

SENATE BILL NO. 28

INTRODUCED BY J. COHENOUR

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE  
OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CONDITIONS ON STATE REVOLVING LOAN FUND  
PROGRAMS NO LONGER REQUIRED BY FEDERAL LAW; AMENDING SECTIONS 75-5-1113 AND 75-6-224,  
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 75-5-1113, MCA, is amended to read:

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

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

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

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

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

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



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

5 (g) complying with plan and specification requirements and other requirements established by the  
6 department; and

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

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

12 ~~(b) If the applicant is a disadvantaged community, as defined by rule, that has qualified for and applied~~  
13 ~~for a loan subsidy, the department may determine that the last installment must be received not more than 30~~  
14 ~~years after the completion date of the project if the period of the loan does not exceed the expected design life~~  
15 ~~of the project being financed.~~

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

20 (b) The interest rate must be determined as of the date the loan is authorized by the department of  
21 natural resources and conservation.

22 (c) The rate may include any additional rate that the department of natural resources and conservation  
23 considers reasonable or necessary to provide a reserve for the repayment of the loans. The additional rate may  
24 be fixed or variable or may be calculated according to a formula, and it may differ from the rate established for  
25 any other loan. Once the reserve has been established at a level considered by the department to be reasonable  
26 and prudent for the loans outstanding, the department may use excess reserve payments to make grants to aid  
27 in the feasibility of projects.

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

1 consistent with the provisions of this part. The bond, note, or other evidence is not required to be identical for all  
2 loans. The department of natural resources and conservation may require that loans to private persons be further  
3 secured by a mortgage and other security interests in the project that is being financed or other forms of  
4 additional security as considered necessary, including personal guarantees and letters of credit.

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

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

10 (b) in the administration account. Money deposited in the administration account established in  
11 75-5-1106 must be used for the payment of administrative costs of the program. Money deposited in the special  
12 administration costs account must be used for the payment of administrative costs of the program unless not  
13 required for that purpose, in which case the money may be transferred to other funds and accounts in the  
14 program."

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16 **Section 2.** Section 75-6-224, MCA, is amended to read:

17 **"75-6-224. Loan conditions.** (1) Upon approval of an application by the department, the department  
18 of natural resources and conservation may lend amounts on deposit in the revolving fund to a public water system  
19 to pay part or all of the cost of a project. The loan is subject to the applicant complying with the following  
20 conditions:

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

26 (b) in the case of a system owned by a private person, in addition to establishing a dedicated source of  
27 revenue, which may include the pledge of accounts receivable, providing, as required by the department of  
28 natural resources and conservation, credit enhancements, a pledge of collateral, or other types of security, such  
29 as a corporate or personal guarantee;

30 (c) agreeing to operate and maintain the project properly over its structural and material design life, which

1 may not be less than the term of the loan;

2 (d) agreeing to maintain proper financial records in accordance with generally accepted accounting  
3 standards and agreeing that all records are subject to audit;

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

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

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

12 (h) complying with plan, specification, and other requirements for public water systems established by  
13 the department;

14 (i) providing for proper construction inspection and project management; and

15 (j) meeting requirements of financial, managerial, and technical capability to maintain compliance with  
16 the federal act.

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

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

27 (b) The interest rate may include any additional rate that the department of natural resources and  
28 conservation considers reasonable or necessary to provide a reserve for the repayment of the loans. The  
29 additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate  
30 established for any other loan. Once the reserve has been established at a level considered by the department

1 to be reasonable and prudent for the amount of the loans outstanding, the department may use excess reserve  
2 payments to make grants to aid in the feasibility of projects.

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

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

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

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

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

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