

HOUSE BILL NO. 8

INTRODUCED BY M. HOPKINS, J. FITZPATRICK

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

A BILL FOR AN ACT ENTITLED: "AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND  
AUTHORIZING LOANS; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN  
PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; CREATING STATE  
DEBT; PLACING CERTAIN CONDITIONS ON LOANS; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Authorization to provide loans.** (1) The legislature finds that the  
renewable resource projects listed in this section meet the provisions of 17-5-702. The department of natural  
resources and conservation is authorized to make loans to the political subdivisions of state government and  
local governments listed in subsection (2) in amounts not to exceed the loan amounts listed for each project  
from the proceeds of the bonds authorized in [section 3 4].

(2) The interest rate for the projects in this group is 3.0% or the rate at which the state bonds are  
sold, whichever is lower, for up to 30 years:

Loan	Amount
Greenfields Irrigation District	
Hydro Development	\$1,500,000
East Fork	
Dam Rehabilitation	\$10,000,000 <u>\$16,900,000</u>
<del>Painted Rocks</del>	
<del>————— Dam Rehabilitation —————</del>	<del>\$6,000,000</del>



1	Tunnel 2 and Canal System	\$3,500,000
2	Lockwood Irrigation District	
3	Box Elder Siphon, Pump Station, and Pump 3	<del>\$750,000</del> <u>\$1,550,000</u>
4	(4) (a) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are	
5	sold, whichever is lower, for up to 30 years:	
6	Loan	Amount
7	St. Mary's Diversion Project Local Share	\$40,000,000

- 8 (b) The loan in this subsection (4) is contingent on the following:
- 9 (i) the federal government entering into an agreement with the state that designates the federal
- 10 and state share of the total project cost;
- 11 (ii) the forming of a water users' association of Montana users of the waters flowing from the Milk
- 12 River that includes cities, towns, districts, water users' associations, and other unassociated individuals and
- 13 entities; and
- 14 (iii) the water users' association demonstrating to the satisfaction of the department of natural
- 15 resources and conservation its financial capacity, through water user fees or other available sources of funding,
- 16 to pay the annual costs of the loan repayment over the term of the loan.

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18 NEW SECTION. SECTION 3. AUTHORIZATION TO PROVIDE LOAN. (1) THE INTEREST RATE FOR THE PROJECT

19 IN THIS GROUP IS 3.0% OR THE RATE AT WHICH THE STATE BONDS ARE SOLD, WHICHEVER IS LOWER, FOR UP TO 30

20 YEARS:

21	<u>LOAN</u>	<u>AMOUNT</u>
22	<u>ST. MARY'S SIPHON REPLACEMENT PROJECTS LOCAL SHARE</u>	<u>\$26,000,000</u>

23 (2) THE LOAN IN THIS SECTION IS CONTINGENT ON THE FOLLOWING:

24 (A) THE FEDERAL GOVERNMENT ENTERING INTO AN AGREEMENT WITH THE STATE THAT DESIGNATES THE

25 FEDERAL AND STATE SHARE OF THE TOTAL PROJECT COST;

26 (B) THE FORMING OF A WATER USERS' ASSOCIATION OF MONTANA USERS OF THE WATERS FLOWING FROM

27 THE MILK RIVER THAT INCLUDES CITIES, TOWNS, DISTRICTS, WATER USERS' ASSOCIATIONS, AND OTHER UNASSOCIATED

28 INDIVIDUALS AND ENTITIES; AND

1           ~~(C) THE WATER USERS' ASSOCIATION DEMONSTRATING TO THE SATISFACTION OF THE DEPARTMENT OF~~  
2 ~~NATURAL RESOURCES AND CONSERVATION ITS FINANCIAL CAPACITY, THROUGH WATER USER FEES OR OTHER AVAILABLE~~  
3 ~~SOURCES OF FUNDING, TO PAY THE ANNUAL COSTS OF THE LOAN REPAYMENT OVER THE TERM OF THE LOAN.~~

4           (A) THE RECEIPT OF FEDERAL COST SHARE THAT ADDRESSES THE FINANCIAL CAPABILITY OF THE MILK  
5 RIVER PROJECT CONTRACTING ENTITIES AS CITED IN THE MILK RIVER PROJECT ABILITY-TO-PAY STUDY BY THE U.S.  
6 DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, DATED SEPTEMBER 2022, OR THE BUDGET DIRECTOR  
7 ADOPTING A REPAIR PLAN FROM THE WATER USERS' ASSOCIATION FORMED IN SUBSECTION (2)(B). THE DEPARTMENT OF  
8 NATURAL RESOURCES AND CONSERVATION SHALL DEVELOP THE REQUIRED CONTENTS OF THE REPAIR PLAN. THE MILK  
9 RIVER JOINT BOARD OF CONTROL SHALL SUBMIT ITS REPAIR PLAN TO THE DEPARTMENT OF NATURAL RESOURCES AND  
10 CONSERVATION. IF THE BUDGET DIRECTOR DOES NOT ADOPT THE REPAIR PLAN, THE MILK RIVER JOINT BOARD OF  
11 CONTROL MAY RESUBMIT A REVISED REPAIR PLAN TO THE DEPARTMENT.

