonprofit organization, an Indian tribe, or a~~

1 ~~combination of governmental entities.~~

2 ~~(8)(9)~~ "Loan" means a loan of money from the revolving fund for project costs.

3 (10) "Municipality" means a state agency, city, town, or other public body created pursuant to
4 state law or an Indian tribe.

5 (11) "Noncommunity water system" means a public water system that is not a community water
6 system.

7 ~~(9)(12)~~ "Nonprofit ~~organization~~" noncommunity water system" means a noncommunity water
8 system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt
9 organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

10 (13) "Private person" means an individual, corporation, partnership, or company OTHER
11 NONGOVERNMENTAL LEGAL ENTITY.

12 ~~(10)(14)~~ "Program" means the ~~safe drinking water treatment state revolving loan fund~~ program
13 established by this part.

14 ~~(14)(15)~~ "Project" means improvements or activities that are:

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

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

18 ~~(12)(16)~~ "Public water system" means a system for the provision to the public of ~~pipe~~ water for
19 human consumption, through pipes or other constructed conveyances, if that system has at least 15
20 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment,
21 storage, and distribution facilities under control of an operator of a system that are used primarily in
22 connection with a system and any collection or pretreatment storage facilities not under control of ~~the~~ an
23 operator and that are used primarily in connection with a system.

24 ~~(13)(17)~~ "Revolving fund" means the ~~safe drinking water treatment state revolving fund~~ established
25 by 75-6-211."

26

27 **Section 15.** Section 75-6-203, MCA, is amended to read:

28 **"75-6-203. ~~Safe drinking~~ Drinking water treatment state revolving fund program.** There is a
29 program under which the state may provide financial assistance to ~~public~~ community water systems and
30 nonprofit noncommunity water systems. The program must be administered in accordance with this part

1 and the federal act."

2

3 **Section 16.** Section 75-6-204, MCA, is amended to read:

4 **"75-6-204. Authorization of agreement -- content.** (1) The department may enter into a
5 capitalization grant agreement or other agreement with the ~~U.S.~~ environmental protection agency to
6 implement the program and may accept from that agency other grants and loans to carry out the program.

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

8 (a) accept grant payments from the ~~U.S.~~ environmental protection agency in accordance with the
9 schedule established by the administrator of that agency and deposit the payments in the revolving fund
10 established in 75-6-211;

11 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
12 amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on
13 which each federal grant payment is made to the state;

14 (c) deposit in the nonproject account for department programs authorized under section
15 300i-12(g)(2) of the federal act (42 U.S.C. 300i-12(g)(2)) a state match equal dollar-for-dollar to the
16 capitalization grant deposited in the account;

17 ~~(d)~~ (d) provide financial and technical assistance to a public water system in accordance with this
18 part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year
19 after receipt of a grant;

20 ~~(e)~~ (e) expend all funds in the revolving fund in an expeditious and timely manner;

21 ~~(f)~~ (f) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure
22 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and
23 requirements of the federal act;

24 ~~(g)~~ (g) expend each grant payment in accordance with the laws and procedures applicable to
25 commitment or expenditure of ~~revenues~~ revenue of the state;

26 ~~(h)~~ (h) use accounting, audit, and fiscal procedures conforming to generally accepted government
27 accounting standards;

28 ~~(i)~~ (i) make ~~annual~~ biennial reports and provide annual audits to the ~~U.S.~~ environmental protection
29 agency concerning the use of the revolving fund as required by the federal act; and

30 ~~(j)~~ (j) any other covenants, commitments, and obligations necessary to ensure that the state's

1 administration of the program is consistent with the provisions of this part and the federal act.

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

5

6 **Section 17.** Section 75-6-205, MCA, is amended to read:

7 "**75-6-205. Rulemaking authority.** The ~~board~~ department and the ~~board~~ department of natural
8 resources and conservation may adopt rules within their respective authorities established within the
9 provisions of this part, including rules:

10 (1) prescribing the form and content of applications for loans and ~~grants~~ technical assistance;

11 (2) governing the application of the criteria for awarding loans and ~~grants~~ technical assistance;

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

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

16 (5) establishing affordability criteria to be used in awarding subsidies to disadvantaged
17 communities;

18 ~~(5)(6)~~ regarding other matters that may be required to ensure compliance of the program with the
19 provisions ~~and~~ of the federal act and rules promulgated under the federal act, unless these matters are
20 specifically governed by this part; and

21 ~~(6)(7)~~ to maintain the financial integrity of the program."

22

23 **Section 18.** Section 75-6-211, MCA, is amended to read:

24 "**75-6-211. Revolving fund.** (1) There is established in the state treasury a separate account
25 designated as the ~~safe drinking water treatment state~~ revolving fund. The corpus of the fund must be
26 available in perpetuity for providing assistance under this part. There are established within the revolving
27 fund a federal allocation account, a state allocation account, an administration account, an investment
28 income account, ~~and~~ a debt service account, and a nonproject account.

29 (2) There must be credited to:

30 (a) the federal allocation account;

1 (i) all amounts received by the state pursuant to the federal act as capitalization grants for a state
 2 revolving fund to assist construction of or improvements to public provide loans or other assistance, as
 3 authorized under this part, to community water systems and nonprofit noncommunity water systems; and

4 (ii) all amounts transferred to the fund from the water pollution control state revolving fund under
 5 75-5-1106;

6 (b) the state allocation account;

7 (i) the net proceeds of bonds of the state issued pursuant to 75-6-225; ~~and~~

8 (ii) ~~other~~ money appropriated by the legislature; and

9 (iii) other available qualifying funds;

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

12 (d) the investment account, all money received from investment of amounts in those accounts in
 13 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the
 14 issuance of bonds; ~~and~~

15 (e) the debt service account, the interest portion of loan repayments; ~~and~~

16 (f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the
 17 federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as
 18 described in 75-6-204.

19 (3) Each loan made ~~as authorized by 75-6-225~~ under this part must be funded and disbursed from
 20 the federal allocation account or the state allocation account, or both, by the department of natural
 21 resources and conservation as recommended by the department. All amounts received in payment of
 22 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
 23 to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account
 24 securing the bonds. Money in the debt service account that is not required for debt service may be
 25 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
 26 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 this part.

30 (5) As allowed under the federal act and with the governor's permission, the department may

1 transfer up to 33% of each year's federal capitalization grant from the federal allocation account,
2 established under subsection (2)(a), to the water pollution control state revolving fund federal allocation
3 account established in 75-5-1106. The transfer of funds must be included in the intended use plan in
4 [section 22 21]."

5
6 **Section 19.** Section 75-6-212, MCA, is amended to read:

7 **"75-6-212. Use of revolving fund.** (1) Money in the revolving fund ~~must~~ may be used to:

8 (a) for providing financial assistance that is in the form of ~~make~~ loans and grants to public water
9 systems and that is of the type to community water systems and nonprofit noncommunity water systems
10 as provided in this part;

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

15 (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed
16 market rates, provided that the obligations were incurred and construction of the project began after July
17 1, 1993;

18 (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for
19 obligations of municipalities that are issued to finance eligible projects;

20 (d) leverage the total amount of revolving funds available by providing a source of revenue or
21 security for the payment of principal and interest on revenue or general obligation bonds issued by the
22 state, the net proceeds of which are deposited in the revolving fund;

23 (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual
24 capitalization grant or the maximum amount allowed under the federal act;

25 (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to
26 exceed 10% of the annual capitalization grant for the following:

27 (i) public water system supervision programs;

28 (ii) administering or providing technical assistance through source water protection programs;

29 (iii) developing and implementing a capacity development strategy under section 300g-9 of the
30 federal act (42 U.S.C. 300g-9); AND

1 (iv) administering an operator certification program in order to meet the requirements of section
 2 300g-8 of the federal act (42 U.S.C. 300g-8); and

3 (v) ~~payment of~~ (G) PAY the department's costs in an amount not to exceed 2% of the annual
 4 capitalization grant for the purpose of providing technical assistance to public water systems serving
 5 10,000 or fewer persons.

6 (b)(2) ~~Financial assistance~~ Except as provided in subsection (3), money in the fund may not be used
 7 for:

8 (a) expenditures related to monitoring, operation, and maintenance;

9 (b) the acquisition of real property or any interest in real property, unless the acquisition is integral
 10 to a project authorized under this part and the purchase is from a willing seller;

11 (c) providing assistance to a public water system that:

12 (i) does not have the financial, managerial, and technical capability to ensure compliance with the
 13 requirements of the federal act; or

14 (ii) is in significant noncompliance with any requirement of a national primary drinking water
 15 regulation or variance; or

16 (d) any other activity prohibited from funding under the federal act.

17 (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part
 18 if:

19 (i) the use of the assistance will ensure compliance; and

20 (ii) for a system that the department has determined does not have the financial, managerial, or
 21 technical capability to ensure compliance with the federal act, the owner or operator of the system agrees
 22 to undertake feasible and appropriate changes in operations, including ownership, management, accounting,
 23 rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary
 24 by the department to ensure compliance.

25 (b) Prior to providing assistance to a public water system that is in significant noncompliance with
 26 any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the
 27 department shall determine whether the provisions of subsection (2)(c)(i) apply to the system."

28
 29 NEW SECTION. Section 20. Loan subsidy for disadvantaged communities. (1) Notwithstanding
 30 any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged

1 community or to a community that the department expects to become a disadvantaged community as a
2 result of a proposed project, the department may provide additional subsidization in the form of a reduced
3 interest rate.

4 (2) The total annual amount of loan subsidies made by the department pursuant to subsection (1)
5 may not exceed 30% of the capitalization grant received by the department for each fiscal year.

6
7 **NEW SECTION. Section 21. Intended use plan.** (1) The department shall prepare an annual
8 intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act (42
9 U.S.C. 300j-12(b)).

10 (2) The intended use plan must include:

11 (a) a list of projects in the state that are eligible for assistance, including both the priority assigned
12 to each project based on public health needs and on the financial needs of the project and, to the extent
13 known, the expected funding schedule for each project; and

14 (b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and
15 funds to be transferred to or received by the water pollution control state revolving fund, as allowed in
16 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

17 (3) Before finalizing an intended use plan, the department shall prepare a draft document containing
18 the information required in subsection (2) and shall provide public notice and opportunity to comment on
19 the draft document.

20
21 **NEW SECTION. Section 22. Insurance and guarantee program.** (1) The revolving fund may be used
22 to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation
23 issued by a municipality if the department of natural resources and conservation determines that the
24 guarantee or insurance would improve the credit market access of the municipality or reduce the interest
25 rate on the municipal obligation.

26 (2) The department of natural resources and conservation shall adopt rules setting forth the
27 conditions under which the program will guarantee or insure municipal obligations, including the amount
28 of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any,
29 to be established in the fund to cover any guarantee. The program may not be used to guarantee a
30 municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the

1 extent that they are inconsistent with the guarantee.

2

3 **Section 23.** Section 75-6-221, MCA, is amended to read:

4 **"75-6-221. ~~Loan program~~ General loan and assistance program.** (1) ~~The department may provide~~
5 ~~financial assistance in the form of a loan to public water systems owned by a governmental agency, an~~
6 ~~intergovernmental agency, a nonprofit corporation, an Indian tribe, or any combination of those entities~~
7 ~~program may, subject to the requirements in 75-6-222 through 75-6-224, make loans to community water~~
8 ~~systems and nonprofit noncommunity water systems that:~~

9 (a) will facilitate compliance with national primary drinking water regulations pursuant to the federal
10 act; or

11 (b) will further the health protection objectives of the federal act, including but not limited to
12 projects that involve:

13 (i) upgrading and replacing infrastructure;

14 (ii) addressing exceedances of the federal act or preventing future violations;

15 (iii) consolidating water supplies;

16 ~~(iv) a system that meets the definition of a public water system contained in section 300f(4) of the~~
17 ~~federal act (42 U.S.C. 300f(4));~~

18 ~~(v)(IV) the acquisition of land, at fair market value, that is integral to the project;~~

19 ~~(vi)(V) planning and designing of a project; and OR~~

20 ~~(vii)(VI) other activities allowed under the federal act.~~

21 (2) In addition to loans authorized under subsection (1), the program may make loans to public
22 water systems for one or more of the following purposes:

23 (a) to a community water system or nonprofit noncommunity water system to acquire land or a
24 conservation easement from a willing party if the land is necessary to ensure compliance with the national
25 primary drinking water regulations or to protect the source of water from contamination;

26 (b) to a community water system to implement local, voluntary source water protection measures
27 in order to protect source water in areas delineated under a source water assessment program in order to
28 facilitate compliance with the national primary drinking water regulations or otherwise significantly further
29 the health protection objectives of the federal act;

30 (c) to a community water system to provide funding for the development and implementation of a

1 source water quality assessment, contingency plans, and demonstration projects for partners within a
2 delineated source water area.

3 (3) The department may:

4 (a) provide financial and technical assistance to any public water system as part of a capacity
5 development strategy developed and implemented in accordance with the federal act;

6 (b) make expenditures from the capitalization grant to delineate and assess source water protection
7 areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and

8 (c) make expenditures from the fund for the establishment and implementation of wellhead
9 protection programs.

10 (4) The department program may provide financial assistance only in the form of a loan to an
11 investor-owned to a public water system according to priorities established by the department in the
12 department's intended use plan adopted pursuant to [section 22 21], based on greatest public health needs
13 and financial needs. Prior to making a loan to an investor-owned a public water system, the department
14 shall determine that the system has the ability to repay the loan according to its terms and conditions and
15 may require a dedicated source of repayment and impose additional requirements. A loan to an
16 investor owned public water system is subject to the requirements of 75-6-222 through 75-6-224.

17 (5) The total amount of assistance provided and expenditures made by the department PROGRAM
18 under subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by
19 the department for that year and may not exceed 10% of that amount for any one of the activities listed
20 under subsection (2) or (3)."

21
22 **Section 24.** Section 75-6-222, MCA, is amended to read:

23 **"75-6-222. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
24 department and the department of natural resources and conservation, the department shall evaluate
25 projects for loans and grants and place them on a priority list or intended use plan and loan applications.
26 In evaluating projects and applications, the department shall consider the following factors must be
27 considered:

28 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
29 design standards;

30 (2) the financial capacity of the applicant;

- 1 (3) the financial, managerial, and technical ability of the applicant to properly operate and maintain
 2 the project;
 3 (4) the total financing of the project to ensure completion;
 4 ~~(1)~~(5) the viability of the public water system;
 5 ~~(2)~~(6) the ability of the public water system to pay the costs of the project without the requested
 6 financial assistance;
 7 ~~(3)~~(7) the total amount of loan funds available for financial assistance in the revolving fund;
 8 ~~(4)~~(8) the total amount requested by other applications that have been received or that are likely
 9 to be received;
 10 ~~(5)~~(9) ~~the need for and the benefit to be derived from the project~~ the ranking of the project on the
 11 priority list in the intended use plan; and
 12 ~~(6)~~(10) any other criteria that the department determines to be appropriate, considering the
 13 purposes of the program and the federal act."

14

15 **Section 25.** Section 75-6-223, MCA, is amended to read:

16 "**75-6-223. Applications for loans and grants.** (1) The department shall, after consultation with
 17 the department of natural resources and conservation, establish loan ~~and grant~~ application procedures,
 18 including forms for the applications. Each application for a loan must include:

- 19 (a) a reasonably detailed description of the project;
 20 (b) a reasonably detailed estimate of the cost of the project;
 21 (c) a timetable for the construction of the project and for payment of the cost of the project;
 22 (d) identification of the source or sources of funds to be used in addition to the proceeds of the
 23 loan to pay the cost of the project;
 24 (e) the source or sources of revenue proposed to be used to repay the loan;
 25 (f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;
 26 ~~(g)~~(g) a statement as to whether, at the time of application, there are any outstanding ~~bonds,~~ loans,
 27 notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a
 28 description of the ~~bonds,~~ loans, notes, bonds, or other obligations; ~~and~~
 29 (h) if the applicant is a private person, a statement as to whether, at the time of the application,
 30 there are any outstanding loans, notes, or other obligations of the private person and, if so, a description

1 of the loans, notes, or other obligations; and

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

5 (i) engineering reports;

6 (ii) economic feasibility studies; and

7 (iii) legal opinions.

8 (2) Each application for a ~~grant~~ loan subsidy must include:

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

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

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

12 (d) identification of the source or sources of funds to be used in addition to the proceeds of the
13 ~~grant~~ loan to pay the cost of the project;

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

17 (f) an explanation, including supporting information, as to why a ~~grant rather than a~~ loan subsidy
18 is requested; ~~and~~

19 (g) evidence that the applicant qualifies as a disadvantaged community; and

20 ~~(g)~~(h) any other information that the department or the department of natural resources and
21 conservation may require."

22

23 **Section 26.** Section 75-6-224, MCA, is amended to read:

24 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the
25 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
26 a public water system to pay part or all of the cost of a project. The loan is subject to the applicant
27 complying with the following conditions:

28 (a) meeting requirements of financial capability set by the department of natural resources and
29 conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay
30 the loan, including the establishment of a dedicated source of revenue and the establishment and

1 maintenance by the applicant of a reserve or revolving fund to secure the payment of principal of and
 2 interest on the loan to the extent permitted by the applicable law governing the public water system or the
 3 applicant's financial authority;

4 (b) in the case of a ~~privately owned~~ system OWNED BY A PRIVATE PERSON, in addition to
 5 establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing,
 6 as required by the department of natural resources and conservation, credit enhancements, a pledge of
 7 collateral, or other types of security, such as a corporate or personal guarantee;

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

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

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

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

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

20 ~~(g)(h)~~ complying with plan, ~~and~~ specification, and other requirements for public water systems
 21 established by the ~~board~~ department; and

22 ~~(h)(i)~~ providing for proper construction inspection and project management; and

23 (i) meeting requirements of financial, managerial, and technical capability to maintain compliance
 24 with the federal act.

