

HB 276-FN-A - AS AMENDED BY THE HOUSE

22Feb2023... 0418h

2023 SESSION

23-0176

08/04

HOUSE BILL

***276-FN-A***

AN ACT                    establishing the cyanobacteria mitigation loan and grant fund.

SPONSORS:            Rep. Rung, Hills. 12; Rep. N. Murphy, Hills. 12; Rep. Darby, Hills. 11; Rep. Coker,  
Belk. 2; Rep. J. MacDonald, Carr. 6; Rep. Crawford, Carr. 3

COMMITTEE:          Resources, Recreation and Development

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AMENDED ANALYSIS

This bill establishes the cyanobacteria mitigation loan and grant program and the cyanobacteria mitigation fund.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT establishing the cyanobacteria mitigation loan and grant fund.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 Purpose Statement. The general court finds that people and animals accessing lakes and  
2 rivers across the state have been impacted by cyanobacteria blooms, which pose a threat of acute and  
3 chronic illnesses from the toxins they release. Many of these blooms have been triggered by  
4 phosphorus loading from direct run-off, poor culvert design, inefficient or failed septic systems,  
5 internal loading of phosphorus, among other causes. The cost of designing, installing and repairing  
6 mitigation systems or projects for many communities, watershed management associations, and lake  
7 associations, would result in dramatically higher property taxes or would take many years of  
8 fundraising and delay projects exacerbating the problem. The mitigation of contributors to  
9 cyanobacteria blooms requires a strategy to protect, preserve, and enhance the water quality that  
10 New Hampshire citizens and the natural environment depend upon.

11       2 New Subdivision; Cyanobacteria Mitigation Loan Program. Amend RSA 485-A by inserting  
12 after section 57 the following new subdivision:

## Cyanobacteria Mitigation Loan Program

## 485-A:58 Establishment and Implementation of Cyanobacteria Mitigation Loan Program.

15       I. There is established in the department of environmental services the cyanobacteria  
16 mitigation loan program. The program shall provide low interest loans to:

17           (a) Municipalities, community water systems and non-profit lake and river watershed  
18 associations whose testing shows confirmed and chronic exceedances of the state health advisory for  
19 cyanobacteria, for remediation efforts begun after September 30, 2023.

20           (b) Publicly-owned and non-profit lake or river watershed associations that have a  
21 watershed management plan which specifies sources of phosphorus loading approved by the  
22 department of environmental services.

23       II. Projects shall only be financed after the applicant's proposed mitigation plan or  
24 watershed management plan demonstrates that the such plan is the most cost-effective solution, as  
25 reviewed and approved by the department of environmental services. The applicant shall provide  
26 evidence in the application for funding that there are no no-cost or low-cost efforts that would result  
27 in a substantial decrease in external phosphorus loading. The applicant shall also show that there is  
28 no responsible party identified by department of environmental services or that the responsible  
29 party, potentially including the applicant, has provided their appropriate share of the funding for the  
30 proposed project.

1           III. Loans or grants may be made for up to the total cost of the project, after any responsible  
2 party's contribution, addressing the contamination.

3           IV. The cyanobacteria mitigation program shall forgive up to 10 percent of the loan principal  
4 to community water systems, publicly owned or non-profit lake or river watershed associations using  
5 the same qualifying standards for forgiveness used in the drinking water state revolving loan  
6 program established under RSA 486:14.

7           V. Total loan forgiveness under this section shall not exceed \$1,000,000 in a fiscal year.  
8 485-A:59 Duties.

9           I. The department of environmental services shall:

10           (a) Administer the cyanobacteria mitigation loan and grant program to assist  
11 municipalities; community and non-profit, lake and river watershed association; with the cost of  
12 reducing the number of chronic and extended cyanobacteria bloom that the department considers to  
13 be a threat to long term health of water bodies. For purposes of this subparagraph, administration  
14 includes oversight of the grant or loan expenditures to ensure they are not misused.

