

HOUSE BILL 373

IN THE HOUSE

January 24, 1979	Introduced and referred to Committee on Natural Resources.
February 15, 1979	Intent statement attached.
	Committee recommend bill, as amended.
February 17, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed.

IN THE SENATE

February 22, 1979	Introdced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

House BILL NO. 373

INTRODUCED BY

Roth
Hauswitz

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE RENEWABLE RESOURCE DEVELOPMENT LOANS TO FARMERS AND RANCHERS IN THE SAME MANNER THAT SUCH LOANS ARE PROVIDED TO STATE AND LOCAL GOVERNMENTAL ENTITIES; AMENDING SECTIONS 90-2-107 THROUGH 90-2-110, MCA; AND REPEALING SECTIONS 90-2-105 AND 90-2-106, MCA."

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

Section 1. Section 90-2-107, MCA, is amended to read:

"90-2-107. ~~State--and--local--renewable~~ Renewable resource development loans. (1) The department of natural resources and conservation may recommend to the governor that loans be made from the renewable resource development account established by this part to any department, agency, board, commission, or other division of state government, or to any city, county, or other political subdivision or local government body of the state, ~~or to any farmer or rancher who meets the requirements of subsection (2).~~

~~(2) Loans may be issued under the provisions of this part to farmers and ranchers of the state who, without regard to their form of business organization:~~

~~(a) are citizens of the United States and are citizens~~

1 and residents of this state;

2 ~~(b) have farming or ranching training and experience~~
3 ~~which, in the opinion of the department and the legislature,~~
4 ~~is sufficient to assure the likelihood of the success of the~~
5 ~~proposed operations; and~~

6 ~~(c) are or will become owner-operators of farms or~~
7 ~~ranches.~~

8 ~~¶¶¶¶¶~~ The department shall solicit and consider in
9 its evaluation of proposed projects the views of interested
10 and affected departments, boards, agencies, and other
11 subdivisions of state and federal government and of other
12 interested and affected persons.

13 ~~¶¶¶¶¶~~ The governor shall submit those loan proposals
14 having his approval to the legislature by the 20th day of
15 any legislative session. Those loan proposals approved by
16 the legislature shall be administered by the department.

17 ~~¶¶¶¶¶~~ The provisions of 90-2-104, 90-2-108, 90-2-109,
18 and 90-2-128 shall govern and apply to the local renewable
19 resource loans herein provided for.

20 ~~¶¶¶¶¶~~ Both the loans provided for by this section and
21 the grants provided for by 90-2-111 may be submitted to the
22 governor and approved by the legislature as may be necessary
23 to jointly finance any project."

24 Section 2. Section 90-2-108, MCA, is amended to read:
25 "90-2-108. Terms of loans. (1) The board of natural

1 resources--and--conservation--shall--make department may
 2 recommend no renewable resource development loan which
 3 exceeds the lesser of \$100,000 or 80% of the fair market
 4 value of the security given therefor. In determining the
 5 fair market value for the security given for any loan, the
 6 department of natural resources and conservation shall
 7 consider appraisals made by qualified appraisers and such
 8 other factors it considers important.

9 (2) The period for repayment of loans pursuant to this
 10 part may not exceed 30 years.

11 (3) The board department shall from time to time
 12 establish by rule the interest rate at which loans may be
 13 made under this part, provided that in no case may the rate
 14 be greater than one percentage point greater than the
 15 prevailing interest rate on the renewable resource
 16 development bonds provided for in this part.

17 (4) The board department may adopt rules as required
 18 to govern the terms and conditions for making recommending
 19 loans, security instruments, and agreements pursuant to this
 20 part."

21 Section 3. Section 90-2-109, MCA, is amended to read:
 22 "90-2-109. Effect of loan -- lien. The state shall
 23 have a lien upon a project constructed with money from the
 24 renewable resource development account for the amount of the
 25 loan, together with the interest thereon. This lien may

1 attach to all project facilities, equipment, easements, real
 2 property, and property of any kind or nature owned by the
 3 debtor, including all water rights. The board department
 4 shall file either a financing statement or a real estate
 5 mortgage covering the loan, its amount, terms, and a
 6 description of the project with the county recorder of each
 7 county in which the project or any part thereof is located.
 8 The county recorder shall record the lien in a book kept for
 9 the recording of liens and it shall be indexed as other
 10 liens are required by law to be indexed. The lien shall be
 11 valid until paid in full or otherwise discharged. The lien
 12 shall be foreclosed in accordance with applicable state law
 13 governing foreclosure of mortgages and liens."