25 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest
 26 paid in annual or more frequent installments, the first of which must be received not more than 1 year after
 27 the completion date of the project and the last of which must be received not more than 20 years after the
 28 completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan
 29 subsidy, the department may determine that the last installment must be received not more than 30 years
 30 after the completion date, provided that the period of the loan does not exceed the expected design life of

1 the project.

2 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the
3 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with
4 other available funds in the revolving fund, including investment income, to enable the state to pay the
5 principal of and interest on the bonds issued pursuant to 75-6-225.

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

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

15 (5) As a condition to making a loan, the department of natural resources and conservation, with
16 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the
17 proceeds of the loan or other available funds of the municipality or private ~~entity~~ person. Administrative
18 fees may be deposited:

19 (a) in a special administrative costs account that the department of natural resources and
20 conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

21 (b) in the administrative account provided for in 75-6-211. In determining into which account the
22 administrative fees are deposited, the department shall take into consideration the needs and requirements
23 of the programs. Money deposited in the special administrative costs account or the administration account
24 must be used for the payment of administrative costs of the program."

25
26 **NEW SECTION. Section 27. Repealer.** Sections ~~75-5-1108~~, 75-6-213, and 75-6-215, MCA, are
27 repealed.

28
29 **NEW SECTION. Section 28. Codification instruction.** [Sections ~~21 through 23~~ 20 THROUGH 22]
30 are intended to be codified as an integral part of Title 75, chapter 6, part 2, and the provisions of Title 75,

1 chapter 6, part 2, apply to [sections ~~21 through 23~~ 20 THROUGH 22].

2

3 NEW SECTION. Section 29. Saving clause. (1) [This act] does not affect rights and duties that
4 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
5 act].

6 (2) Rules that were adopted pursuant to Title 75, chapter 5, part 11, or Title 75, chapter 6, part
7 2, prior to [the effective date of this act] continue in force until amended or repealed pursuant to those
8 parts.

9

10 NEW SECTION. Section 30. Effective date -- applicability. (1) [This act] is effective on passage
11 and approval.

12 (2) [Section ~~2~~ 1] applies to the licensing of nontransient noncommunity water system operators on
13 or after July 1, 1998.

14

-END-

1 HOUSE BILL NO. 483

2 INTRODUCED BY MOOD, AKLESTAD, BEAUDRY, WALTERS, KNOX, HOLLAND, DEVANEY, DENNY,
3 KITZENBERG, BROOKE, OHS, ELLIS, STOVALL, SQUIRES, HIBBARD, SCHMIDT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE
6 DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM
7 LICENSING; AMENDING SECTIONS ~~17-7-502~~, 37-42-102, 75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104,
8 75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111, 75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202,
9 75-6-203, 75-6-204, 75-6-205, 75-6-211, 75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224,
10 MCA; REPEALING SECTIONS ~~75-6-1108~~, 75-6-213, AND 75-6-215, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

1 HOUSE BILL NO. 483

2 INTRODUCED BY MOOD, AKLESTAD, BEAUDRY, WALTERS, KNOX, HOLLAND, DEVANEY, DENNY,
3 KITZENBERG, BROOKE, OHS, ELLIS, STOVALL, SQUIRES, HIBBARD, SCHMIDT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE
6 DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM
7 LICENSING; AMENDING SECTIONS ~~17-7-502~~, 37-42-102, 75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104,
8 75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111, 75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202,
9 75-6-203, 75-6-204, 75-6-205, 75-6-211, 75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224,
10 MCA; REPEALING SECTIONS ~~75-5-1108~~, 75-6-213, AND 75-6-215, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

14
15 ~~Section 1. Section 17-7-502, MCA, is amended to read:~~

16 ~~"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory~~
17 ~~appropriation is an appropriation made by permanent law that authorizes spending by a state agency~~
18 ~~without the need for a biennial legislative appropriation or budget amendment.~~

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

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

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

24 ~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;~~
25 ~~2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;~~
26 ~~15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;~~
27 ~~16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;~~
28 ~~18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;~~
29 ~~19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;~~
30 ~~23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;~~

1 ~~39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;~~
 2 ~~53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;~~
 3 ~~80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;~~
 4 ~~90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

5 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 6 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 7 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 8 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 9 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 10 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.~~
 11 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 12 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 13 ~~July 1, 2001.)"~~

14

15 **Section 1.** Section 37-42-102, MCA, is amended to read:

16 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 17 definitions apply:

18 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 19 operator holding the certificate has met the requirements for the specified operator classification of the
 20 certification program.

21 (2) "Community water system" means the term as defined in 75-6-102.

22 (3) "Council" means the water and wastewater operators' advisory council provided for in
 23 2-15-2105.

24 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

25 (5) "Nontransient noncommunity water system" means a public water system, as defined in
 26 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for
 27 at least 6 months a year.

28 ~~(6)~~(6) "Operator" means the person in direct responsible charge of the operation of a water
 29 treatment plant, water distribution system, or wastewater treatment plant.

30 ~~(7)~~(7) "State waters" means the term as defined in 75-6-102.

1 ~~(7)~~(8) "Wastewater treatment plant" means a facility that:

2 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
3 wastes, or other wastes;

4 (b) discharges an effluent directly into state waters; and

5 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
6 75-6-102.

7 ~~(8)~~(9) "Water distribution system" means that portion of the water supply system that conveys
8 water from the water treatment plant or other supply source to the premises of the consumer and that is
9 part of a community water system or a nontransient noncommunity water system.

10 ~~(9)~~(10) "Water supply system" means a system of pipes, structures, and facilities through which
11 water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by
12 humans and that is part of a community water system or a nontransient noncommunity water system.

13 ~~(10)~~(11) "Water treatment plant" means that portion of the water supply system that alters either
14 the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human
15 use."

16

17 **Section 2.** Section 75-5-1101, MCA, is amended to read:

18 "**75-5-1101. Short title.** This part may be cited as the ~~"Wastewater Treatment~~ "Water Pollution
19 Control State Revolving Fund Act"."

20

21 **Section 3.** Section 75-5-1102, MCA, is amended to read:

22 "**75-5-1102. Definitions.** Unless the context requires otherwise, in this part the following
23 definitions apply:

24 (1) "Administrative costs" means costs incurred by the department and the department of natural
25 resources and conservation in the administration of the program, including but not limited to costs of
26 servicing loans and issuing debt; program start-up costs; financial, management, and legal consulting fees;
27 and reimbursement costs for support services from other state agencies.

28 (2) "Cost" means, with reference to a ~~wastewater treatment works~~ project, all capital costs
29 incurred or to be incurred by a municipality or a private ~~entity~~ person, including but not limited to
30 engineering, construction, financing, and other fees, interest during construction, and a reasonable

1 allowance for contingencies to the extent permitted by the federal act and regulations promulgated
2 thereunder.

3 (3) "Federal act" means the Federal Water Pollution Control Act, also known as the Clean Water
4 Act, 33 U.S.C. 1251 through 1387, as amended.

5 (4) "Intended use plan" means the annual plan adopted by the department and submitted to the
6 environmental protection agency that describes how the state intends to use the money in the revolving
7 fund.

8 ~~(4)(5)~~ "Loan" means a loan of money from the revolving fund to a municipality or a private ~~concern~~
9 person.

10 ~~(5)(6)~~ "Municipality" means any state agency, city, town, or other local government unit having
11 authority to own and operate a sewage system and wastewater treatment works public body created
12 pursuant to state law.

13 ~~(6)(7)~~ "Private ~~concern~~ person" means ~~an individual or other entity eligible for a loan or loans for~~
14 ~~a pollution control project for a nonpoint source under section 319 of the federal act~~ an individual,
15 corporation, partnership, or other nongovernmental legal entity.

16 ~~(7)(8)~~ "Program" means the ~~wastewater treatment works~~ water pollution control state revolving
17 fund loan program established by this part.

18 ~~(8)(9)~~ "Project" means ~~a wastewater treatment works or part of a wastewater treatment works for~~
19 an activity that is eligible for financing by the program under the federal act, including treatment works,
20 as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control
21 under section 1329 of the federal act (33 U.S.C. 1329), EXCEPT A SOLID WASTE MANAGEMENT
22 SYSTEM OR RESOURCE RECOVERY FACILITY REGULATED UNDER AND DEFINED IN TITLE 75, CHAPTER
23 10, and for which a municipality or private ~~concern~~ person makes an application for a loan or other financial
24 assistance.

25 ~~(9)(10)~~ "Revolving fund" means the fund established by 75-5-1106."
26

27 **Section 4.** Section 75-5-1103, MCA, is amended to read:

28 **"75-5-1103. ~~Wastewater treatment works~~ Water pollution control state revolving fund loan**
29 **program.** There is a program under which the state may provide financial assistance to municipalities and
30 private ~~concerns~~ persons to finance or refinance part or all of the cost of projects. The program must be

1 administered in accordance with this part and the federal act."

2

3 **Section 5.** Section 75-5-1104, MCA, is amended to read:

4 **"75-5-1104. Authorization of agreement -- content.** (1) The department may enter into a
5 capitalization grant agreement or other agreement with the United States environmental protection agency
6 to implement the program and may accept from that agency other grants and loans to carry out the
7 program.

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

9 (a) accept grant payments from the environmental protection agency in accordance with the
10 schedule established by the administrator of that agency and deposit the payments in the revolving fund
11 established in 75-5-1106;

12 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
13 amount of all capitalization grants made to the state as provided by 75-5-1106 on or before the date on
14 which each quarterly federal grant payment is made to the state;

15 (c) provide financial assistance to municipalities and private ~~concerns~~ persons in accordance with
16 this part in an amount equal to 120% of the amount of each grant payment within a time period not to
17 exceed 1 year after receipt of a grant;

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

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

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

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

26 (h) as a condition of making a loan or providing other financial assistance from the revolving fund,
27 require that the municipality or private ~~concern~~ person will maintain project accounts in accordance with
28 generally accepted government accounting standards;

29 (i) make annual reports to the environmental protection agency concerning the use of the revolving
30 fund as required by the federal act; and

1 (j) any other covenants, commitments, and obligations necessary to ensure that the state's
2 administration of the program is consistent with the provisions of this part."

3
4 **Section 6.** Section 75-5-1105, MCA, is amended to read:

5 **"75-5-1105. Rulemaking.** The department and the department of natural resources and
6 conservation may adopt rules to implement the provisions of this part, including rules:

7 (1) prescribing the form and content of applications for loans and refinancing agreements;

8 (2) governing the application of the criteria for awarding loans;

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

11 (4) establishing ceilings on the amount of individual loans to be made to municipalities and private
12 ~~concerns~~ persons, if considered appropriate and necessary for the successful administration of the
13 program."

14
15 **Section 7.** Section 75-5-1106, MCA, is amended to read:

16 **"75-5-1106. Revolving fund.** (1) There is established in the state treasury a separate account
17 designated as the ~~wastewater treatment works~~ water pollution control state revolving fund. There are
18 established in the revolving fund as subaccounts a federal allocation account, a state allocation account,
19 an administration account, an investment income account, and a debt service account.

20 (2) There must be credited to:

21 (a) the federal allocation account, all amounts received by the state from the following sources:

22 (i) funds provided pursuant to the federal act as capitalization grants for a state revolving fund to
23 assist construction of ~~wastewater treatment works and~~ projects;

24 (ii) grants or transfers of grants received under subchapter II of the federal act for ~~construction of~~
25 ~~wastewater treatment works~~ projects; and

26 (iii) money transferred to the fund from the drinking water state revolving fund pursuant to
27 75-6-211;

28 (b) the state allocation account, the net proceeds of bonds of the state issued pursuant to
29 75-5-1121 and other money appropriated by the legislature;

30 (c) the administration account, 4% of the capitalization grant award, or the maximum amount

1 allowed by the federal act, ~~of the capitalization grant award~~ for payment of administrative costs;

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

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

6 (3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal
7 allocation account or the state allocation account, or both, by the department and the department of natural
8 resources and conservation as recommended by the department. All amounts received in payment of
9 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
10 to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account
11 securing the bonds. Money in the debt service account that is not required for debt service may be
12 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
13 authorizing the bonds.

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

17 (5) As allowed under the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and with the
18 governor's permission, AN AMOUNT EQUIVALENT TO up to 33% of each year's DRINKING WATER STATE
19 REVOLVING FUND federal capitalization grant may be transferred from the federal allocation account,
20 established under subsection (2)(a), to the drinking water state revolving fund federal allocation account
21 established in 75-6-211."

22

23 **Section 8.** Section 75-5-1107, MCA, is amended to read:

24 **"75-5-1107. Uses of revolving fund.** Money in the revolving fund ~~may~~ must be used to:

25 (1) make loans to municipalities ~~and private concerns persons~~ to finance all or a portion of the cost
26 of a project AND TO MAKE LOANS TO PRIVATE PERSONS TO FINANCE ALL OR A PORTION OF THE
27 COST OF NONPOINT SOURCE POLLUTION CONTROL PROJECTS;

28 (2) buy or refinance debt obligations of municipalities that were issued to finance projects within
29 the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

30 (3) guarantee or purchase insurance for obligations of municipalities that were issued to finance

1 projects in order to enhance credit or reduce interest rates;

2 (4) provide a source of revenue or security for general obligation bonds the proceeds of which are
3 deposited in the revolving fund;

4 (5) provide loan guarantees for similar revolving funds established by municipalities;

5 (6) earn interest on fund accounts; and

6 (7) pay reasonable administrative costs of the ~~revolving loan~~ program not to exceed 4%, of all
7 federal grant awards to the fund or the maximum amount allowed under the federal act, ~~of all federal grant~~
8 ~~awards to the fund."~~

9

10 **Section 9.** Section 75-5-1111, MCA, is amended to read:

11 "**75-5-1111. Applications.** (1) The department shall, after consultation with the department of
12 natural resources and conservation, establish loan application procedures, including forms for the
13 applications. Each application for a loan to finance construction of a project must include:

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

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

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

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

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

20 (f) a current financial statement showing assets, liabilities, revenue, and expenses of the applicant;

21 ~~(f)~~(g) if the applicant is a municipality, a statement as to whether, at the time of application, there
22 are any outstanding ~~bonds, loans, notes, bonds,~~ or other obligations of the municipality that were issued
23 or incurred to finance any part of the municipality's ~~sewage project or system~~ of which the project is a part
24 and, if so, a description of the ~~bonds, loans, notes, bonds,~~ or other obligations; ~~and~~

25 (h) if the applicant is a private person, a statement as to whether, at the time of application, there
26 are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the
27 loans, notes, or other obligations; and

28 ~~(g)~~(i) any other information that the department or the department of natural resources and
29 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
30 loan, including but not limited to engineering reports, economic feasibility studies, and legal opinions.

1 (2) Each application for a loan to refinance a project, including a purchase of outstanding
2 obligations issued by a municipality to finance a project in whole or in part, must include:

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

4 (b) a schedule of the cost of the project;

5 (c) the date on which construction of the project began;

6 (d) a description of the ~~bonds,~~ loans, notes, bonds, or other obligations to be refinanced and of
7 any other loans, notes, bonds, or obligations issued or incurred to finance any part of the municipality's
8 ~~sewage system project;~~ and

9 (e) any other information that the department or the department of natural resources and
10 conservation may require.

11 (3) Each application for financial assistance in the form of a guaranty or the purchase of insurance
12 for a municipal obligation must include all items required by subsection (1) and any other information the
13 department may require."
14

15 **Section 10.** Section 75-5-1112, MCA, is amended to read:

16 "**75-5-1112. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
17 department of natural resources and conservation, and the department shall evaluate projects ~~for loans and~~
18 ~~other financial assistance and place them on a priority list or intended use plan~~ and loan applications. In
19 evaluating projects and loan applications, the ~~department shall consider the~~ following factors must be
20 considered:

21 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
22 design standards;

23 (2) the financial capacity of the municipality or private person to repay the loan;

24 (3) the financial, managerial, and technical ability of the municipality or private person to properly
25 operate and maintain the project;

26 (4) the feasibility of project completion given the total financing available;

27 ~~(4)(5)~~ (5) the ability of the municipality or private ~~entity~~ person to pay the costs of the project
28 without the requested financial assistance;

29 ~~(2)(6)~~ (6) the total amount of loan funds available for financial assistance in the revolving fund;

30 ~~(3)(7)~~ (7) the total amount requested by in other applications that have been received or that are likely

1 to be received;

2 ~~(4)(8) the need for and benefit to be derived from the project~~ the ranking of the project on the
3 priority list or intended use plan; and

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

7 ~~(6)(9)~~ any other criteria that the department determines appropriate, considering the purposes of
8 the federal act and the program."

9

10 **Section 11.** Section 75-5-1113, MCA, is amended to read:

11 **"75-5-1113. ~~Loans~~ Conditions on loans.** (1) Upon approval of a project by the department, the
12 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
13 a municipality or private ~~entity~~ person to pay part or all of the cost of a project or to buy or refinance an
14 outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the
15 municipality or private ~~entity~~ person complying with the following conditions:

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

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

23 (c) agreeing to maintain proper financial records in accordance with ~~recognized government~~
24 generally accepted accounting ~~procedures~~ standards and agreeing that all records are subject to audit;

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

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

29 (f) submitting an engineering report evaluating the proposed project, including information
30 demonstrating its cost-effectiveness and environmental information necessary for the department and the

1 department of natural resources and conservation to fulfill their responsibilities under the Montana
2 Environmental Policy Act and rules adopted to implement that act;

3 (g) complying with plan and specification requirements ~~for public wastewater systems~~ and other
4 requirements established by the ~~board~~ department; and

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

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

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

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

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

20 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the
21 municipality or private ~~entity~~ person, in a form prescribed or approved by the department of natural
22 resources and conservation, except that the bond, note, or other evidence must include provisions required
23 by the federal act and must be consistent with the provisions of this part. The bond, note, or other
24 evidence is not required to be identical for all loans. The department of natural resources and conservation
25 may require that loans to private persons be further secured by a mortgage and other security interests in
26 the project that is being financed or other forms of additional security as considered necessary, including
27 personal guarantees and letters of credit.