15           (b) Administer a loan forgiveness program to assist municipalities, community, and non-  
16 profit, lake and river watershed association with loan repayment.

17           (c) Award loan or grant funds to projects that meet the following criteria:

18           (1) The project is or was necessary to reduce phosphorus loading identified in an  
19 accepted watershed management plan and the applicant for funding is a municipality, a community  
20 water system, or a non-profit, lake or river watershed association.

21           (2) The applicant has demonstrated, to the satisfaction of the department, that low  
22 or no-cost solutions are neither viable nor effective.

23           (d) Award reimbursements to projects from the fund in a manner consistent with this  
24 chapter.

25           II. Every year beginning December 1, 2024, the department of environmental services shall  
26 prepare and file a report with the general court evaluating the progress made relative to mitigating  
27 cyanobacteria blooms, the efficiency of the program established under this chapter, and whether it  
28 continues to provide the maximum benefit to New Hampshire citizens, and providing any  
29 recommendations on potential additional tasks for which the fund could be used to address  
30 cyanobacteria blooms.

31           485-A:60 Rules. The department of environmental services shall adopt rules, under RSA 541-A,  
32 relative to administering cyanobacteria loan and grant programs for eligible projects.

33           485-A:61 Cyanobacteria Mitigation Loan and Grant Fund Established. There is hereby  
34 established in the department of environmental services the cyanobacteria mitigation loan and grant  
35 fund which shall be maintained by the state treasurer in distinct and separate custody from all other  
36 funds. The state treasurer may invest the fund in accordance with RSA 6:8. Any earnings on fund  
37 moneys shall be added to the fund. All moneys in the fund shall be nonlapsing and continually

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1 appropriated to the department of environmental services. The cyanobacteria mitigation loan and  
2 grant fund shall be used to fund loans, grants, and reimbursements in accordance with this  
3 subdivision. Funds from any bond proceeds, grants, loan repayments, legislative appropriations,  
4 donations, and other funds shall be credited to this fund.

5 3 New Subparagraph; Cyanobacteria Mitigation Loan and Grant Fund. Amend RSA 6:12, I(b)  
6 by inserting after subparagraph (387) the following new subparagraph:

7 (388) Moneys deposited in the cyanobacteria mitigation loan and grant fund  
8 established in RSA 485-A:61.

9 4 Capital Appropriation; Department of Environmental Services. The sum of \$25,000,000 is  
10 hereby appropriated to the department of environmental services for capital expenditures for the  
11 mitigation in the state's drinking water sources or recreational waters, which expenditures may  
12 include loans or grants to public or private entities on such terms and conditions as the department  
13 of environmental services shall determine. To provide funds for the appropriation made in this  
14 section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding  
15 the sum of \$25,000,000 and for said purpose may issue bonds and notes in the name of and on behalf  
16 of the state of New Hampshire in accordance with RSA 6-13-f. Notwithstanding the provisions of  
17 RSA 9:18, the appropriation made in this section shall not lapse.

18 5 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after  
19 section 13-e the following new section:

20 6:13-f Authority to Borrow; Certain Environmental Projects.

21 I. The state treasurer, as may be requested from time to time by the commissioner of the  
22 department of environmental services, is hereby authorized to borrow upon the credit of the state  
23 such sums as may be authorized by law from time to time to be borrowed under this section and may  
24 issue general obligation bonds in the name and on behalf of the state of New Hampshire for such  
25 authorized purposes and amounts in accordance with the provisions of RSA 6-A. The state treasurer  
26 is hereby further authorized to borrow all or any portion of amounts authorized to be borrowed  
27 under this section either as a loan from banks or other financial institutions, within or without the  
28 state, selected by the state treasurer or under the federal program established under the Water  
29 Infrastructure Finance and Innovation Act, 33 U.S.C. chapter 52, as amended, and to enter into  
30 agreements containing appropriate covenants and conditions as the state treasurer determines to be  
31 necessary or desirable to secure favorable credit terms from said banks or other financial institutions  
32 or under said program.