14 Section 4. Section 90-2-110, MCA, is amended to read:
 15 "90-2-110. Administration of loans. The department of
 16 natural resources and conservation shall administer the
 17 loans made by the board legislature pursuant to this part
 18 and may accept and utilize voluntary and uncompensated
 19 services and, with the consent of the agency concerned,
 20 utilize the officers, employees, equipment, and information
 21 of any agency of the federal government or of any agency of
 22 Montana government or of any political subdivision within
 23 Montana."

24 Section 5. Repealer. Sections 90-2-105 and 90-2-106,
 25 MCA, are repealed.

STATE OF MONTANA

REQUEST NO. 178-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 1979, there is hereby submitted a Fiscal Note for House BILL 373 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House BILL 373 provides Renewable Resource Development Loans to farmers and ranchers in the same manner that such loans are provided to state and local governments.

ASSUMPTIONS:

No funds in addition to the Governor's Proposed Budget are needed to carry out the proposed legislation. However, authorization for two additional FTE's would be required.

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY81</u>
Personal Services	\$ 55,675	\$ 59,012
Operations	<u>72,325</u>	<u>72,988</u>
	<u>\$ 128,000</u>	<u>\$132,000</u>

LOCAL IMPACT:

None

Richard L. Daugler
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/1/79

STATEMENT OF INTENT RE: HB 373

4 Petaverse HB 373 directs the Department of Natural
5 Resources and Conservation to adopt rules establishing the
6 criteria under which renewable resources development loans
7 to farmers and ranchers will be issued by the Board of
8 Natural Resources and Conservation, the House Committee on
9 Natural Resources issues this statement of intent for the
10 purposes of clarifying that authority.

HB 373, as introduced, would have provided for the issuance of loans to farmers and ranchers in the same manner as are renewable resource development loans, that is by recommendation of the governor and approval by the legislature. This committee does not consider the issuance of loans to private persons by the legislature to be proper and instead has amended the bill to provide for loans to be issued by the board under criteria adopted by rules by the department.

20 The Montana Supreme Court, in Karen M. Douglas v. State
21 Thomas L. Judge, et. al., 34 State Reporter 975, struck down
22 sections 90-2-105 and 90-2-106, MCA, as being
23 unconstitutional grants of legislative authority to the
24 board without sufficient guidelines as to the delineation of
25 projects eligible. HB 373 repeals those sections and

1 corrects the deficiencies enumerated by the court by:
2 1. restricting and clearly defining waterworks
3 projects eligible in subsection (3) of 90-2-107, MCA;
4 2. directing the department to further establish by
5 rule the parameters, based on these guidelines, which define
6 a project eligible for the loans to farmers and ranchers;
7 and
8 3. directing the department to develop strict criteria
9 for the issuance of loans by the board.

10 The legislature does not have the desire nor is it
11 fitting, to inquire into the private affairs of individual
12 farmers and ranchers. This duty lies with the board under
13 rule adopted by the department. It is the intent of the
14 legislature to overcome the unconstitutionality of the
15 original renewable resource development program by the
16 provisions of this bill.

17 First adopted by the HOUSE COMMITTEE ON NATURAL
18 RESOURCES on February 15, 1979.

100 313

Approved by Committee
on Natural Resources

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

12 Section 1. Section 90-2-107, MCA, is amended to read:

13 "90-2-107. State---end---local---renewable Renewable

14 resource development loans. (1) The department of natural

15 resources and conservation may recommend to the governor

16 that loans be made from the renewable resource development

17 account established by this part to any department, agency,

18 board, commission, or other division of state government, or

19 to any city, county, or other political subdivision or local

20 government body of the state ~~or to any farmer or rancher~~

21 who meets the requirements of subsection (2).