28 (5) As a condition to making a loan, the department of natural resources and conservation, with
29 the concurrence of the department, may impose a reasonable administrative fee that may be paid from the
30 proceeds of the loan or other available funds of the municipality or private ~~entity~~ person. Administrative

1 fees may be deposited:

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

4 (b) in the administration account. Money deposited in the administration account established in
5 75-6-211 must be used for the payment of administrative costs of the program. Money deposited in the
6 special administration costs account must be used for the payment of administrative costs of the program
7 unless not required for that purpose, in which case the money may be transferred to other funds and
8 accounts in the program."

9

10 **Section 12.** Section 75-5-1121, MCA, is amended to read:

11 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) Upon request of the
12 department of natural resources and conservation and upon certification by the department of natural
13 ~~resources and conservation~~ that the state has entered into a capitalization grant agreement or other
14 agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants
15 have been made to the state for the program, the board of examiners is authorized to issue and sell bonds
16 of the state as authorized by the legislature to provide money for the ~~revolving loan~~ program. The bonds
17 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
18 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part
19 8.

20 (2) The proceeds of the bonds, other than any premium and accrued interest received or amounts
21 to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state
22 allocation account of the ~~wastewater treatment works~~ revolving fund. Any premium and accrued interest
23 and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of
24 bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account
25 established outside of the revolving fund by the board of examiners in the resolution or trust indenture
26 authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state
27 allocation account and the cost of issuance account constitute a capital projects account. The proceeds
28 must be available to the department and the department of natural resources and conservation and may
29 be used for the purposes authorized in this part without further budgetary authorization.

30 (3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon

1 the request of the department of natural resources and conservation, may create separate accounts or
2 subaccounts to provide for the payment security of the bonds and may pledge the interest component of
3 the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

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

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

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

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

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

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

21 **Section 13.** Section 75-6-201, MCA, is amended to read:

22 "75-6-201. **Short title.** This part may be cited as the "Safe Drinking Water Treatment State
23 Revolving Fund Act"."
24

25 **Section 14.** Section 75-6-202, MCA, is amended to read:

26 "75-6-202. **Definitions.** Unless the context requires otherwise, in this part, the following definitions
27 apply:

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

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

1 (b) program startup costs;

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

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

4 (2) "Community water system" means a public water system that is either privately or publicly
 5 owned BY A PRIVATE PERSON OR A MUNICIPALITY and that serves at least 15 service connections used
 6 by year-round residents of the area served by the system or regularly serves at least 25 year-round
 7 residents. The term does not include a public water system that is owned by the federal government.

8 ~~(2)(3)~~ "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a
 9 public water system, including but not limited to:

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

11 (b) interest during construction; ~~and~~

12 (c) construction; and

13 ~~(e)(d)~~ a reasonable allowance for contingencies to the extent permitted by the federal act and rules
 14 promulgated under the federal act.

15 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

16 (5) "Disadvantaged community" means one in which the service area of a public water system
 17 meets the affordability criteria established by rule adopted pursuant to this part.

18 ~~(3)(6)~~ "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that
 19 act read on [the effective date of this act].

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

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

23 ~~(6)(7)~~ "Indian tribe" means an Indian tribe within the state of Montana that is recognized by the
 24 secretary of the U.S. department of interior that has a federally recognized governing body carrying out
 25 substantial governmental duties and powers over any area.

26 (8) "Intended use plan" means the annual plan adopted by the department and submitted to the
 27 environmental protection agency that describes how the state intends to use the money in the revolving
 28 fund.

29 ~~(7) "Investor-owned public water system" means a public water system that is not owned by a~~
 30 ~~governmental agency, an intergovernmental agency, a nonprofit organization, an Indian tribe, or a~~

1 ~~combination of governmental entities.~~

2 ~~(8)~~(9) "Loan" means a loan of money from the revolving fund for project costs.

3 (10) "Municipality" means a state agency, city, town, or other public body created pursuant to
4 state law or an Indian tribe.

5 (11) "Noncommunity water system" means a public water system that is not a community water
6 system.

7 ~~(9)~~(12) "Nonprofit ~~organization~~" noncommunity water system" means a noncommunity water
8 system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt
9 organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

10 (13) "Private person" means an individual, corporation, partnership, or ~~company~~ OTHER
11 NONGOVERNMENTAL LEGAL ENTITY.

12 ~~(10)~~(14) "Program" means the ~~safe drinking water treatment state revolving loan fund~~ program
13 established by this part.

14 ~~(14)~~(15) "Project" means improvements or activities that are:

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

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

18 ~~(12)~~(16) "Public water system" means a system for the provision to the public of ~~pipe~~ water for
19 human consumption, through pipes or other constructed conveyances, if that system has at least 15
20 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment,
21 storage, and distribution facilities under control of an operator of a system that are used primarily in
22 connection with a system and any collection or pretreatment storage facilities not under control of ~~the~~ an
23 operator and that are used primarily in connection with a system.

24 ~~(13)~~(17) "Revolving fund" means the ~~safe drinking water treatment state revolving fund~~ established
25 by 75-6-211."

26

27 **Section 15.** Section 75-6-203, MCA, is amended to read:

28 **"75-6-203. ~~Safe drinking~~ Drinking water treatment state revolving fund program.** There is a
29 program under which the state may provide financial assistance to ~~public~~ community water systems and
30 nonprofit noncommunity water systems. The program must be administered in accordance with this part

1 and the federal act."

2

3 **Section 16.** Section 75-6-204, MCA, is amended to read:

4 **"75-6-204. Authorization of agreement -- content.** (1) The department may enter into a
5 capitalization grant agreement or other agreement with the ~~U.S.~~ environmental protection agency to
6 implement the program and may accept from that agency other grants and loans to carry out the program.

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

8 (a) accept grant payments from the ~~U.S.~~ environmental protection agency in accordance with the
9 schedule established by the administrator of that agency and deposit the payments in the revolving fund
10 established in 75-6-211;

11 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
12 amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on
13 which each federal grant payment is made to the state;

14 (c) deposit in the nonproject account for department programs authorized under section
15 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)) a state match equal dollar-for-dollar to the
16 capitalization grant deposited in the account;

17 ~~(d)~~(d) provide financial and technical assistance to a public water system in accordance with this
18 part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year
19 after receipt of a grant;

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

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

24 ~~(f)~~(g) expend each grant payment in accordance with the laws and procedures applicable to
25 commitment or expenditure of ~~revenues~~ revenue of the state;

26 ~~(g)~~(h) use accounting, audit, and fiscal procedures conforming to generally accepted government
27 accounting standards;

28 ~~(h)~~(i) make ~~annual~~ biennial reports and provide annual audits to the ~~U.S.~~ environmental protection
29 agency concerning the use of the revolving fund as required by the federal act; and

30 ~~(i)~~(j) any other covenants, commitments, and obligations necessary to ensure that the state's

1 administration of the program is consistent with the provisions of this part and the federal act.

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

5
6 **Section 17.** Section 75-6-205, MCA, is amended to read:

7 "**75-6-205. Rulemaking authority.** The ~~board~~ department and the ~~board~~ department of natural
8 resources and conservation may adopt rules within their respective authorities established within the
9 provisions of this part, including rules:

- 10 (1) prescribing the form and content of applications for loans and ~~grants~~ technical assistance;
- 11 (2) governing the application of the criteria for awarding loans and ~~grants~~ technical assistance;
- 12 (3) establishing additional terms and conditions for the making of loans and the security
13 instruments and other necessary agreements;
- 14 (4) establishing ceilings on the amount of individual loans ~~and grants~~ to be made if considered
15 appropriate and necessary for the successful administration of the program;
- 16 (5) establishing affordability criteria to be used in awarding subsidies to disadvantaged
17 communities;
- 18 (5)(6) regarding other matters that may be required to ensure compliance of the program with the
19 provisions ~~and~~ of the federal act and rules promulgated under the federal act, unless these matters are
20 specifically governed by this part; and
- 21 (6)(7) to maintain the financial integrity of the program."

22
23 **Section 18.** Section 75-6-211, MCA, is amended to read:

24 "**75-6-211. Revolving fund.** (1) There is established in the state treasury a separate account
25 designated as the ~~safe drinking water treatment~~ state revolving fund. The corpus of the fund must be
26 available in perpetuity for providing assistance under this part. There are established within the revolving
27 fund a federal allocation account, a state allocation account, an administration account, an investment
28 income account, ~~and~~ a debt service account, and a nonproject account.

29 (2) There must be credited to:

- 30 (a) the federal allocation account;

1 (i) all amounts received by the state pursuant to the federal act as capitalization grants for a state
 2 revolving fund to assist construction of or improvements to public provide loans or other assistance, as
 3 authorized under this part, to community water systems and nonprofit noncommunity water systems; and

4 (ii) all amounts transferred to the fund from the water pollution control state revolving fund under
 5 75-5-1106;

6 (b) the state allocation account;

7 (i) the net proceeds of bonds of the state issued pursuant to 75-6-225; ~~and~~

8 (ii) ~~other~~ money appropriated by the legislature; and

9 (iii) other available qualifying funds;

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

12 (d) the investment account, all money received from investment of amounts in those accounts in
 13 the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the
 14 issuance of bonds; ~~and~~

15 (e) the debt service account, the interest portion of loan repayments; and

16 (f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the
 17 federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as
 18 described in 75-6-204.

19 (3) Each loan made ~~as authorized by 75-6-225~~ under this part must be funded and disbursed from
 20 the federal allocation account or the state allocation account, or both, by the department of natural
 21 resources and conservation as recommended by the department. All amounts received in payment of
 22 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
 23 to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account
 24 securing the bonds. Money in the debt service account that is not required for debt service may be
 25 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
 26 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 this part.

30 (5) As allowed under the federal act and with the governor's permission, the department may

1 transfer up to 33% of each year's federal capitalization grant from the federal allocation account,
 2 established under subsection (2)(a), to the water pollution control state revolving fund federal allocation
 3 account established in 75-5-1106. The transfer of funds must be included in the intended use plan in
 4 [section 22 21]."

5
 6 **Section 19.** Section 75-6-212, MCA, is amended to read:

7 **"75-6-212. Use of revolving fund.** (1) Money in the revolving fund ~~must~~ may be used to:

8 (a) for providing financial assistance that is in the form of ~~make~~ loans and grants to public water
 9 systems and that is of the type to community water systems and nonprofit noncommunity water systems
 10 as provided in this part;

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

15 (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed
 16 market rates, provided that the obligations were incurred and construction of the project began after July
 17 1, 1993;

18 (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for
 19 obligations of municipalities that are issued to finance eligible projects;

20 (d) leverage the total amount of revolving funds available by providing a source of revenue or
 21 security for the payment of principal and interest on revenue or general obligation bonds issued by the
 22 state, the net proceeds of which are deposited in the revolving fund;

23 (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual
 24 capitalization grant or the maximum amount allowed under the federal act;

25 (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to
 26 exceed 10% of the annual capitalization grant for the following:

27 (i) public water system supervision programs;

28 (ii) administering or providing technical assistance through source water protection programs;

29 (iii) developing and implementing a capacity development strategy under section 300q-9 of the
 30 federal act (42 U.S.C. 300q-9); AND

1 (iv) administering an operator certification program in order to meet the requirements of section
 2 300g-8 of the federal act (42 U.S.C. 300g-8); and

3 ~~(v) payment of (G) PAY the department's costs in an amount not to exceed 2% of the annual~~
 4 capitalization grant for the purpose of providing technical assistance to public water systems serving
 5 10,000 or fewer persons. THE COSTS UNDER THIS SUBSECTION (1)(G) MUST BE CONTRACTED BY THE
 6 DEPARTMENT THROUGH A NONPROFIT ORGANIZATION OR ORGANIZATIONS THAT HAVE:

7 (I) A REPRESENTATION OF AT LEAST 5% OF THE SYSTEMS REFERRED TO IN THIS SUBSECTION
 8 (1)(G) THROUGH A MEMBERSHIP PROGRAM; AND

9 (II) AT LEAST 5 YEARS OF EXPERIENCE IN PROVIDING TECHNICAL ASSISTANCE TO SYSTEMS
 10 OF THE SIZE REFERRED TO IN THIS SUBSECTION (1)(G).

11 ~~(b)(2) Financial assistance~~ Except as provided in subsection (3), money in the fund may not be used
 12 for:

13 (a) expenditures related to monitoring, operation, and maintenance;

14 (b) the acquisition of real property or any interest in real property, unless the acquisition is integral
 15 to a project authorized under this part and the purchase is from a willing seller;

16 (c) providing assistance to a public water system that:

17 (i) does not have the financial, managerial, and technical capability to ensure compliance with the
 18 requirements of the federal act; or

19 (ii) is in significant noncompliance with any requirement of a national primary drinking water
 20 regulation or variance; or

21 (d) any other activity prohibited from funding under the federal act.

22 (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part
 23 if:

24 (i) the use of the assistance will ensure compliance; and

25 (ii) for a system that the department has determined does not have the financial, managerial, or
 26 technical capability to ensure compliance with the federal act, the owner or operator of the system agrees
 27 to undertake feasible and appropriate changes in operations, including ownership, management, accounting,
 28 rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary
 29 by the department to ensure compliance.

30 (b) Prior to providing assistance to a public water system that is in significant noncompliance with

1 any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the
2 department shall determine whether the provisions of subsection (2)(c)(i) apply to the system."
3

4 **NEW SECTION. Section 20. Loan subsidy for disadvantaged communities.** (1) Notwithstanding
5 any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged
6 community or to a community that the department expects to become a disadvantaged community as a
7 result of a proposed project, the department may provide additional subsidization in the form of a reduced
8 interest rate.

9 (2) The total annual amount of loan subsidies made by the department pursuant to subsection (1)
10 may not exceed 30% of the capitalization grant received by the department for each fiscal year.
11

12 **NEW SECTION. Section 21. Intended use plan.** (1) The department shall prepare an annual
13 intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act (42
14 U.S.C. 300j-12(b)).

15 (2) The intended use plan must include:

16 (a) a list of projects in the state that are eligible for assistance, including both the priority assigned
17 to each project based on public health needs and on the financial needs of the project and, to the extent
18 known, the expected funding schedule for each project; and

19 (b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and
20 funds to be transferred to or received by the water pollution control state revolving fund, as allowed in
21 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

22 (3) Before finalizing an intended use plan, the department shall prepare a draft document containing
23 the information required in subsection (2) and shall provide public notice and opportunity to comment on
24 the draft document.
25

26 **NEW SECTION. Section 22. Insurance and guarantee program.** (1) The revolving fund may be used
27 to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation
28 issued by a municipality if the department of natural resources and conservation determines that the
29 guarantee or insurance would improve the credit market access of the municipality or reduce the interest
30 rate on the municipal obligation.

1 (2) The department of natural resources and conservation shall adopt rules setting forth the
2 conditions under which the program will guarantee or insure municipal obligations, including the amount
3 of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any,
4 to be established in the fund to cover any guarantee. The program may not be used to guarantee a
5 municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the
6 extent that they are inconsistent with the guarantee.

7
8 **Section 23.** Section 75-6-221, MCA, is amended to read:

9 ~~"75-6-221. **Loan program** General loan and assistance program. (1) The department may provide~~
10 ~~financial assistance in the form of a loan to public water systems owned by a governmental agency, an~~
11 ~~intergovernmental agency, a nonprofit corporation, an Indian tribe, or any combination of these entities~~
12 ~~program may, subject to the requirements in 75-6-222 through 75-6-224-, make loans to community water~~
13 ~~systems and nonprofit noncommunity water systems that:~~

14 ~~(a) will facilitate compliance with national primary drinking water regulations pursuant to the federal~~
15 ~~act; or~~

16 ~~(b) will further the health protection objectives of the federal act, including but not limited to~~
17 ~~projects that involve:~~

18 ~~(i) upgrading and replacing infrastructure;~~

19 ~~(ii) addressing exceedances of the federal act or preventing future violations;~~

20 ~~(iii) consolidating water supplies;~~

21 ~~(iv) a system that meets the definition of a public water system contained in section 300f(4) of the~~
22 ~~federal act (42 U.S.C. 300f(4));~~

23 ~~(v) (IV) the acquisition of land, at fair market value, that is integral to the project;~~

24 ~~(vi) (V) planning and designing of a project; and OR~~

25 ~~(vii) (VI) other activities allowed under the federal act.~~

26 ~~(2) In addition to loans authorized under subsection (1), the program may make loans to public~~
27 ~~water systems for one or more of the following purposes:~~

28 ~~(a) to a community water system or nonprofit noncommunity water system to acquire land or a~~
29 ~~conservation easement from a willing party if the land is necessary to ensure compliance with the national~~
30 ~~primary drinking water regulations or to protect the source of water from contamination;~~

1 (b) to a community water system to implement local, voluntary source water protection measures
2 in order to protect source water in areas delineated under a source water assessment program in order to
3 facilitate compliance with the national primary drinking water regulations or otherwise significantly further
4 the health protection objectives of the federal act;

5 (c) to a community water system to provide funding for the development and implementation of a
6 source water quality assessment, contingency plans, and demonstration projects for partners within a
7 delineated source water area.