12           (B) THE MILK RIVER JOINT BOARD OF CONTROL DEMONSTRATING TO THE SATISFACTION OF THE  
13 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION ITS TECHNICAL, MANAGERIAL, AND FINANCIAL CAPACITY,  
14 THROUGH WATER USER FEES OR OTHER AVAILABLE SOURCES OF FUNDING, TO PAY THE ANNUAL COSTS OF THE LOAN  
15 REPAYMENT OVER THE TERM OF THE LOAN.

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17           NEW SECTION. Section 4. Coal severance tax bonds authorized. (1) The legislature finds that  
18 Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific approved  
19 renewable resource projects as part of the state renewable resource grant and loan program. Available funds  
20 from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be  
21 necessary, pursuant to the conditions in 85-1-605, to fund emergency loans, as authorized and approved in  
22 accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 through 7 8]. The board  
23 of examiners is authorized to issue coal severance tax bonds in an amount not to exceed ~~\$89,950,000~~  
24 \$129,415,000 in the biennium beginning July 1, 2023, of which up to ~~\$8,995,000~~ \$11,765,000 is to be used to  
25 establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural  
26 resources and conservation for financing the projects identified in [sections 1 and 2 THROUGH 3] and may be  
27 used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the  
28 state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the

1 rate must be reduced to the rate specified by the legislature.

2 (2) In connection with the issuance of coal severance tax bonds, the board of examiners may pay  
3 the principal and interest on the bonds when due from the debt service account and in all other respects  
4 manage and use the funds within each special bond account for the benefit of the bonds. The board of  
5 examiners shall exercise its discretion to enhance the marketability of the bonds and to secure the most  
6 advantageous financial arrangements for the state.

7 (3) Earnings on the bond proceeds prior to the completion of any loan must be allocated to the  
8 debt service account to pay the debt service on the bonds during this period. Earnings in excess of debt  
9 service, if any, must be allocated to the natural resources projects state special revenue account established in  
10 15-38-302.

11 (4) Loan repayments from loans financed with coal severance tax bonds are pledged, dedicated,  
12 and appropriated to the debt service account in the state treasury for the benefit of bonds approved for loans  
13 under this section.

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15 **NEW SECTION. Section 5. Conditions of loans.** (1) Disbursement of funds under ~~[sections 1 and 2]~~  
16 ~~[SECTIONS 1 THROUGH 3]~~ for loans is subject to the following conditions that must be met by project sponsors:

17 (a) approval of a scope of work and budget for the project by the department of natural resources  
18 and conservation. Reductions in a scope of work or budget may not affect priority activities or improvements.

19 (b) documented commitment of other funds required for project completion;

20 (c) satisfactory completion of conditions described in the recommendations section of the project  
21 narrative in the renewable resource grant and loan program project evaluations and recommendations report;

22 (d) execution of a loan agreement with the department of natural resources and conservation; and

23 (e) accomplishment of other specific requirements considered necessary by the department of  
24 natural resources and conservation to accomplish the purpose of the loan as evidenced from the application to  
25 the department or from the proposal to the legislature.

26 (2) Each sponsor authorized for a loan from coal severance tax bond proceeds may be required to  
27 pay to the department of natural resources and conservation a pro rata share of the bond issuance costs and  
28 the administrative costs incurred by the department to complete the loan transaction.

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**NEW SECTION. Section 6. Private and discount purchase of loans.** Loans to political subdivisions and local government entities pursuant to ~~[sections 1 and 2]~~ [SECTIONS 1 THROUGH 3] AND bonds, warrants, and notes issued in evidence of those loans may be made, purchased by, and sold to the department of natural resources and conservation at a discount and at a private negotiated sale, notwithstanding the provisions of any other law applicable to political subdivisions or local government entities.

**NEW SECTION. Section 7. Appropriations established.** For any entity of state government that receives a loan under ~~[section 1 and 2]~~ [SECTIONS 1 THROUGH 3], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation for the biennium beginning July 1, 2023.

**NEW SECTION. Section 8. Creation of state debt -- two-thirds vote required -- appropriation of coal severance tax -- three-fourths vote required -- bonding provisions.** (1) Because ~~[section 3]~~ [SECTION 4] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

(2) The legislature, through the enactment of ~~[sections 1 through 7]~~ [SECTIONS 1 THROUGH 8] by a vote of three-fourths of the members of each house of the legislature, as required by Article IX, section 5, of the Montana constitution, pledges, dedicates, and appropriates from the coal severance tax bond fund all money necessary for the payment of principal and interest not otherwise provided for on the coal severance tax bonds authorized by ~~[section 3]~~ [SECTION 4] to be issued pursuant to Title 17, chapter 5, part 7, and pursuant to the provisions of ~~[sections 1 through 7]~~ [SECTIONS 1 THROUGH 8] and the general resolution for this bond program that has been adopted by the board of examiners under the authority provided in Title 17, chapter 5, part 7.

**NEW SECTION. Section 9. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

**NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are

1 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
2 the part remains in effect in all valid applications that are severable from the invalid applications.

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4 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2023.

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