33 II. Notwithstanding the provisions of RSA 6-A:2, the maturity date of bonds issued pursuant  
34 to this section shall be not later than 30 years from the date of issue, as determined by the state  
35 treasurer; provided, that in determining the amount of bonds maturing later than 20 years from the  
36 date of issue, the state treasurer shall take into account the expected useful life of the projects being  
37 financed, as identified by the commissioner of the department of environmental services.

1           III. To the extent any borrowing under paragraph I cannot be immediately redeemed or  
2 prepaid when such funds are received by the state, the funds shall be held in a nonlapsing reserve to  
3 be established by the state treasurer for the future payment of the borrowing in accordance with its  
4 redemption or prepayment provisions.

5           6 Effective Date. This act shall take effect upon its passage.

**HB 276-FN-A- FISCAL NOTE**  
AS AMENDED BY THE HOUSE (AMENDMENT #2023-0418h)

AN ACT                    establishing the cyanobacteria mitigation loan and grant fund.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☒ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$25,000,000	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	Indeterminable Increase
<b>Expenditures</b>	\$0	In excess of \$812,500	In excess of \$1,905,575	In excess of \$1,904,140
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Cyanobacteria Mitigation Loan and Grant Fund			

**LOCAL:**

<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill establishes the cyanobacteria mitigation loan program and non lapsing Cyanobacteria Mitigation Loan and Grant Fund. The bill provides a capital appropriation of \$25,000,000 to the Department of Environmental Services for capital expenditures for mitigation in the state's drinking water sources or recreational waters, which may include loans to public or private entities. The State Treasurer is authorized to borrow upon the credit of the state not exceeding the sum of \$25,000,000 and may issue bonds and notes in the name of and on behalf of the state to be repaid from the general fund.

The Department of Environmental Services indicates projects funded will have completed watershed management or mitigation plans, which specify the sources of phosphorus loading and that are approved by the Department. Projects would be financed if they are shown to be the most cost-effective solution and no other no-cost or low-cost external phosphorus loading reductions are possible. Loan and grant funds would be available to municipalities, community water systems and non-profit lake and river watershed associations. Administration of the program would require development of administrative rules to define the specifics of the program, consideration of applications, and requirements for loan awards. Administrative costs

would begin to be incurred in FY 2024. The bill also requires preparation of an annual report by the Department on the progress of mitigating cyanobacteria blooms.

The Department is not able to determine specific fiscal impacts at this point as it is unknown how many requests for loans or grants would be submitted for consideration or the amount of such loans and grants. The Department assumes additionally staffing will be needed to implement the program required, but at this point, the total number cannot be determined. At a minimum, the Department estimates three additional staff positions would be required at a cost in the range of \$300,000 to \$400,000 range annually. However, at this time without additional details, total additional staffing needs and associated program costs cannot be made. Additional contracts to financial oversight institutions will likely be needed to review qualifications of loan applicants but these costs cannot be estimated in advance. The Department expects loan repayment revenue to the cyanobacteria mitigation fund would start in FY 2026 based on project proposals occurring in FY 2025.

The State Treasury indicates debt services expenditures in the Treasury's Budget would increase by \$812,500 in FY 2024, \$1,905,575 in FY 2025 and \$1,904,140 in FY 2026 and the total interest cost over the life of the bond (30 years) would be \$32.4 million. The maturity date of bonds issued shall not be later than 30 years from the date of issue, provided that in determining the amount of bonds maturing later than 20 years, the Treasurer would take into account the expected useful life of the projects being financed, as identified by the Commissioner of the Department of Environmental Services. Since bond proceeds would fund loans for third-party associations, taxable bonds would be issued with an assumed rate of 6.5%.

It is assumed that any fiscal impact would occur after FY 2023.

**AGENCIES CONTACTED:**

Department of Environmental Services and State Treasury