8 (3) The department may:

9 (a) provide financial and technical assistance to any public water system as part of a capacity
10 development strategy developed and implemented in accordance with the federal act;

11 (b) make expenditures from the capitalization grant to delineate and assess source water protection
12 areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and

13 (c) make expenditures from the fund for the establishment and implementation of wellhead
14 protection programs.

15 (4) The department program may provide financial assistance only in the form of a loan to an
16 investor-owned to a public water system according to priorities established by the department in the
17 department's intended use plan adopted pursuant to [section 22 21], based on greatest public health needs
18 and financial needs. Prior to making a loan to an investor-owned a public water system, the department
19 shall determine that the system has the ability to repay the loan according to its terms and conditions and
20 may require a dedicated source of repayment and impose additional requirements. A loan to an
21 investor-owned public water system is subject to the requirements of 75-6-222 through 75-6-224.

22 (5) The total amount of assistance provided and expenditures made by the department PROGRAM
23 under subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by
24 the department for that year and may not exceed 10% of that amount for any one of the activities listed
25 under subsection (2) or (3)."

26
27 **Section 24.** Section 75-6-222, MCA, is amended to read:

28 **"75-6-222. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
29 department and the department of natural resources and conservation, ~~the department~~ shall evaluate
30 projects ~~for loans and grants and place them on a priority list or intended use plan~~ and loan applications.

1 In evaluating projects and applications, the ~~department shall consider the~~ following factors must be
 2 considered:

3 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 4 design standards;

5 (2) the financial capacity of the applicant;

6 (3) the financial, managerial, and technical ability of the applicant to properly operate and maintain
 7 the project;

8 (4) the total financing of the project to ensure completion;

9 ~~(1)(5)~~ the viability of the public water system;

10 ~~(2)(6)~~ the ability of the public water system to pay the costs of the project without the requested
 11 financial assistance;

12 ~~(3)(7)~~ the total amount of loan funds available for financial assistance in the revolving fund;

13 ~~(4)(8)~~ the total amount requested by other applications that have been received or that are likely
 14 to be received;

15 ~~(5)(9) the need for and the benefit to be derived from the project~~ the ranking of the project on the
 16 priority list in the intended use plan; and

17 ~~(6)(10)~~ any other criteria that the department determines to be appropriate, considering the
 18 purposes of the program and the federal act."
 19

20 **Section 25.** Section 75-6-223, MCA, is amended to read:

21 **"75-6-223. Applications for loans and grants.** (1) The department shall, after consultation with
 22 the department of natural resources and conservation, establish loan ~~and grant~~ application procedures,
 23 including forms for the applications. Each application for a loan must include:

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

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

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

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

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

30 (f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;

1 ~~(f)~~(g) a statement as to whether, at the time of application, there are any outstanding ~~bonds, loans,~~
2 notes, ~~bonds,~~ or other obligations payable from the revenue of the public water system and, if so, a
3 description of the ~~bonds, loans,~~ notes, ~~bonds,~~ or other obligations; ~~and~~

4 (h) if the applicant is a private person, a statement as to whether, at the time of the application,
5 there are any outstanding loans, notes, or other obligations of the private person and, if so, a description
6 of the loans, notes, or other obligations; and

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

- 10 (i) engineering reports;
- 11 (ii) economic feasibility studies; and
- 12 (iii) legal opinions.

13 (2) Each application for a ~~grant~~ loan subsidy must include:

- 14 (a) a reasonably detailed description of the project;
- 15 (b) a reasonably detailed estimate of the cost of the project;
- 16 (c) a timetable for the construction of the project and for payment of the cost of the project;
- 17 (d) identification of the source or sources of funds to be used in addition to the proceeds of the
- 18 ~~grant~~ loan to pay the cost of the project;

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

22 (f) an explanation, including supporting information, as to why a ~~grant rather than a loan subsidy~~
23 is requested; ~~and~~

24 (g) evidence that the applicant qualifies as a disadvantaged community; and

25 ~~(g)~~(h) any other information that the department or the department of natural resources and
26 conservation may require."
27

28 **Section 26.** Section 75-6-224, MCA, is amended to read:

29 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the
30 department of natural resources and conservation may lend amounts on deposit in the revolving fund to

1 a public water system to pay part or all of the cost of a project. The loan is subject to the applicant
2 complying with the following conditions:

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

9 (b) in the case of a ~~privately owned~~ system OWNED BY A PRIVATE PERSON, in addition to
10 establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing,
11 as required by the department of natural resources and conservation, credit enhancements, a pledge of
12 collateral, or other types of security, such as a corporate or personal guarantee;

13 ~~(b)(c)~~ agreeing to operate and maintain the project properly over its structural and material design
14 life, which may not be less than ~~20 years~~ the term of the loan;

15 ~~(e)(d)~~ agreeing to maintain proper financial records in accordance with generally accepted
16 ~~government~~ accounting standards and agreeing that all records are subject to audit;

17 ~~(e)(e)~~ meeting the requirements listed in the federal act for projects constructed with funds directly
18 made available by federal capitalization grants;

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

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

25 ~~(e)(h)~~ complying with plan, and specification, and other requirements for public water systems
26 established by the ~~board~~ department; and

27 ~~(h)(i)~~ providing for proper construction inspection and project management; and

28 (i) meeting requirements of financial, managerial, and technical capability to maintain compliance
29 with the federal act.

30 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest

1 paid in annual or more frequent installments, the first of which must be received not more than 1 year after
2 the completion date of the project and the last of which must be received not more than 20 years after the
3 completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan
4 subsidy, the department may determine that the last installment must be received not more than 30 years
5 after the completion date, provided that the period of the loan does not exceed the expected design life of
6 the project.

7 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the
8 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with
9 other available funds in the revolving fund, including investment income, to enable the state to pay the
10 principal of and interest on the bonds issued pursuant to 75-6-225.

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

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

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

24 (a) in a special administrative costs account that the department of natural resources and
25 conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

26 (b) in the administrative account provided for in 75-6-211. In determining into which account the
27 administrative fees are deposited, the department shall take into consideration the needs and requirements
28 of the programs. Money deposited in the special administrative costs account or the administration account
29 must be used for the payment of administrative costs of the program."
30

HOUSE BILL NO. 483

INTRODUCED BY MOOD, AKLESTAD, BEAUDRY, WALTERS, KNOX, HOLLAND, DEVANEY, DENNY,
KITZENBERG, BROOKE, OHS, ELLIS, STOVALL, SQUIRES, HIBBARD, SCHMIDT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE
DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM
LICENSING; FORMING AN ADVISORY COMMITTEE; AMENDING SECTIONS ~~17-7-502~~, 37-42-102,
75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104, 75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111,
75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202, 75-6-203, 75-6-204, 75-6-205, 75-6-211,
75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224, MCA; REPEALING SECTIONS ~~75-5-1108~~,
75-6-213, AND 75-6-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

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

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

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

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

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

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

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;~~

1 ~~23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;~~
 2 ~~39-71-907; 39-71-2321; 39-71-2604; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;~~
 3 ~~53-6-703; 53-24-206; 60-2-220; 67-3-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;~~
 4 ~~80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;~~
 5 ~~90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

6 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 7 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 8 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 9 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 10 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 11 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3), pursuant to sec.~~
 12 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 13 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 14 ~~July 1, 2001.)"~~

15

16 **Section 1.** Section 37-42-102, MCA, is amended to read:

17 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 18 definitions apply:

19 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 20 operator holding the certificate has met the requirements for the specified operator classification of the
 21 certification program.

22 (2) "Community water system" means the term as defined in 75-6-102.

23 (3) "Council" means the water and wastewater operators' advisory council provided for in
 24 2-15-2105.

25 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

26 (5) "Nontransient noncommunity water system" means a public water system, as defined in
 27 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for
 28 at least 6 months a year.

29 ~~(6)~~ (6) "Operator" means the person in direct responsible charge of the operation of a water
 30 treatment plant, water distribution system, or wastewater treatment plant.

1 ~~(6)~~(7) "State waters" means the term as defined in 75-6-102.

2 ~~(7)~~(8) "Wastewater treatment plant" means a facility that:

3 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
4 wastes, or other wastes;

5 (b) discharges an effluent directly into state waters; and

6 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
7 75-6-102.

8 ~~(8)~~(9) "Water distribution system" means that portion of the water supply system that conveys
9 water from the water treatment plant or other supply source to the premises of the consumer and that is
10 part of a community water system or a nontransient noncommunity water system.

11 ~~(9)~~(10) "Water supply system" means a system of pipes, structures, and facilities through which
12 water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by
13 humans and that is part of a community water system or a nontransient noncommunity water system.

14 ~~(10)~~(11) "Water treatment plant" means that portion of the water supply system that alters either
15 the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human
16 use."

17

18 **Section 2.** Section 75-5-1101, MCA, is amended to read:

19 "**75-5-1101. Short title.** This part may be cited as the ~~"Wastewater Treatment~~ "Water Pollution
20 Control State Revolving Fund Act"."

21

22 **Section 3.** Section 75-5-1102, MCA, is amended to read:

23 "**75-5-1102. Definitions.** Unless the context requires otherwise, in this part the following
24 definitions apply:

25 (1) "Administrative costs" means costs incurred by the department and the department of natural
26 resources and conservation in the administration of the program, including but not limited to costs of
27 servicing loans and issuing debt; program start-up costs; financial, management, and legal consulting fees;
28 and reimbursement costs for support services from other state agencies.

29 (2) "Cost" means, with reference to a ~~wastewater treatment works~~ project, all capital costs
30 incurred or to be incurred by a municipality or a private ~~entity~~ person, including but not limited to

1 engineering, construction, financing, and other fees, interest during construction, and a reasonable
 2 allowance for contingencies to the extent permitted by the federal act and regulations promulgated
 3 thereunder.

4 (3) "Federal act" means the Federal Water Pollution Control Act, also known as the Clean Water
 5 Act, 33 U.S.C. 1251 through 1387, as amended.

6 (4) "Intended use plan" means the annual plan adopted by the department and submitted to the
 7 environmental protection agency that describes how the state intends to use the money in the revolving
 8 fund.

9 ~~(4)(5)~~ "Loan" means a loan of money from the revolving fund to a municipality or a private ~~concern~~
 10 person.

11 ~~(6)(6)~~ "Municipality" means any state agency, city, town, or other ~~local government unit having~~
 12 ~~authority to own and operate a sewage system and wastewater treatment works~~ public body created
 13 pursuant to state law.

14 ~~(6)(7)~~ "Private ~~concern~~ person" means ~~an individual or other entity eligible for a loan or loans for~~
 15 ~~a pollution control project for a nonpoint source under section 319 of the federal act~~ an individual,
 16 corporation, partnership, or other nongovernmental legal entity.

17 ~~(7)(8)~~ "Program" means the ~~wastewater treatment works~~ water pollution control state revolving
 18 fund ~~loan~~ program established by this part.

19 ~~(8)(9)~~ (A) "Project" means ~~a wastewater treatment works or part of a wastewater treatment works~~
 20 ~~for an activity that is eligible for financing by the program under the federal act, including treatment works,~~
 21 as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control
 22 under section 1329 of the federal act (33 U.S.C. 1329), EXCEPT A SOLID WASTE MANAGEMENT
 23 SYSTEM OR RESOURCE RECOVERY FACILITY REGULATED UNDER AND DEFINED IN TITLE 75, CHAPTER
 24 10, and for which a municipality or private ~~concern~~ person makes an application for a loan or other financial
 25 assistance.

26 (B) "PROJECT" DOES NOT INCLUDE A SOLID WASTE MANAGEMENT SYSTEM, AS DEFINED IN
 27 75-10-203, EXCEPT FOR A PROJECT THAT IS INTENDED SPECIFICALLY FOR THE CLOSURE OR
 28 POSTCLOSURE CARE OF OR GROUND WATER CORRECTIVE ACTION AT A LANDFILL THAT:

29 (I) WAS IN OPERATION ON [THE EFFECTIVE DATE OF THIS ACT] AND THAT ACCEPTS AN
 30 ANNUAL AVERAGE OF LESS THAN 20,000 TONS OF SOLID WASTE PER YEAR; OR

1 (II) WAS CLOSED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT].

2 ~~(9)~~(10) "Revolving fund" means the fund established by 75-5-1106."

3
4 **Section 4.** Section 75-5-1103, MCA, is amended to read:

5 "75-5-1103. ~~Wastewater treatment works~~ Water pollution control state revolving fund loan
6 **program.** There is a program under which the state may provide financial assistance to municipalities and
7 private ~~concerns~~ persons to finance or refinance part or all of the cost of projects. The program must be
8 administered in accordance with this part and the federal act."

9
10 **Section 5.** Section 75-5-1104, MCA, is amended to read:

11 "75-5-1104. **Authorization of agreement -- content.** (1) The department may enter into a
12 capitalization grant agreement or other agreement with the United States environmental protection agency
13 to implement the program and may accept from that agency other grants and loans to carry out the
14 program.

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

16 (a) accept grant payments from the environmental protection agency in accordance with the
17 schedule established by the administrator of that agency and deposit the payments in the revolving fund
18 established in 75-5-1106;

19 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
20 amount of all capitalization grants made to the state as provided by 75-5-1106 on or before the date on
21 which each quarterly federal grant payment is made to the state;

22 (c) provide financial assistance to municipalities and private ~~concerns~~ persons in accordance with
23 this part in an amount equal to 120% of the amount of each grant payment within a time period not to
24 exceed 1 year after receipt of a grant;

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

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

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

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

3 (h) as a condition of making a loan or providing other financial assistance from the revolving fund,
4 require that the municipality or private ~~concern~~ person will maintain project accounts in accordance with
5 generally accepted government accounting standards;

6 (i) make annual reports to the environmental protection agency concerning the use of the revolving
7 fund as required by the federal act; and

8 (j) any other covenants, commitments, and obligations necessary to ensure that the state's
9 administration of the program is consistent with the provisions of this part."

10
11 **Section 6.** Section 75-5-1105, MCA, is amended to read:

12 "**75-5-1105. Rulemaking.** The department and the department of natural resources and
13 conservation may adopt rules to implement the provisions of this part, including rules:

14 (1) prescribing the form and content of applications for loans and refinancing agreements;

15 (2) governing the application of the criteria for awarding loans;

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

18 (4) establishing ceilings on the amount of individual loans to be made to municipalities and private
19 ~~concerns~~ persons, if considered appropriate and necessary for the successful administration of the
20 program."

21
22 **Section 7.** Section 75-5-1106, MCA, is amended to read:

23 "**75-5-1106. Revolving fund.** (1) There is established in the state treasury a separate account
24 designated as the ~~wastewater treatment works~~ water pollution control state revolving fund. There are
25 established in the revolving fund as subaccounts a federal allocation account, a state allocation account,
26 an administration account, an investment income account, and a debt service account.

27 (2) There must be credited to:

28 (a) the federal allocation account, all amounts received by the state from the following sources:

29 (i) funds provided pursuant to the federal act as capitalization grants for a state revolving fund to
30 assist construction of ~~wastewater treatment works and~~ projects;

1 (ii) grants or transfers of grants received under subchapter II of the federal act for ~~construction of~~
2 ~~wastewater treatment works projects~~; and

3 (iii) money transferred to the fund from the drinking water state revolving fund pursuant to
4 75-6-211;

5 (b) the state allocation account, the net proceeds of bonds of the state issued pursuant to
6 75-5-1121 and other money appropriated by the legislature;

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

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

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

13 (3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal
14 allocation account or the state allocation account, or both, by the department and the department of natural
15 resources and conservation as recommended by the department. All amounts received in payment of
16 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
17 to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account
18 securing the bonds. Money in the debt service account that is not required for debt service may be
19 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
20 authorizing the bonds.

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

24 (5) As allowed under the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and with the
25 governor's permission, AN AMOUNT EQUIVALENT TO up to 33% of each year's DRINKING WATER STATE
26 REVOLVING FUND federal capitalization grant may be transferred from the federal allocation account,
27 established under subsection (2)(a), to the drinking water state revolving fund federal allocation account
28 established in 75-6-211."

29
30 **Section 8.** Section 75-5-1107, MCA, is amended to read:

1 **"75-5-1107. Uses of revolving fund.** Money in the revolving fund ~~may~~ must be used to:

2 (1) make loans to municipalities ~~and private concerns persons~~ to finance all or a portion of the cost
3 of a project AND TO MAKE LOANS TO PRIVATE PERSONS TO FINANCE ALL OR A PORTION OF THE

4 COST OF NONPOINT SOURCE POLLUTION CONTROL PROJECTS;

5 (2) buy or refinance debt obligations of municipalities that were issued to finance projects within
6 the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

7 (3) guarantee or purchase insurance for obligations of municipalities that were issued to finance
8 projects in order to enhance credit or reduce interest rates;

9 (4) provide a source of revenue or security for general obligation bonds the proceeds of which are
10 deposited in the revolving fund;

11 (5) provide loan guarantees for similar revolving funds established by municipalities;

12 (6) earn interest on fund accounts; and

13 (7) pay reasonable administrative costs of the ~~revolving loan~~ program not to exceed 4%, of all
14 federal grant awards to the fund or the maximum amount allowed under the federal act, ~~of all federal grant~~
15 ~~awards to the fund.~~"

16

17 **Section 9.** Section 75-5-1111, MCA, is amended to read:

18 **"75-5-1111. Applications.** (1) The department shall, after consultation with the department of
19 natural resources and conservation, establish loan application procedures, including forms for the
20 applications. Each application for a loan to finance construction of a project must include:

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

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

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

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

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

27 (f) a current financial statement showing assets, liabilities, revenue, and expenses of the applicant;

28 ~~(f)~~(g) if the applicant is a municipality, a statement as to whether, at the time of application, there
29 are any outstanding ~~bonds,~~ loans, notes, bonds, or other obligations of the municipality that were issued
30 or incurred to finance any part of the municipality's ~~sewage~~ project or system of which the project is a part

1 and, if so, a description of the ~~bonds,~~ loans, notes, ~~bonds,~~ or other obligations; ~~and~~

2 (h) if the applicant is a private person, a statement as to whether, at the time of application, there
 3 are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the
 4 loans, notes, or other obligations; and

5 ~~(g)(i)~~ (i) any other information that the department or the department of natural resources and
 6 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
 7 loan, including but not limited to engineering reports, economic feasibility studies, and legal opinions.

