

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	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

1 House BILL NO. 373
 2 INTRODUCED BY Roth
 3 Herwitz
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE RENEWABLE
 5 RESOURCE DEVELOPMENT LOANS TO FARMERS AND RANCHERS IN THE
 6 SAME MANNER THAT SUCH LOANS ARE PROVIDED TO STATE AND LOCAL
 7 GOVERNMENTAL ENTITIES; AMENDING SECTIONS 90-2-107 THROUGH
 8 90-2-110, MCA; AND REPEALING SECTIONS 90-2-105 AND 90-2-106,
 9 MCA."
 10
 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---and---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 (2) Loans may be issued under the provisions of this
 23 part to farmers and ranchers of the state who, without
 24 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 (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 ~~(2)(3)~~ 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 ~~(3)(4)~~ 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 ~~(4)(5)~~ 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 ~~(5)(6)~~ 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~~

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

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

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

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

Section 3. Section 90-2-109, MCA, is amended to read:

"90-2-109. Effect of loan -- lien. The state shall
have a lien upon a project constructed with money from the
renewable resource development account for the amount of the
loan, together with the interest thereon. This lien may

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

Section 4. Section 90-2-110, MCA, is amended to read:

"90-2-110. Administration of loans. The department of
natural resources and conservation shall administer the
loans made by the ~~board~~ legislature pursuant to this part
and may accept and utilize voluntary and uncompensated
services and, with the consent of the agency concerned,
utilize the officers, employees, equipment, and information
of any agency of the federal government or of any agency of
Montana government or of any political subdivision within
Montana."

Section 5. Repealer. Sections 90-2-105 and 90-2-106,
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. Drang
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/2/79

STATEMENT OF INTENT RE: HB 373

Because HB 373 directs the Department of Natural Resources and Conservation to adopt rules establishing the criteria under which renewable resources development loans to farmers and ranchers will be issued by the Board of Natural Resources and Conservation, the House Committee on Natural Resources issues this statement of intent for the 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.

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

corrects the deficiencies enumerated by the court by:

1. restricting and clearly defining waterworks projects eligible in subsection (3) of 90-2-107, MCA;

2. directing the department to further establish by rule the parameters, based on these guidelines, which define a project eligible for the loans to farmers and ranchers; and

3. directing the department to develop strict criteria for the issuance of loans by the board.

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

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

Approved by Committee
on Natural Resources

HOUSE BILL NO. 373

INTRODUCED BY ROTH, HURWITZ

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 FOR WATERWORKS SYSTEMS; 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 BY THE BOARD 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~~

~~and residents of this state;~~

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

~~(c) are or will become owner-operators OWNERS OR OPERATORS of farms or ranches.~~

~~(3) LOANS ISSUED BY THE BOARD TO ANY FARMER OR RANCHER UNDER SUBSECTION (2) MUST BE FOR THE DEVELOPMENT, CONSTRUCTION, OR OPERATION OF WATERWORKS SYSTEMS FOR THE CONSERVATION, DEVELOPMENT, STORAGE, DISTRIBUTION, AND UTILIZATION OF WATER.~~

~~(4) (3) (4)~~ The department shall solicit and consider in its evaluation of proposed projects the views of interested and affected departments, boards, agencies, and other subdivisions of state and federal government and of other interested and affected persons.

~~(5) (4) (5)~~ The governor shall submit those loan proposals having his approval to the legislature by the 20th day of any legislative session. Those loan proposals approved by the legislature shall be administered by the department.

~~(6) (5) (6)~~ The provisions of 90-2-104, 90-2-108, 90-2-109, and 90-2-128 shall govern and apply to the local renewable resource loans herein provided for.

~~(5)(6)(7)~~ Both the loans provided for by this section and the grants provided for by 90-2-111 may be submitted to the governor and approved by the legislature as may be necessary to jointly finance any project."

Section 2. Section 90-2-108, MCA, is amended to read:

"90-2-108. Terms of loans. (1) ~~The board of natural resources--and--conservation--shall--make~~ ~~department--may~~ ~~recommend~~ **BOARD SHALL MAKE** no renewable resource development loan which exceeds the lesser of \$100,000 or 80% of the fair market value of the security given therefor. In determining the fair market value for the security given for any loan, the department of natural resources and conservation shall consider appraisals made by qualified appraisers and such other factors it considers important.

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

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

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

to this part."

Section 3. Section 90-2-109, MCA, is amended to read:

"90-2-109. Effect of loan -- lien. The state shall have a lien upon a project constructed with money from the renewable resource development account for the amount of the loan, together with the interest thereon. This lien may attach to all project facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The ~~board~~ ~~department~~ shall file either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the project with the county recorder of each county in which the project or any part thereof is located. The county recorder shall record the lien in a book kept for the recording of liens and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens."

Section 4. Section 90-2-110, MCA, is amended to read:

"90-2-110. Administration of loans. The department of natural resources and conservation shall administer the loans made by the ~~board~~ **BOARD AND legislature** pursuant to this part and may accept and utilize voluntary and 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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~~(4) The department shall solicit and consider in its evaluation of proposed projects the views of interested and affected departments, boards, agencies, and other subdivisions of state and federal government and of other interested and affected persons.~~

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3 any agency of Montana government or of any political
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