22 121. loans may be issued BY THE BOARD under the
23 provisions of this part to farmers and ranchers of the state
24 who without regard to their form of business organization:
25 (a) are citizens of the United States and are citizens

1 and residents of this state;
2
3 1b1 have farming or ranching training and experience
4 which, in the opinion of the department and the legislature,
5 is sufficient to assure the likelihood of the success of the
6 proposed operations; and
7
8 1c1 are or will become owner-operators OWNERS OR
9 OPERATORS of farms or ranches.
10
11 131 LOANS ISSUED BY THE BOARD TO ANY FARMER OR RANCHER
12 UNDER SUBSECTION 121 MUST BE FOR THE DEVELOPMENT,
13 CONSTRUCTION, OR OPERATION OF WATERWORKS SYSTEMS FOR THE
14 CONSERVATION, DEVELOPMENT, STORAGE, DISTRIBUTION, AND
15 UTILIZATION OF WATER.
16
17 121 The department shall solicit and consider in
18 its evaluation of proposed projects the views of interested
19 and affected departments, boards, agencies, and other
20 subdivisions of state and federal government and of other
21 interested and affected persons.
22
23 131 The governor shall submit those loan
24 proposals having his approval to the legislature by the 20th
25 day of any legislative session. Those loan proposals
1 approved by the legislature shall be administered by the
2 department.
3
4 141 The provisions of 90-2-104, 90-2-108,
5 90-2-109, and 90-2-128 shall govern and apply to the local
6 renewable resource loans herein provided for.

1 ~~55163171~~ Both the loans provided for by this section
 2 and the grants provided for by 90-2-111 may be submitted to
 3 the governor and approved by the legislature as may be
 4 necessary to jointly finance any project."

5 Section 2. Section 90-2-108, MCA, is amended to read:
 6 "90-2-108. Terms of loans. (1) The ~~board-of-natural~~
 7 ~~resources--and--conservation--shall--make department--may~~
 8 ~~recommend BOARD SHALL MAKE~~ no renewable resource development
 9 loan which exceeds the lesser of \$100,000 or 80% of the fair
 10 market value of the security given therefor. In determining
 11 the fair market value for the security given for any loan,
 12 the department of natural resources and conservation shall
 13 consider appraisals made by qualified appraisers and such
 14 other factors it considers important.

15 (2) The period for repayment of loans pursuant to this
 16 part may not exceed 30 years.

17 (3) The board ~~department~~ shall from time to time
 18 establish by rule the interest rate at which ~~AND CRITERIA~~
 19 ~~FOR~~ loans may be made under this part, provided that in no
 20 case may the rate be greater than one percentage point
 21 greater than the prevailing interest rate on the renewable
 22 resource development bonds provided for in this part.

23 (4) The board ~~department~~ may adopt rules as required
 24 to govern the terms and conditions for making ~~recommending~~
 25 ~~MAKING~~ loans, security instruments, and agreements pursuant

1 to this part."

2 Section 3. Section 90-2-109, MCA, is amended to read:
 3 "90-2-109. Effect of loan -- lien. The state shall
 4 have a lien upon a project constructed with money from the
 5 renewable resource development account for the amount of the
 6 loan, together with the interest thereon. This lien may
 7 attach to all project facilities, equipment, easements, real
 8 property, and property of any kind or nature owned by the
 9 debtor, including all water rights. The board ~~department~~
 10 shall file either a financing statement or a real estate
 11 mortgage covering the loan, its amount, terms, and a
 12 description of the project with the county recorder of each
 13 county in which the project or any part thereof is located.
 14 The county recorder shall record the lien in a book kept for
 15 the recording of liens and it shall be indexed as other
 16 liens are required by law to be indexed. The lien shall be
 17 valid until paid in full or otherwise discharged. The lien
 18 shall be foreclosed in accordance with applicable state law
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20 Section 4. Section 90-2-110, MCA, is amended to read:
 21 "90-2-110. Administration of loans. The department of
 22 natural resources and conservation shall administer the
 23 loans made by the board ~~BOARD AND legislature~~ pursuant to
 24 this part and may accept and utilize voluntary and
 25 uncompensated services and, with the consent of the agency

1 concerned, utilize the officers, employees, equipment, and
2 information of any agency of the federal government or of
3 any agency of Montana government or of any political
4 subdivision within Montana.*

5 Section 5. Repealer. Sections 90-2-105 and 90-2-106,
6 MCA, are repealed.

-End-

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INTRODUCED BY ROTH, HURWITZ

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5 RESOURCE DEVELOPMENT LOANS TO FARMERS AND RANCHERS IN THE
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