8 (2) Each application for a loan to refinance a project, including a purchase of outstanding
 9 obligations issued by a municipality to finance a project in whole or in part, must include:

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

11 (b) a schedule of the cost of the project;

12 (c) the date on which construction of the project began;

13 (d) a description of the ~~bonds,~~ loans, notes, ~~bonds,~~ or other obligations to be refinanced and of
 14 any other loans, notes, bonds, or obligations issued or incurred to finance any part of the municipality's
 15 ~~sewage system~~ project; and

16 (e) any other information that the department or the department of natural resources and
 17 conservation may require.

18 (3) Each application for financial assistance in the form of a guaranty or the purchase of insurance
 19 for a municipal obligation must include all items required by subsection (1) and any other information the
 20 department may require."

21

22 **Section 10.** Section 75-5-1112, MCA, is amended to read:

23 **"75-5-1112. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
 24 department of natural resources and conservation, and the department shall evaluate projects for loans and
 25 other financial assistance and place them on a priority list or intended use plan and loan applications. In
 26 evaluating projects and loan applications, the ~~department shall consider the~~ following factors must be
 27 considered:

28 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 29 design standards;

30 (2) the financial capacity of the municipality or private person to repay the loan;

1 ~~(3)~~ the financial, managerial, and technical ability of the municipality or private person to properly
 2 operate and maintain the project;

3 ~~(4)~~ the feasibility of project completion given the total financing available;

4 ~~(1)(5)~~ the ability of the municipality or private ~~concern~~ person to pay the costs of the project
 5 without the requested financial assistance;

6 ~~(2)(6)~~ the total amount of loan funds available for financial assistance in the revolving fund;

7 ~~(3)(7)~~ the total amount requested ~~by~~ in other applications that have been received or that are likely
 8 to be received;

9 ~~(4)(8)~~ ~~the need for and benefit to be derived from the project~~ the ranking of the project on the
 10 priority list or intended use plan; and

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

14 ~~(6)(9)~~ any other criteria that the department determines appropriate, considering the purposes of
 15 the federal act and the program."
 16

17 **Section 11.** Section 75-5-1113, MCA, is amended to read:

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

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

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

30 (c) agreeing to maintain proper financial records in accordance with ~~recognized government~~

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

1 evidence is not required to be identical for all loans. The department of natural resources and conservation
 2 may require that loans to private persons be further secured by a mortgage and other security interests in
 3 the project that is being financed or other forms of additional security as considered necessary, including
 4 personal guarantees and letters of credit.

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

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

11 (b) in the administration account. Money deposited in the administration account established in
 12 75-6-211 must be used for the payment of administrative costs of the program. Money deposited in the
 13 special administration costs account must be used for the payment of administrative costs of the program
 14 unless not required for that purpose, in which case the money may be transferred to other funds and
 15 accounts in the program."
 16

17 **Section 12.** Section 75-5-1121, MCA, is amended to read:

18 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) Upon request of the
 19 department of natural resources and conservation and upon certification by the department ~~of natural~~
 20 ~~resources and conservation~~ that the state has entered into a capitalization grant agreement or other
 21 agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants
 22 have been made to the state for the program, the board of examiners is authorized to issue and sell bonds
 23 of the state as authorized by the legislature to provide money for the ~~revolving loan~~ program. The bonds
 24 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
 25 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part
 26 8.

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

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

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

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

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

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

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

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

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

27

28 **Section 13.** Section 75-6-201, MCA, is amended to read:

29 **"75-6-201. Short title.** This part may be cited as the "~~Safe Drinking Water Treatment State~~
30 Revolving Fund Act"."

1 **Section 14.** Section 75-6-202, MCA, is amended to read:

2 **"75-6-202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
3 apply:

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

- 6 (a) costs of servicing loans and issuing debt;
7 (b) program startup costs;
8 (c) financial, management, and legal consulting fees; and
9 (d) reimbursement costs for support services from other state agencies.

10 (2) "Community water system" means a public water system that is either privately or publicly
11 owned BY A PRIVATE PERSON OR A MUNICIPALITY and that serves at least 15 service connections used
12 by year-round residents of the area served by the system or regularly serves at least 25 year-round
13 residents. The term does not include a public water system that is owned by the federal government.

14 ~~(2)(3)~~ "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a
15 public water system, including but not limited to:

- 16 (a) engineering, financing, and other fees;
17 (b) interest during construction; ~~and~~
18 (c) construction; and
19 ~~(c)(d)~~ a reasonable allowance for contingencies to the extent permitted by the federal act and rules
20 promulgated under the federal act.

21 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

22 (5) "Disadvantaged community" means one in which the service area of a public water system
23 meets the affordability criteria established by rule adopted pursuant to this part.

24 ~~(3)(6)~~ "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that
25 act read on [the effective date of this act].

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

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

29 ~~(6)(7)~~ "Indian tribe" means an Indian tribe ~~within the state of Montana that is recognized by the~~
30 ~~secretary of the U.S. department of interior~~ that has a federally recognized governing body carrying out

1 substantial governmental duties and powers over any area.

2 (8) "Intended use plan" means the annual plan adopted by the department and submitted to the
 3 environmental protection agency that describes how the state intends to use the money in the revolving
 4 fund.

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

8 ~~(8)~~(9) "Loan" means a loan of money from the revolving fund for project costs.

9 (10) "Municipality" means a state agency, city, town, or other public body created pursuant to
 10 state law or an Indian tribe.

11 (11) "Noncommunity water system" means a public water system that is not a community water
 12 system.

13 ~~(9)~~(12) "Nonprofit ~~organization~~" noncommunity water system" means a noncommunity water
 14 system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt
 15 organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

16 (13) "Private person" means an individual, corporation, partnership, or ~~company~~ OTHER
 17 NONGOVERNMENTAL LEGAL ENTITY.

18 ~~(10)~~(14) "Program" means the ~~safe drinking water treatment state revolving loan fund~~ program
 19 established by this part.

20 ~~(11)~~(15) "Project" means improvements or activities that are:

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

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

24 ~~(12)~~(16) "Public water system" means a system for the provision to the public of ~~pip~~ed water for
 25 human consumption, through pipes or other constructed conveyances, if that system has at least 15
 26 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment,
 27 storage, and distribution facilities under control of an operator of a system that are used primarily in
 28 connection with a system and any collection or pretreatment storage facilities not under control of ~~the~~ an
 29 operator and that are used primarily in connection with a system.

30 ~~(13)~~(17) "Revolving fund" means the ~~safe drinking water treatment state revolving~~ fund established

1 by 75-6-211."

2

3 **Section 15.** Section 75-6-203, MCA, is amended to read:

4 **"75-6-203. ~~Safe drinking~~ Drinking water treatment state revolving fund program.** There is a
5 program under which the state may provide financial assistance to ~~public community~~ water systems and
6 nonprofit noncommunity water systems. The program must be administered in accordance with this part
7 and the federal act."

8

9 **Section 16.** Section 75-6-204, MCA, is amended to read:

10 **"75-6-204. Authorization of agreement -- content.** (1) The department may enter into a
11 capitalization grant agreement or other agreement with the ~~U.S.~~ environmental protection agency to
12 implement the program and may accept from that agency other grants and loans to carry out the program.

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

14 (a) accept grant payments from the ~~U.S.~~ environmental protection agency in accordance with the
15 schedule established by the administrator of that agency and deposit the payments in the revolving fund
16 established in 75-6-211;

17 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
18 amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on
19 which each federal grant payment is made to the state;

20 (c) deposit in the nonproject account for department programs authorized under section
21 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)) a state match equal dollar-for-dollar to the
22 capitalization grant deposited in the account;

23 ~~(d)~~ (d) provide financial and technical assistance to a public water system in accordance with this
24 part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year
25 after receipt of a grant;

26 ~~(e)~~ (e) expend all funds in the revolving fund in an expeditious and timely manner;

27 ~~(f)~~ (f) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure
28 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and
29 requirements of the federal act;

30 ~~(g)~~ (g) expend each grant payment in accordance with the laws and procedures applicable to

1 commitment or expenditure of ~~revenues~~ revenue of the state;

2 ~~(g)(h)~~ use accounting, audit, and fiscal procedures conforming to generally accepted government

3 accounting standards;

4 ~~(h)(i)~~ make ~~annual~~ biennial reports and provide annual audits to the ~~U.S.~~ environmental protection

5 agency concerning the use of the revolving fund as required by the federal act; and

6 ~~(i)(j)~~ any other covenants, commitments, and obligations necessary to ensure that the state's

7 administration of the program is consistent with the provisions of this part and the federal act.

8 (3) ~~as~~ As a condition of making a loan or providing other financial assistance from the revolving

9 fund, the department shall require that the public water system maintain project accounts in accordance

10 with generally accepted government accounting standards."

11

12 **Section 17.** Section 75-6-205, MCA, is amended to read:

13 "**75-6-205. Rulemaking authority.** The ~~board~~ department and the ~~board~~ department of natural

14 resources and conservation may adopt rules within their respective authorities established within the

15 provisions of this part, including rules:

16 (1) prescribing the form and content of applications for loans and ~~grants~~ technical assistance;

17 (2) governing the application of the criteria for awarding loans and ~~grants~~ technical assistance;

18 (3) establishing additional terms and conditions for the making of loans and the security

19 instruments and other necessary agreements;

20 (4) establishing ceilings on the amount of individual loans ~~and grants~~ to be made if considered

21 appropriate and necessary for the successful administration of the program;

22 (5) establishing affordability criteria to be used in awarding subsidies to disadvantaged

23 communities;

24 ~~(5)(6)~~ regarding other matters that may be required to ensure compliance of the program with the

25 provisions ~~and~~ of the federal act and rules promulgated under the federal act, unless these matters are

26 specifically governed by this part; and

27 ~~(6)(7)~~ to maintain the financial integrity of the program."

28

29 **Section 18.** Section 75-6-211, MCA, is amended to read:

30 "**75-6-211. Revolving fund.** (1) There is established in the state treasury a separate account

1 designated as the ~~safe~~ drinking water ~~treatment~~ state revolving fund. The corpus of the fund must be
 2 available in perpetuity for providing assistance under this part. There are established within the revolving
 3 fund a federal allocation account, a state allocation account, an administration account, an investment
 4 income account, ~~and~~ a debt service account, and a nonproject account.

5 (2) There must be credited to:

6 (a) the federal allocation account:

7 (i) all amounts received by the state pursuant to the federal act as capitalization grants for a state
 8 revolving fund to ~~assist construction of or improvements to public~~ provide loans or other assistance, as
 9 authorized under this part, to community water systems and nonprofit noncommunity water systems; and

10 (ii) all amounts transferred to the fund from the water pollution control state revolving fund under
 11 75-5-1106;

12 (b) the state allocation account:

13 (i) the net proceeds of bonds of the state issued pursuant to 75-6-225; and

14 (ii) other money appropriated by the legislature; and

15 (iii) other available qualifying funds;

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

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

21 (e) the debt service account, the interest portion of loan repayments; and

22 (f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the
 23 federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as
 24 described in 75-6-204.

25 (3) Each loan made ~~as authorized by 75-6-225~~ under this part must be funded and disbursed from
 26 the federal allocation account or the state allocation account, or both, by the department of natural
 27 resources and conservation as recommended by the department. All amounts received in payment of
 28 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
 29 to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account
 30 securing the bonds. Money in the debt service account that is not required for debt service may be

1 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
2 authorizing the bonds.

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

6 (5) As allowed under the federal act and with the governor's permission, the department may
7 transfer up to 33% of each year's federal capitalization grant from the federal allocation account,
8 established under subsection (2)(a), to the water pollution control state revolving fund federal allocation
9 account established in 75-5-1106. The transfer of funds must be included in the intended use plan in
10 [section 22 21]."

11

12 **Section 19.** Section 75-6-212, MCA, is amended to read:

13 **"75-6-212. Use of revolving fund.** (1) Money in the revolving fund ~~must~~ may be used to:

14 (a) for providing financial assistance that is in the form of make loans and grants to public water
15 systems and that is of the type to community water systems and nonprofit noncommunity water systems
16 as provided in this part;

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

21 (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed
22 market rates, provided that the obligations were incurred and construction of the project began after July
23 1, 1993;

24 (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for
25 obligations of municipalities that are issued to finance eligible projects;

26 (d) leverage the total amount of revolving funds available by providing a source of revenue or
27 security for the payment of principal and interest on revenue or general obligation bonds issued by the
28 state, the net proceeds of which are deposited in the revolving fund;

29 (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual
30 capitalization grant or the maximum amount allowed under the federal act;

1 (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to
 2 exceed 10% of the annual capitalization grant for the following:

3 (i) public water system supervision programs;

4 (ii) administering or providing technical assistance through source water protection programs;

5 (iii) developing and implementing a capacity development strategy under section 300g-9 of the
 6 federal act (42 U.S.C. 300g-9); AND

7 (iv) administering an operator certification program in order to meet the requirements of section
 8 300g-8 of the federal act (42 U.S.C. 300g-8); and

9 ~~(v) payment of (G) PAY the department's costs in an amount not to exceed 2% of the annual~~
 10 ~~capitalization grant for the purpose of providing technical assistance to public water systems serving~~
 11 ~~10,000 or fewer persons. THE COSTS UNDER THIS SUBSECTION (1)(G) MUST BE CONTRACTED BY THE~~
 12 ~~DEPARTMENT THROUGH A NONPROFIT ORGANIZATION OR ORGANIZATIONS THAT HAVE:~~

13 ~~(i) A REPRESENTATION OF AT LEAST 5% OF THE SYSTEMS REFERRED TO IN THIS SUBSECTION~~
 14 ~~(1)(G) THROUGH A MEMBERSHIP PROGRAM; AND~~

15 ~~(ii) AT LEAST 5 YEARS OF EXPERIENCE IN PROVIDING TECHNICAL ASSISTANCE TO SYSTEMS~~
 16 ~~OF THE SIZE REFERRED TO IN THIS SUBSECTION (1)(G). NO LESS THAN 1.5% OF THE ANNUAL~~
 17 ~~CAPITALIZATION GRANT MUST BE CONTRACTED BY THE DEPARTMENT TO PRIVATE ORGANIZATIONS~~
 18 ~~OR INDIVIDUALS FOR THE PURPOSES OF THIS SUBSECTION.~~

19 (H) REIMBURSE THE EXPENSES, AS PROVIDED FOR IN 2-18-501 THROUGH 2-18-503 AND
 20 5-2-302, OF THE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO [SECTION 21] WHILE ON
 21 OFFICIAL COMMITTEE BUSINESS.

22 ~~(b)(2) Financial assistance~~ Except as provided in subsection (3), money in the fund may not be used
 23 for:

24 (a) expenditures related to monitoring, operation, and maintenance;

25 (b) the acquisition of real property or any interest in real property, unless the acquisition is integral
 26 to a project authorized under this part and the purchase is from a willing seller;

27 (c) providing assistance to a public water system that:

28 (i) does not have the financial, managerial, and technical capability to ensure compliance with the
 29 requirements of the federal act; or

30 (ii) is in significant noncompliance with any requirement of a national primary drinking water

1 regulation or variance; or

2 (d) any other activity prohibited from funding under the federal act.

3 (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part

4 if:

5 (i) the use of the assistance will ensure compliance; and

6 (ii) for a system that the department has determined does not have the financial, managerial, or
 7 technical capability to ensure compliance with the federal act, the owner or operator of the system agrees
 8 to undertake feasible and appropriate changes in operations, including ownership, management, accounting,
 9 rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary
 10 by the department to ensure compliance.

11 (b) Prior to providing assistance to a public water system that is in significant noncompliance with
 12 any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the
 13 department shall determine whether the provisions of subsection (2)(c)(i) apply to the system."

14
 15 **NEW SECTION. Section 20. Loan subsidy for disadvantaged communities.** (1) Notwithstanding
 16 any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged
 17 community or to a community that the department expects to become a disadvantaged community as a
 18 result of a proposed project, the department may provide additional subsidization in the form of a reduced
 19 interest rate.

20 (2) The total annual amount of loan subsidies made by the department pursuant to subsection (1)
 21 may not exceed 30% of the capitalization grant received by the department for each fiscal year.

22
 23 **NEW SECTION. Section 21. Intended use plan -- ADVISORY COMMITTEE.** (1) The department
 24 shall prepare an annual intended use plan for the state that meets the requirements of section 300j-12(b)
 25 of the federal act (42 U.S.C. 300j-12(b)).

26 (2) The intended use plan must include:

27 (a) a list of projects in the state that are eligible for assistance, including both the priority assigned
 28 to each project based on public health needs and on the financial needs of the project and, to the extent
 29 known, the expected funding schedule for each project; and

30 (b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and

1 funds to be transferred to or received by the water pollution control state revolving fund, as allowed in
2 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

3 (3) Before finalizing an intended use plan, the department shall prepare a draft document containing
4 the information required in subsection (2) and shall provide public notice and opportunity to comment on
5 the draft document.

6 (4) (A) FOLLOWING THE PUBLIC COMMENT PERIOD PROVIDED FOR IN SUBSECTION (3) AND
7 ANY DEPARTMENT MODIFICATIONS TO THE INTENDED USE PLAN RESULTING FROM THE PUBLIC
8 COMMENT, A SUMMARY OF THE PUBLIC COMMENT AND THE INTENDED USE PLAN MUST BE
9 PRESENTED FOR REVIEW, COMMENT, AND RECOMMENDATIONS TO AN ADVISORY COMMITTEE
10 FORMED BY THE DEPARTMENT AND CONSISTING OF SIX INDIVIDUALS FROM THE FOLLOWING
11 ENTITIES APPOINTED BY THEIR RESPECTIVE PRESIDING OFFICERS, DIRECTORS, OR EXECUTIVE
12 OFFICIALS:

13 (I) ONE MEMBER FROM THE MONTANA LEAGUE OF CITIES AND TOWNS;
14 (II) ONE MEMBER FROM THE MONTANA ASSOCIATION OF COUNTIES;
15 (III) ONE MEMBER FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION;
16 (IV) ONE MEMBER FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND
17 (V) TWO MEMBERS FROM THE JOINT LEGISLATIVE SUBCOMMITTEE ON NATURAL RESOURCES.
18 ONE MEMBER MUST BE FROM THE HOUSE OF REPRESENTATIVES AND ONE FROM THE SENATE, AND
19 THEY MAY NOT REPRESENT THE SAME POLITICAL PARTY.

20 (B) THE ADVISORY COMMITTEE IS ATTACHED TO THE DEPARTMENT FOR ADMINISTRATIVE
21 PURPOSES ONLY.

22 (5) THE DEPARTMENT SHALL ADDRESS IN WRITING ANY COMMENTS AND RECOMMENDATIONS
23 PROVIDED BY THE ADVISORY COMMITTEE PROVIDED FOR IN SUBSECTION (4) BEFORE FINALIZING AN
24 INTENDED USE PLAN AND PRIOR TO AWARDING ANY CONTRACTS UNDER 75-6-212(1)(G).

25

26 NEW SECTION. Section 22. Insurance and guarantee program. (1) The revolving fund may be used
27 to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation
28 issued by a municipality if the department of natural resources and conservation determines that the
29 guarantee or insurance would improve the credit market access of the municipality or reduce the interest
30 rate on the municipal obligation.

1 (2) The department of natural resources and conservation shall adopt rules setting forth the
 2 conditions under which the program will guarantee or insure municipal obligations, including the amount
 3 of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any,
 4 to be established in the fund to cover any guarantee. The program may not be used to guarantee a
 5 municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the
 6 extent that they are inconsistent with the guarantee.

7
 8 **Section 23.** Section 75-6-221, MCA, is amended to read:

9 **"75-6-221. ~~Loan program~~ General loan and assistance program.** (1) ~~The department may provide~~
 10 ~~financial assistance in the form of a loan to public water systems owned by a governmental agency, an~~
 11 ~~intergovernmental agency, a nonprofit corporation, an Indian tribe, or any combination of those entities~~
 12 ~~program may, subject to the requirements in 75-6-222 through 75-6-224., make loans to community water~~
 13 ~~systems and nonprofit noncommunity water systems that:~~

14 (a) will facilitate compliance with national primary drinking water regulations pursuant to the federal
 15 act; or

16 (b) will further the health protection objectives of the federal act, including but not limited to
 17 projects that involve:

18 (i) upgrading and replacing infrastructure;

19 (ii) addressing exceedances of the federal act or preventing future violations;

20 (iii) consolidating water supplies;

21 ~~(iv) a system that meets the definition of a public water system contained in section 300f(4) of the~~
 22 ~~federal act (42 U.S.C. 300f(4));~~

23 ~~(v)(IV) the acquisition of land, at fair market value, that is integral to the project;~~

24 ~~(vi)(V) planning and designing of a project; and OR~~

25 ~~(vii)(VI) other activities allowed under the federal act.~~

26 (2) In addition to loans authorized under subsection (1), the program may make loans to public
 27 water systems for one or more of the following purposes:

28 (a) to a community water system or nonprofit noncommunity water system to acquire land or a
 29 conservation easement from a willing party if the land is necessary to ensure compliance with the national
 30 primary drinking water regulations or to protect the source of water from contamination;

1 (b) to a community water system to implement local, voluntary source water protection measures
 2 in order to protect source water in areas delineated under a source water assessment program in order to
 3 facilitate compliance with the national primary drinking water regulations or otherwise significantly further
 4 the health protection objectives of the federal act;

5 (c) to a community water system to provide funding for the development and implementation of a
 6 source water quality assessment, contingency plans, and demonstration projects for partners within a
 7 delineated source water area.

8 (3) The department may:

9 (a) provide financial and technical assistance to any public water system as part of a capacity
 10 development strategy developed and implemented in accordance with the federal act;

11 (b) make expenditures from the capitalization grant to delineate and assess source water protection
 12 areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and

13 (c) make expenditures from the fund for the establishment and implementation of wellhead
 14 protection programs.

15 (4) The ~~department program~~ may provide financial assistance ~~only in the form of a loan to an~~
 16 ~~investor-owned~~ to a public water system according to priorities established by the department in the
 17 ~~department's intended use plan adopted pursuant to [section 22 21], based on greatest public health needs~~
 18 ~~and financial needs.~~ Prior to making a loan to ~~an investor-owned~~ a public water system, the department
 19 **OF NATURAL RESOURCES AND CONSERVATION** shall determine that the system has the ability to repay
 20 the loan according to its terms and conditions and may require a dedicated source of repayment and impose
 21 additional requirements. ~~A loan to an investor-owned public water system is subject to the requirements~~
 22 ~~of 75-6-222 through 75-6-224.~~

23 (5) The total amount of assistance provided and expenditures made by the ~~department~~ PROGRAM
 24 under subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by
 25 the department for that year and may not exceed 10% of that amount for any one of the activities listed
 26 under subsection (2) or (3)."

27
 28 **Section 24.** Section 75-6-222, MCA, is amended to read:

29 **"75-6-222. Evaluation of projects and loan applications. ~~After consultation with the~~ The**
 30 **department and the department of natural resources and conservation, ~~the department~~ shall evaluate**

1 projects ~~for loans and grants and place them on a priority list or intended use plan~~ and loan applications.
 2 In evaluating projects and applications, the ~~department shall consider the~~ following factors must be
 3 considered:

4 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 5 design standards;

6 (2) the financial capacity of the applicant;

7 (3) the financial, managerial, and technical ability of the applicant to properly operate and maintain
 8 the project;

9 (4) the total financing of the project to ensure completion;

10 ~~(4)(5)~~ (5) the viability of the public water system;

11 ~~(2)(6)~~ (6) the ability of the public water system to pay the costs of the project without the requested
 12 financial assistance;

13 ~~(3)(7)~~ (7) the total amount of loan funds available for financial assistance in the revolving fund;

14 ~~(4)(8)~~ (8) the total amount requested by other applications that have been received or that are likely
 15 to be received;

16 ~~(6)(9) the need for and the benefit to be derived from the project~~ (9) the ranking of the project on the
 17 priority list in the intended use plan; and

18 ~~(6)(10)~~ (10) any other criteria that the department determines to be appropriate, considering the
 19 purposes of the program and the federal act."

20

21 **Section 25.** Section 75-6-223, MCA, is amended to read:

22 **"75-6-223. Applications for loans and grants.** (1) The department shall, after consultation with
 23 the department of natural resources and conservation, establish loan ~~and grant~~ application procedures,
 24 including forms for the applications. Each application for a loan must include:

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

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

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

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

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

1 (f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;
 2 ~~(f)~~(g) a statement as to whether, at the time of application, there are any outstanding ~~bonds~~, loans,
 3 notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a
 4 description of the ~~bonds~~, loans, notes, bonds, or other obligations; ~~and~~

5 (h) if the applicant is a private person, a statement as to whether, at the time of the application,
 6 there are any outstanding loans, notes, or other obligations of the private person and, if so, a description
 7 of the loans, notes, or other obligations; and

8 ~~(g)~~(i) 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~~ loan subsidy 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~~ loan to pay the cost of the project;

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

23 (f) an explanation, including supporting information, as to why a ~~grant rather than a~~ loan subsidy
 24 is requested; ~~and~~

25 (g) evidence that the applicant qualifies as a disadvantaged community; and

26 ~~(g)~~(h) any other information that the department or the department of natural resources and
 27 conservation may require."

28
 29 **Section 26.** Section 75-6-224, MCA, is amended to read:

30 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the

1 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
 2 a public water system to pay part or all of the cost of a project. The loan is subject to the applicant
 3 complying with the following conditions:

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

10 (b) in the case of a privately owned system OWNED BY A PRIVATE PERSON, in addition to
 11 establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing,
 12 as required by the department of natural resources and conservation, credit enhancements, a pledge of
 13 collateral, or other types of security, such as a corporate or personal guarantee;

14 ~~(b)(c)~~ agreeing to operate and maintain the project properly over its structural and material design
 15 life, which may not be less than 20 years the term of the loan;

16 ~~(e)(d)~~ agreeing to maintain proper financial records in accordance with generally accepted
 17 ~~government~~ accounting standards and agreeing that all records are subject to audit;

18 ~~(d)(e)~~ meeting the requirements listed in the federal act for projects constructed with funds directly
 19 made available by federal capitalization grants;

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

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

26 ~~(g)(h)~~ complying with plan, ~~and~~ specification, and other requirements for public water systems
 27 established by the ~~board~~ department; and

28 ~~(h)(i)~~ providing for proper construction inspection and project management; and

29 (i) meeting requirements of financial, managerial, and technical capability to maintain compliance
 30 with the federal act.

1 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest
2 paid in annual or more frequent installments, the first of which must be received not more than 1 year after
3 the completion date of the project and the last of which must be received not more than 20 years after the
4 completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan
5 subsidy, the department may determine that the last installment must be received not more than 30 years
6 after the completion date, provided that the period of the loan does not exceed the expected design life of
7 the project.

8 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the
9 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with
10 other available funds in the revolving fund, including investment income, to enable the state to pay the
11 principal of and interest on the bonds issued pursuant to 75-6-225.

12 (b) The interest rate may include any additional rate that the department of natural resources and
13 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The
14 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the
15 rate established for any other loans.

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

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

25 (a) in a special administrative costs account that the department of natural resources and
26 conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

27 (b) in the administrative account provided for in 75-6-211. In determining into which account the
28 administrative fees are deposited, the department shall take into consideration the needs and requirements
29 of the programs. Money deposited in the special administrative costs account or the administration account
30 must be used for the payment of administrative costs of the program."

HOUSE BILL NO. 483

INTRODUCED BY MOOD, AKLESTAD, BEAUDRY, WALTERS, KNOX, HOLLAND, DEVANEY, DENNY,
KITZENBERG, BROOKE, OHS, ELLIS, STOVALL, SQUIRES, HIBBARD, SCHMIDT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE SAFE
DRINKING WATER AND WASTEWATER TREATMENT REVOLVING FUNDS AND WATER SYSTEM
LICENSING; FORMING AN ADVISORY COMMITTEE; AMENDING SECTIONS ~~17-7-502~~, 37-42-102,
75-5-1101, 75-5-1102, 75-5-1103, 75-5-1104, 75-5-1105, 75-5-1106, 75-5-1107, 75-5-1111,
75-5-1112, 75-5-1113, 75-5-1121, 75-6-201, 75-6-202, 75-6-203, 75-6-204, 75-6-205, 75-6-211,
75-6-212, 75-6-221, 75-6-222, 75-6-223, AND 75-6-224, MCA; REPEALING SECTIONS ~~75-5-1108~~,
75-6-213, AND 75-6-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

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

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

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

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

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

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

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
19-19-306; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;~~

1 ~~23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;~~
 2 ~~39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;~~
 3 ~~53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;~~
 4 ~~80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;~~
 5 ~~90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

6 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 7 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 8 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 9 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 10 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 11 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3); pursuant to sec.~~
 12 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 13 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 14 ~~July 1, 2001.)"~~

15

16 **Section 1.** Section 37-42-102, MCA, is amended to read:

17 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 18 definitions apply:

19 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 20 operator holding the certificate has met the requirements for the specified operator classification of the
 21 certification program.

22 (2) "Community water system" means the term as defined in 75-6-102.

23 (3) "Council" means the water and wastewater operators' advisory council provided for in
 24 2-15-2105.

25 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

26 (5) "Nontransient noncommunity water system" means a public water system, as defined in
 27 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for
 28 at least 6 months a year.

29 ~~(6)~~(6) "Operator" means the person in direct responsible charge of the operation of a water
 30 treatment plant, water distribution system, or wastewater treatment plant.

1 ~~(6)~~(7) "State waters" means the term as defined in 75-6-102.

2 ~~(7)~~(8) "Wastewater treatment plant" means a facility that:

3 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
4 wastes, or other wastes;

5 (b) discharges an effluent directly into state waters; and

6 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
7 75-6-102.

8 ~~(8)~~(9) "Water distribution system" means that portion of the water supply system that conveys
9 water from the water treatment plant or other supply source to the premises of the consumer and that is
10 part of a community water system or a nontransient noncommunity water system.

11 ~~(9)~~(10) "Water supply system" means a system of pipes, structures, and facilities through which
12 water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by
13 humans and that is part of a community water system or a nontransient noncommunity water system.

14 ~~(10)~~(11) "Water treatment plant" means that portion of the water supply system that alters either
15 the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human
16 use."

17

18 **Section 2.** Section 75-5-1101, MCA, is amended to read:

19 "**75-5-1101. Short title.** This part may be cited as the ~~"Wastewater Treatment~~ "Water Pollution
20 Control State Revolving Fund Act"."

21

22 **Section 3.** Section 75-5-1102, MCA, is amended to read:

23 "**75-5-1102. Definitions.** Unless the context requires otherwise, in this part the following
24 definitions apply:

25 (1) "Administrative costs" means costs incurred by the department and the department of natural
26 resources and conservation in the administration of the program, including but not limited to costs of
27 servicing loans and issuing debt; program start-up costs; financial, management, and legal consulting fees;
28 and reimbursement costs for support services from other state agencies.

29 (2) "Cost" means, with reference to a ~~wastewater treatment works~~ project, all capital costs
30 incurred or to be incurred by a municipality or a private ~~entity~~ person, including but not limited to

1 engineering, construction, financing, and other fees, interest during construction, and a reasonable
 2 allowance for contingencies to the extent permitted by the federal act and regulations promulgated
 3 thereunder.

4 (3) "Federal act" means the Federal Water Pollution Control Act, also known as the Clean Water
 5 Act, 33 U.S.C. 1251 through 1387, as amended.

6 (4) "Intended use plan" means the annual plan adopted by the department and submitted to the
 7 environmental protection agency that describes how the state intends to use the money in the revolving
 8 fund.

9 ~~(4)(5)~~ "Loan" means a loan of money from the revolving fund to a municipality or a private ~~concern~~
 10 person.

11 ~~(5)(6)~~ "Municipality" means any state agency, city, town, or other ~~local government unit having~~
 12 ~~authority to own and operate a sewage system and wastewater treatment works~~ public body created
 13 pursuant to state law.

14 ~~(6)(7)~~ "~~Private concern~~ person" means ~~an individual or other entity eligible for a loan or loans for~~
 15 ~~a pollution control project for a nonpoint source under section 319 of the federal act~~ an individual,
 16 corporation, partnership, or other nongovernmental legal entity.

17 ~~(7)(8)~~ "Program" means the ~~wastewater treatment works~~ water pollution control state revolving
 18 fund ~~loan~~ program established by this part.

19 ~~(8)(9) (A)~~ "Project" means ~~a wastewater treatment works or part of a wastewater treatment works~~
 20 ~~for an activity that is eligible for financing by the program under the federal act, including treatment works,~~
 21 as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control
 22 under section 1329 of the federal act (33 U.S.C. 1329), EXCEPT A SOLID WASTE MANAGEMENT
 23 SYSTEM OR RESOURCE RECOVERY FACILITY REGULATED UNDER AND DEFINED IN TITLE 75, CHAPTER
 24 10, and for which a municipality or private ~~concern~~ person makes an application for a loan or other financial
 25 assistance.

26 (B) "PROJECT" DOES NOT INCLUDE A SOLID WASTE MANAGEMENT SYSTEM, AS DEFINED IN
 27 75-10-203, EXCEPT FOR A PROJECT THAT IS INTENDED SPECIFICALLY FOR THE CLOSURE OR
 28 POSTCLOSURE CARE OF OR GROUND WATER CORRECTIVE ACTION AT A LANDFILL THAT:

29 (I) WAS IN OPERATION ON [THE EFFECTIVE DATE OF THIS ACT] AND THAT ACCEPTS AN
 30 ANNUAL AVERAGE OF LESS THAN 20,000 TONS OF SOLID WASTE PER YEAR; OR

1 (II) WAS CLOSED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT].

2 ~~(9)(10)~~ "Revolving fund" means the fund established by 75-5-1106."

3

4 **Section 4.** Section 75-5-1103, MCA, is amended to read:

5 "75-5-1103. ~~Wastewater treatment works~~ Water pollution control state revolving fund loan
6 **program.** There is a program under which the state may provide financial assistance to municipalities and
7 private ~~concerns~~ persons to finance or refinance part or all of the cost of projects. The program must be
8 administered in accordance with this part and the federal act."

9

10 **Section 5.** Section 75-5-1104, MCA, is amended to read:

11 "75-5-1104. **Authorization of agreement -- content.** (1) The department may enter into a
12 capitalization grant agreement or other agreement with the United States environmental protection agency
13 to implement the program and may accept from that agency other grants and loans to carry out the
14 program.

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

16 (a) accept grant payments from the environmental protection agency in accordance with the
17 schedule established by the administrator of that agency and deposit the payments in the revolving fund
18 established in 75-5-1106;

19 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
20 amount of all capitalization grants made to the state as provided by 75-5-1106 on or before the date on
21 which each quarterly federal grant payment is made to the state;

22 (c) provide financial assistance to municipalities and private ~~concerns~~ persons in accordance with
23 this part in an amount equal to 120% of the amount of each grant payment within a time period not to
24 exceed 1 year after receipt of a grant;

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

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

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

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

3 (h) as a condition of making a loan or providing other financial assistance from the revolving fund,
4 require that the municipality or private ~~concern~~ person will maintain project accounts in accordance with
5 generally accepted government accounting standards;

6 (i) make annual reports to the environmental protection agency concerning the use of the revolving
7 fund as required by the federal act; and

8 (j) any other covenants, commitments, and obligations necessary to ensure that the state's
9 administration of the program is consistent with the provisions of this part."

10

11 **Section 6.** Section 75-5-1105, MCA, is amended to read:

12 **"75-5-1105. Rulemaking.** The department and the department of natural resources and
13 conservation may adopt rules to implement the provisions of this part, including rules:

14 (1) prescribing the form and content of applications for loans and refinancing agreements;

15 (2) governing the application of the criteria for awarding loans;

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

18 (4) establishing ceilings on the amount of individual loans to be made to municipalities and private
19 ~~concerns persons~~, if considered appropriate and necessary for the successful administration of the
20 program."

21

22 **Section 7.** Section 75-5-1106, MCA, is amended to read:

23 **"75-5-1106. Revolving fund.** (1) There is established in the state treasury a separate account
24 designated as the ~~wastewater treatment works~~ water pollution control state revolving fund. There are
25 established in the revolving fund as subaccounts a federal allocation account, a state allocation account,
26 an administration account, an investment income account, and a debt service account.

27 (2) There must be credited to:

28 (a) the federal allocation account, all amounts received by the state from the following sources:

29 (i) funds provided pursuant to the federal act as capitalization grants for a state revolving fund to
30 assist construction of ~~wastewater treatment works and~~ projects;

1 (ii) grants or transfers of grants received under subchapter II of the federal act for ~~construction of~~
2 ~~wastewater treatment works~~ projects; and

3 (iii) money transferred to the fund from the drinking water state revolving fund pursuant to
4 75-6-211;

5 (b) the state allocation account, the net proceeds of bonds of the state issued pursuant to
6 75-5-1121 and other money appropriated by the legislature;

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

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

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

13 (3) Each loan made as authorized by 75-5-1113 must be funded and disbursed from the federal
14 allocation account or the state allocation account, or both, by the department and the department of natural
15 resources and conservation as recommended by the department. All amounts received in payment of
16 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
17 to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account
18 securing the bonds. Money in the debt service account that is not required for debt service may be
19 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
20 authorizing the bonds.

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

24 (5) As allowed under the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and with the
25 governor's permission, AN AMOUNT EQUIVALENT TO up to 33% of each year's DRINKING WATER STATE
26 REVOLVING FUND federal capitalization grant may be transferred from the federal allocation account,
27 established under subsection (2)(a), to the drinking water state revolving fund federal allocation account
28 established in 75-6-211."

29
30 **Section 8.** Section 75-5-1107, MCA, is amended to read:

1 "75-5-1107. **Uses of revolving fund.** Money in the revolving fund ~~may~~ must be used to:

2 (1) make loans to municipalities ~~and private concerns persons~~ to finance all or a portion of the cost
3 of a project AND TO MAKE LOANS TO PRIVATE PERSONS TO FINANCE ALL OR A PORTION OF THE

4 COST OF NONPOINT SOURCE POLLUTION CONTROL PROJECTS;

5 (2) buy or refinance debt obligations of municipalities that were issued to finance projects within
6 the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

7 (3) guarantee or purchase insurance for obligations of municipalities that were issued to finance
8 projects in order to enhance credit or reduce interest rates;

9 (4) provide a source of revenue or security for general obligation bonds the proceeds of which are
10 deposited in the revolving fund;

11 (5) provide loan guarantees for similar revolving funds established by municipalities;

12 (6) earn interest on fund accounts; and

13 (7) pay reasonable administrative costs of the ~~revolving loan~~ program not to exceed 4%, of all
14 federal grant awards to the fund or the maximum amount allowed under the federal act, ~~of all federal grant~~
15 ~~awards to the fund."~~

16

17 **Section 9.** Section 75-5-1111, MCA, is amended to read:

18 "**75-5-1111. Applications.** (1) The department shall, after consultation with the department of
19 natural resources and conservation, establish loan application procedures, including forms for the
20 applications. Each application for a loan to finance construction of a project must include:

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

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

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

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

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

27 (f) a current financial statement showing assets, liabilities, revenue, and expenses of the applicant;

28 ~~(f)(g)~~ (g) if the applicant is a municipality, a statement as to whether, at the time of application, there
29 are any outstanding ~~bonds, loans, notes, bonds,~~ or other obligations of the municipality that were issued
30 or incurred to finance any part of the municipality's ~~sewage project or system~~ of which the project is a part

1 and, if so, a description of the ~~bonds, loans,~~ notes, bonds, or other obligations; ~~and~~

2 (h) if the applicant is a private person, a statement as to whether, at the time of application, there
 3 are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the
 4 loans, notes, or other obligations; and

5 ~~(g)(i)~~ any other information that the department or the department of natural resources and
 6 conservation may require to determine the feasibility of a project and the applicant's ability to repay the
 7 loan, including but not limited to engineering reports, economic feasibility studies, and legal opinions.

8 (2) Each application for a loan to refinance a project, including a purchase of outstanding
 9 obligations issued by a municipality to finance a project in whole or in part, must include:

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

11 (b) a schedule of the cost of the project;

12 (c) the date on which construction of the project began;

13 (d) a description of the ~~bonds, loans,~~ notes, bonds, or other obligations to be refinanced and of
 14 any other loans, notes, bonds, or obligations issued or incurred to finance any part of the municipality's
 15 ~~sewage-system project;~~ and

16 (e) any other information that the department or the department of natural resources and
 17 conservation may require.

18 (3) Each application for financial assistance in the form of a guaranty or the purchase of insurance
 19 for a municipal obligation must include all items required by subsection (1) and any other information the
 20 department may require."

21

22 **Section 10.** Section 75-5-1112, MCA, is amended to read:

23 **"75-5-1112. Evaluation of projects and loan applications.** ~~After consultation with the~~ The
 24 department of natural resources and conservation, and the department shall evaluate projects for loans and
 25 other financial assistance and place them on a priority list or intended use plan and loan applications. In
 26 evaluating projects and loan applications, the ~~department shall consider the~~ following factors must be
 27 considered:

28 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 29 design standards;

30 (2) the financial capacity of the municipality or private person to repay the loan;

- 1 (3) the financial, managerial, and technical ability of the municipality or private person to properly
 2 operate and maintain the project;
- 3 (4) the feasibility of project completion given the total financing available;
- 4 ~~(1)(5)~~ the ability of the municipality or private ~~concern~~ person to pay the costs of the project
 5 without the requested financial assistance;
- 6 ~~(2)(6)~~ the total amount of loan funds available for financial assistance in the revolving fund;
- 7 ~~(3)(7)~~ the total amount requested ~~by~~ in other applications that have been received or that are likely
 8 to be received;
- 9 ~~(4)(8) the need for and benefit to be derived from the project~~ the ranking of the project on the
 10 priority list or intended use plan; and
- 11 ~~(5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing~~
 12 ~~as measured by a decrease in interest rates and whether the refinancing permits the construction of an~~
 13 ~~additional project by the municipality; and~~
- 14 ~~(6)(9)~~ any other criteria that the department determines appropriate, considering the purposes of
 15 the federal act and the program."

16

17 **Section 11.** Section 75-5-1113, MCA, is amended to read:

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

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

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

30 (c) agreeing to maintain proper financial records in accordance with ~~recognized government~~

1 generally accepted accounting ~~procedures~~ standards and agreeing that all records are subject to audit;

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

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

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

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

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

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

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

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

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

27 (4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the
28 municipality or private ~~entity~~ person, in a form prescribed or approved by the department of natural
29 resources and conservation, except that the bond, note, or other evidence must include provisions required
30 by the federal act and must be consistent with the provisions of this part. The bond, note, or other

1 evidence is not required to be identical for all loans. The department of natural resources and conservation
 2 may require that loans to private persons be further secured by a mortgage and other security interests in
 3 the project that is being financed or other forms of additional security as considered necessary, including
 4 personal guarantees and letters of credit.

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

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

11 (b) in the administration account. Money deposited in the administration account established in
 12 75-6-211 must be used for the payment of administrative costs of the program. Money deposited in the
 13 special administration costs account must be used for the payment of administrative costs of the program
 14 unless not required for that purpose, in which case the money may be transferred to other funds and
 15 accounts in the program."
 16

17 **Section 12.** Section 75-5-1121, MCA, is amended to read:

18 **"75-5-1121. Authorization of bonds -- appropriation of proceeds.** (1) Upon request of the
 19 department of natural resources and conservation and upon certification by the department ~~of natural~~
 20 ~~resources and conservation~~ that the state has entered into a capitalization grant agreement or other
 21 agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants
 22 have been made to the state for the program, the board of examiners is authorized to issue and sell bonds
 23 of the state as authorized by the legislature to provide money for the ~~revolving loan~~ program. The bonds
 24 are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
 25 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part
 26 8.

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

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

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

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

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

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

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

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

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

27
28 **Section 13.** Section 75-6-201, MCA, is amended to read:

29 **"75-6-201. Short title.** This part may be cited as the "~~Safe Drinking Water Treatment State~~
30 Revolving Fund Act"."

1 **Section 14.** Section 75-6-202, MCA, is amended to read:

2 **"75-6-202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
3 apply:

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

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

7 (b) program startup costs;

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

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

10 (2) "Community water system" means a public water system that is either privately or publicly
11 owned BY A PRIVATE PERSON OR A MUNICIPALITY and that serves at least 15 service connections used
12 by year-round residents of the area served by the system or regularly serves at least 25 year-round
13 residents. The term does not include a public water system that is owned by the federal government.

14 ~~(2)(3)~~ "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a
15 public water system, including but not limited to:

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

17 (b) interest during construction; ~~and~~

18 ~~(c)~~ construction; and

19 ~~(c)(d)~~ a reasonable allowance for contingencies to the extent permitted by the federal act and rules
20 promulgated under the federal act.

21 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

22 (5) "Disadvantaged community" means one in which the service area of a public water system
23 meets the affordability criteria established by rule adopted pursuant to this part.

24 ~~(3)(6)~~ "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that
25 act read on [the effective date of this act].

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

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

29 ~~(6)(7)~~ "Indian tribe" means an Indian tribe ~~within the state of Montana that is recognized by the~~
30 secretary of the U.S. department of interior that has a federally recognized governing body carrying out

1 substantial governmental duties and powers over any area.

2 (8) "Intended use plan" means the annual plan adopted by the department and submitted to the
 3 environmental protection agency that describes how the state intends to use the money in the revolving
 4 fund.

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

8 ~~(8)(9)~~ "Loan" means a loan of money from the revolving fund for project costs.

9 (10) "Municipality" means a state agency, city, town, or other public body created pursuant to
 10 state law or an Indian tribe.

11 (11) "Noncommunity water system" means a public water system that is not a community water
 12 system.

13 ~~(9)(12) "Nonprofit organization" noncommunity water system" means a noncommunity water~~
 14 ~~system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt~~
 15 ~~organization under the provisions of section 501(c)(3) of the Internal Revenue Code.~~

16 (13) "Private person" means an individual, corporation, partnership, or company OTHER
 17 NONGOVERNMENTAL LEGAL ENTITY.

18 ~~(10)(14) "Program" means the safe drinking water treatment state revolving loan fund program~~
 19 ~~established by this part.~~

20 ~~(11)(15) "Project" means improvements or activities that are:~~

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

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

24 ~~(12)(16) "Public water system" means a system for the provision to the public of piped water for~~
 25 ~~human consumption, through pipes or other constructed conveyances, if that system has at least 15~~
 26 ~~service connections or regularly serves at least 25 individuals. The term includes any collection, treatment,~~
 27 ~~storage, and distribution facilities under control of an operator of a system that are used primarily in~~
 28 ~~connection with a system and any collection or pretreatment storage facilities not under control of the an~~
 29 ~~operator and that are used primarily in connection with a system.~~

30 ~~(13)(17) "Revolving fund" means the safe drinking water treatment state revolving fund established~~

1 by 75-6-211."

2

3 **Section 15.** Section 75-6-203, MCA, is amended to read:

4 "75-6-203. ~~Safe drinking~~ **Drinking water treatment state revolving fund program.** There is a
5 program under which the state may provide financial assistance to ~~public~~ community water systems and
6 nonprofit noncommunity water systems. The program must be administered in accordance with this part
7 and the federal act."

8

9 **Section 16.** Section 75-6-204, MCA, is amended to read:

10 "75-6-204. **Authorization of agreement -- content.** (1) The department may enter into a
11 capitalization grant agreement or other agreement with the ~~U.S.~~ environmental protection agency to
12 implement the program and may accept from that agency other grants and loans to carry out the program.

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

14 (a) accept grant payments from the ~~U.S.~~ environmental protection agency in accordance with the
15 schedule established by the administrator of that agency and deposit the payments in the revolving fund
16 established in 75-6-211;

17 (b) deposit in the revolving fund from state money an amount equal to at least 20% of the total
18 amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on
19 which each federal grant payment is made to the state;

20 (c) deposit in the nonproject account for department programs authorized under section
21 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)) a state match equal dollar-for-dollar to the
22 capitalization grant deposited in the account;

23 ~~(d)~~ provide financial and technical assistance to a public water system in accordance with this
24 part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year
25 after receipt of a grant;

26 ~~(e)~~ expend all funds in the revolving fund in an expeditious and timely manner;

27 ~~(f)~~ use all funds deposited in the revolving fund as a result of the capitalization grant to ensure
28 progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and
29 requirements of the federal act;

30 ~~(g)~~ expend each grant payment in accordance with the laws and procedures applicable to

1 commitment or expenditure of ~~revenues~~ revenue of the state;

2 ~~(g)(h)~~ use accounting, audit, and fiscal procedures conforming to generally accepted government

3 accounting standards;

4 ~~(h)(i)~~ make ~~annual~~ biennial reports and provide annual audits to the ~~U.S.~~ environmental protection

5 agency concerning the use of the revolving fund as required by the federal act; and

6 ~~(i)~~ any other covenants, commitments, and obligations necessary to ensure that the state's

7 administration of the program is consistent with the provisions of this part and the federal act.

8 (3) ~~as~~ As a condition of making a loan or providing other financial assistance from the revolving

9 fund, the department shall require that the public water system maintain project accounts in accordance

10 with generally accepted government accounting standards."

11

12 **Section 17.** Section 75-6-205, MCA, is amended to read:

13 "**75-6-205. Rulemaking authority.** The ~~board~~ department and the ~~board~~ department of natural

14 resources and conservation may adopt rules within their respective authorities established within the

15 provisions of this part, including rules:

16 (1) prescribing the form and content of applications for loans and ~~grants~~ technical assistance;

17 (2) governing the application of the criteria for awarding loans and ~~grants~~ technical assistance;

18 (3) establishing additional terms and conditions for the making of loans and the security

19 instruments and other necessary agreements;

20 (4) establishing ceilings on the amount of individual loans ~~and grants~~ to be made if considered

21 appropriate and necessary for the successful administration of the program;

22 (5) establishing affordability criteria to be used in awarding subsidies to disadvantaged

23 communities;

24 ~~(6)~~ (6) regarding other matters that may be required to ensure compliance of the program with the

25 provisions ~~and~~ of the federal act and rules promulgated under the federal act, unless these matters are

26 specifically governed by this part; and

27 ~~(6)~~ (7) to maintain the financial integrity of the program."

28

29 **Section 18.** Section 75-6-211, MCA, is amended to read:

30 "**75-6-211. Revolving fund.** (1) There is established in the state treasury a separate account

1 designated as the ~~safe~~ drinking water ~~treatment~~ state revolving fund. The corpus of the fund must be
 2 available in perpetuity for providing assistance under this part. There are established within the revolving
 3 fund a federal allocation account, a state allocation account, an administration account, an investment
 4 income account, ~~and~~ a debt service account, and a nonproject account.

5 (2) There must be credited to:

6 (a) the federal allocation account;

7 (i) all amounts received by the state pursuant to the federal act as capitalization grants for a state
 8 revolving fund to ~~assist construction of or improvements to public~~ provide loans or other assistance, as
 9 authorized under this part, to community water systems and nonprofit noncommunity water systems; and

10 (ii) all amounts transferred to the fund from the water pollution control state revolving fund under
 11 75-5-1106;

12 (b) the state allocation account;

13 (i) the net proceeds of bonds of the state issued pursuant to 75-6-225; ~~and~~

14 (ii) ~~other~~ money appropriated by the legislature; and

15 (iii) other available qualifying funds;

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

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

21 (e) the debt service account, the interest portion of loan repayments; and

22 (f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the
 23 federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as
 24 described in 75-6-204.

25 (3) Each loan made ~~as authorized by 75-6-225~~ under this part must be funded and disbursed from
 26 the federal allocation account or the state allocation account, or both, by the department of natural
 27 resources and conservation as recommended by the department. All amounts received in payment of
 28 principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant
 29 to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account
 30 securing the bonds. Money in the debt service account that is not required for debt service may be

1 transferred to other accounts within the revolving fund as provided in the resolution or trust indenture
2 authorizing the bonds.

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

6 (5) As allowed under the federal act and with the governor's permission, the department may
7 transfer up to 33% of each year's federal capitalization grant from the federal allocation account,
8 established under subsection (2)(a), to the water pollution control state revolving fund federal allocation
9 account established in 75-5-1106. The transfer of funds must be included in the intended use plan in
10 [section ~~22~~ 21]."

11
12 **Section 19.** Section 75-6-212, MCA, is amended to read:

13 **"75-6-212. Use of revolving fund.** (1) Money in the revolving fund ~~must~~ may be used to:
14 (a) for providing financial assistance that is in the form of make loans and grants to public water
15 systems and that is of the type to community water systems and nonprofit noncommunity water systems
16 as provided in this part;

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

21 (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed
22 market rates, provided that the obligations were incurred and construction of the project began after July
23 1, 1993;

24 (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for
25 obligations of municipalities that are issued to finance eligible projects;

26 (d) leverage the total amount of revolving funds available by providing a source of revenue or
27 security for the payment of principal and interest on revenue or general obligation bonds issued by the
28 state, the net proceeds of which are deposited in the revolving fund;

29 (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual
30 capitalization grant or the maximum amount allowed under the federal act;

1 (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to
 2 exceed 10% of the annual capitalization grant for the following:

3 (i) public water system supervision programs;

4 (ii) administering or providing technical assistance through source water protection programs;

5 (iii) developing and implementing a capacity development strategy under section 300q-9 of the
 6 federal act (42 U.S.C. 300q-9); AND

7 (iv) administering an operator certification program in order to meet the requirements of section
 8 300q-8 of the federal act (42 U.S.C. 300q-8); and

9 (v) payment of (G) PAY the department's costs in an amount not to exceed 2% of the annual
 10 capitalization grant for the purpose of providing technical assistance to public water systems serving
 11 10,000 or fewer persons. THE COSTS UNDER THIS SUBSECTION (1)(G) MUST BE CONTRACTED BY THE
 12 DEPARTMENT THROUGH A NONPROFIT ORGANIZATION OR ORGANIZATIONS THAT HAVE:

13 (I) A REPRESENTATION OF AT LEAST 5% OF THE SYSTEMS REFERRED TO IN THIS SUBSECTION
 14 (1)(G) THROUGH A MEMBERSHIP PROGRAM; AND

15 (II) AT LEAST 5 YEARS OF EXPERIENCE IN PROVIDING TECHNICAL ASSISTANCE TO SYSTEMS
 16 OF THE SIZE REFERRED TO IN THIS SUBSECTION (1)(G). NO LESS THAN 1.5% OF THE ANNUAL
 17 CAPITALIZATION GRANT MUST BE CONTRACTED BY THE DEPARTMENT TO PRIVATE ORGANIZATIONS
 18 OR INDIVIDUALS FOR THE PURPOSES OF THIS SUBSECTION.

19 (H) REIMBURSE THE EXPENSES, AS PROVIDED FOR IN 2-18-501 THROUGH 2-18-503 AND
 20 5-2-302, OF THE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO [SECTION 21] WHILE ON
 21 OFFICIAL COMMITTEE BUSINESS.

22 (b)(2) Financial assistance Except as provided in subsection (3), money in the fund may not be used
 23 for:

24 (a) expenditures related to monitoring, operation, and maintenance;

25 (b) the acquisition of real property or any interest in real property, unless the acquisition is integral
 26 to a project authorized under this part and the purchase is from a willing seller;

27 (c) providing assistance to a public water system that:

28 (i) does not have the financial, managerial, and technical capability to ensure compliance with the
 29 requirements of the federal act; or

30 (ii) is in significant noncompliance with any requirement of a national primary drinking water

1 regulation or variance; or

2 (d) any other activity prohibited from funding under the federal act.

3 (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part

4 if:

5 (i) the use of the assistance will ensure compliance; and

6 (ii) for a system that the department has determined does not have the financial, managerial, or
 7 technical capability to ensure compliance with the federal act, the owner or operator of the system agrees
 8 to undertake feasible and appropriate changes in operations, including ownership, management, accounting,
 9 rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary
 10 by the department to ensure compliance.

11 (b) Prior to providing assistance to a public water system that is in significant noncompliance with
 12 any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the
 13 department shall determine whether the provisions of subsection (2)(c)(i) apply to the system."

14
 15 **NEW SECTION. Section 20. Loan subsidy for disadvantaged communities.** (1) Notwithstanding
 16 any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged
 17 community or to a community that the department expects to become a disadvantaged community as a
 18 result of a proposed project, the department may provide additional subsidization in the form of a reduced
 19 interest rate.

20 (2) The total annual amount of loan subsidies made by the department pursuant to subsection (1)
 21 may not exceed 30% of the capitalization grant received by the department for each fiscal year.

22
 23 **NEW SECTION. Section 21. Intended use plan -- ADVISORY COMMITTEE.** (1) The department
 24 shall prepare an annual intended use plan for the state that meets the requirements of section 300j-12(b)
 25 of the federal act (42 U.S.C. 300j-12(b)).

26 (2) The intended use plan must include:

27 (a) a list of projects in the state that are eligible for assistance, including both the priority assigned
 28 to each project based on public health needs and on the financial needs of the project and, to the extent
 29 known, the expected funding schedule for each project; and

30 (b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and

1 funds to be transferred to or received by the water pollution control state revolving fund, as allowed in
2 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

3 (3) Before finalizing an intended use plan, the department shall prepare a draft document containing
4 the information required in subsection (2) and shall provide public notice and opportunity to comment on
5 the draft document.

6 (4) (A) FOLLOWING THE PUBLIC COMMENT PERIOD PROVIDED FOR IN SUBSECTION (3) AND
7 ANY DEPARTMENT MODIFICATIONS TO THE INTENDED USE PLAN RESULTING FROM THE PUBLIC
8 COMMENT, A SUMMARY OF THE PUBLIC COMMENT AND THE INTENDED USE PLAN MUST BE
9 PRESENTED FOR REVIEW, COMMENT, AND RECOMMENDATIONS TO AN ADVISORY COMMITTEE
10 FORMED BY THE DEPARTMENT AND CONSISTING OF SIX INDIVIDUALS FROM THE FOLLOWING
11 ENTITIES APPOINTED BY THEIR RESPECTIVE PRESIDING OFFICERS, DIRECTORS, OR EXECUTIVE
12 OFFICIALS:

13 (I) ONE MEMBER FROM THE MONTANA LEAGUE OF CITIES AND TOWNS;

14 (II) ONE MEMBER FROM THE MONTANA ASSOCIATION OF COUNTIES;

15 (III) ONE MEMBER FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION;

16 (IV) ONE MEMBER FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND

17 (V) TWO MEMBERS FROM THE JOINT LEGISLATIVE SUBCOMMITTEE ON NATURAL RESOURCES.

18 ONE MEMBER MUST BE FROM THE HOUSE OF REPRESENTATIVES AND ONE FROM THE SENATE, AND
19 THEY MAY NOT REPRESENT THE SAME POLITICAL PARTY.

20 (B) THE ADVISORY COMMITTEE IS ATTACHED TO THE DEPARTMENT FOR ADMINISTRATIVE
21 PURPOSES ONLY.

22 (5) THE DEPARTMENT SHALL ADDRESS IN WRITING ANY COMMENTS AND RECOMMENDATIONS
23 PROVIDED BY THE ADVISORY COMMITTEE PROVIDED FOR IN SUBSECTION (4) BEFORE FINALIZING AN
24 INTENDED USE PLAN AND PRIOR TO AWARDING ANY CONTRACTS UNDER 75-6-212(1)(G).

25

26 **NEW SECTION. Section 22. Insurance and guarantee program.** (1) The revolving fund may be used
27 to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation
28 issued by a municipality if the department of natural resources and conservation determines that the
29 guarantee or insurance would improve the credit market access of the municipality or reduce the interest
30 rate on the municipal obligation.

1 (2) The department of natural resources and conservation shall adopt rules setting forth the
 2 conditions under which the program will guarantee or insure municipal obligations, including the amount
 3 of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any,
 4 to be established in the fund to cover any guarantee. The program may not be used to guarantee a
 5 municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the
 6 extent that they are inconsistent with the guarantee.

7
 8 **Section 23.** Section 75-6-221, MCA, is amended to read:

9 **"75-6-221. ~~Loan program~~ General loan and assistance program.** (1) ~~The department may provide~~
 10 ~~financial assistance in the form of a loan to public water systems owned by a governmental agency, an~~
 11 ~~intergovernmental agency, a nonprofit corporation, an Indian tribe, or any combination of those entities~~
 12 program may, subject to the requirements in 75-6-222 through 75-6-224, make loans to community water
 13 systems and nonprofit noncommunity water systems that:

14 (a) will facilitate compliance with national primary drinking water regulations pursuant to the federal
 15 act; or

16 (b) will further the health protection objectives of the federal act, including but not limited to
 17 projects that involve:

18 (i) upgrading and replacing infrastructure;

19 (ii) addressing exceedances of the federal act or preventing future violations;

20 (iii) consolidating water supplies;

21 ~~(iv) a system that meets the definition of a public water system contained in section 300f(4) of the~~
 22 federal act (42 U.S.C. 300f(4));

23 ~~(v)(IV) the acquisition of land, at fair market value, that is integral to the project;~~

24 ~~(vi)(V) planning and designing of a project; and OR~~

25 ~~(vii)(VI) other activities allowed under the federal act.~~

26 (2) In addition to loans authorized under subsection (1), the program may make loans to public
 27 water systems for one or more of the following purposes:

28 (a) to a community water system or nonprofit noncommunity water system to acquire land or a
 29 conservation easement from a willing party if the land is necessary to ensure compliance with the national
 30 primary drinking water regulations or to protect the source of water from contamination;

1 **(b) to a community water system to implement local, voluntary source water protection measures**
 2 **in order to protect source water in areas delineated under a source water assessment program in order to**
 3 **facilitate compliance with the national primary drinking water regulations or otherwise significantly further**
 4 **the health protection objectives of the federal act;**

5 **(c) to a community water system to provide funding for the development and implementation of a**
 6 **source water quality assessment, contingency plans, and demonstration projects for partners within a**
 7 **delineated source water area.**

8 **(3) The department may:**

9 **(a) provide financial and technical assistance to any public water system as part of a capacity**
 10 **development strategy developed and implemented in accordance with the federal act;**

11 **(b) make expenditures from the capitalization grant to delineate and assess source water protection**
 12 **areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and**

13 **(c) make expenditures from the fund for the establishment and implementation of wellhead**
 14 **protection programs.**

15 **(4) The ~~department program~~ may provide financial assistance ~~only in the form of a loan to an~~**
 16 **~~investor-owned~~ to a public water system according to priorities established by the department in the**
 17 **~~department's intended use plan adopted pursuant to [section 22 21], based on greatest public health needs~~**
 18 **~~and financial needs.~~ Prior to making a loan to an ~~investor-owned~~ a public water system, the department**
 19 **~~OF NATURAL RESOURCES AND CONSERVATION~~ shall determine that the system has the ability to repay**
 20 **the loan according to its terms and conditions and may require a dedicated source of repayment and impose**
 21 **additional requirements. ~~A loan to an investor-owned public water system is subject to the requirements~~**
 22 **~~of 75-6-222 through 75-6-224.~~**

23 **(5) The total amount of assistance provided and expenditures made by the ~~department~~ PROGRAM**
 24 **under subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by**
 25 **the department for that year and may not exceed 10% of that amount for any one of the activities listed**
 26 **under subsection (2) or (3)."**

27
 28 **Section 24.** Section 75-6-222, MCA, is amended to read:

29 **"75-6-222. Evaluation of projects and loan applications. ~~After consultation with the~~ The**
 30 **department and the department of natural resources and conservation, ~~the department~~ shall evaluate**

1 projects ~~for loans and grants and place them on a priority list or intended use plan~~ and loan applications.
 2 In evaluating projects and applications, the ~~department shall consider the~~ following factors must be
 3 considered:

4 (1) the technical design of the project to ensure compliance with all applicable statutes, rules, and
 5 design standards;

6 (2) the financial capacity of the applicant;

7 (3) the financial, managerial, and technical ability of the applicant to properly operate and maintain
 8 the project;

9 (4) the total financing of the project to ensure completion;

10 ~~(1)(5)~~ the viability of the public water system;

11 ~~(2)(6)~~ the ability of the public water system to pay the costs of the project without the requested
 12 financial assistance;

13 ~~(3)(7)~~ the total amount of loan funds available for financial assistance in the revolving fund;

14 ~~(4)(8)~~ the total amount requested by other applications that have been received or that are likely
 15 to be received;

16 ~~(5)(9) the need for and the benefit to be derived from the project~~ the ranking of the project on the
 17 priority list in the intended use plan; and

18 ~~(6)(10)~~ any other criteria that the department determines to be appropriate, considering the
 19 purposes of the program and the federal act."

20

21 **Section 25.** Section 75-6-223, MCA, is amended to read:

22 **"75-6-223. Applications for loans and grants.** (1) The department shall, after consultation with
 23 the department of natural resources and conservation, establish loan ~~and grant~~ application procedures,
 24 including forms for the applications. Each application for a loan must include:

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

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

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

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

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

1 (f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;

2 ~~(f)~~(g) a statement as to whether, at the time of application, there are any outstanding ~~bonds, loans,~~
3 notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a
4 description of the ~~bonds, loans,~~ notes, bonds, or other obligations; ~~and~~

5 (h) if the applicant is a private person, a statement as to whether, at the time of the application,
6 there are any outstanding loans, notes, or other obligations of the private person and, if so, a description
7 of the loans, notes, or other obligations; and

8 ~~(g)~~(i) 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~~ loan subsidy 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 loan~~ to pay the cost of the project;

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

23 (f) an explanation, including supporting information, as to why a ~~grant rather than a loan subsidy~~
24 is requested; ~~and~~

25 (g) evidence that the applicant qualifies as a disadvantaged community; and

26 ~~(g)~~(h) any other information that the department or the department of natural resources and
27 conservation may require."

28

29 **Section 26.** Section 75-6-224, MCA, is amended to read:

30 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the

1 department of natural resources and conservation may lend amounts on deposit in the revolving fund to
2 a public water system to pay part or all of the cost of a project. The loan is subject to the applicant
3 complying with the following conditions:

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

10 (b) in the case of a ~~privately owned~~ system OWNED BY A PRIVATE PERSON, in addition to
11 establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing,
12 as required by the department of natural resources and conservation, credit enhancements, a pledge of
13 collateral, or other types of security, such as a corporate or personal guarantee;

14 (b)(c) agreeing to operate and maintain the project properly over its structural and material design
15 life, which may not be less than ~~20 years~~ the term of the loan;

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

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

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

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

26 (g)(h) complying with plan, ~~and~~ specification, and other requirements for public water systems
27 established by the ~~board~~ department; ~~and~~

28 (h)(i) providing for proper construction inspection and project management; and

29 (i) meeting requirements of financial, managerial, and technical capability to maintain compliance
30 with the federal act.

1 (2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest
2 paid in annual or more frequent installments, the first of which must be received not more than 1 year after
3 the completion date of the project and the last of which must be received not more than 20 years after the
4 completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan
5 subsidy, the department may determine that the last installment must be received not more than 30 years
6 after the completion date, provided that the period of the loan does not exceed the expected design life of
7 the project.

8 (3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the
9 interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with
10 other available funds in the revolving fund, including investment income, to enable the state to pay the
11 principal of and interest on the bonds issued pursuant to 75-6-225.

12 (b) The interest rate may include any additional rate that the department of natural resources and
13 conservation considers reasonable or necessary to provide a reserve for the repayment of the loan. The
14 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the
15 rate established for any other loans.

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

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

25 (a) in a special administrative costs account that the department of natural resources and
26 conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

27 (b) in the administrative account provided for in 75-6-211. In determining into which account the
28 administrative fees are deposited, the department shall take into consideration the needs and requirements
29 of the programs. Money deposited in the special administrative costs account or the administration account
30 must be used for the payment of administrative costs of the program."

1 NEW SECTION. **Section 27. Repealer.** Sections ~~75-6-1108~~, 75-6-213, and 75-6-215, MCA, are
2 repealed.

3
4 NEW SECTION. **Section 28. Codification instruction.** [Sections ~~21 through 23~~ 20 THROUGH 22]
5 are intended to be codified as an integral part of Title 75, chapter 6, part 2, and the provisions of Title 75,
6 chapter 6, part 2, apply to [sections ~~21 through 23~~ 20 THROUGH 22].
7

8 NEW SECTION. **Section 29. Saving clause.** (1) [This act] does not affect rights and duties that
9 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
10 act].

11 (2) Rules that were adopted pursuant to Title 75, chapter 5, part 11, or Title 75, chapter 6, part
12 2, prior to [the effective date of this act] continue in force until amended or repealed pursuant to those
13 parts.
14

15 NEW SECTION. **Section 30. Effective date -- applicability.** (1) [This act] is effective on passage
16 and approval.

17 (2) [Section ~~2~~ 1] applies to the licensing of nontransient noncommunity water system operators on
18 or after July 1, 1998.
19

-END-