

SENATE BILL NO. 208
INTRODUCED BY TOWE, NEUMAN

IN THE SENATE

January 24, 1985	Introduced and referred to Committee on Business and Industry.
January 25, 1985	Fiscal Note requested.
January 31, 1985	Fiscal Note returned.
March 14, 1985	Committee recommend bill do pass as amended. Statement of Intent attached.
March 15, 1985	Bill printed and placed on members' desks.
March 16, 1985	Second reading, do pass as amended.
March 18, 1985	Correctly engrossed.
March 19, 1985	Third reading, passed. Ayes, 40; Noes, 10. Transmitted to House.

IN THE HOUSE

March 20, 1985	Introduced and referred to Committee on Business and Labor.
March 28, 1985	Committee recommend bill be concurrent in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

April 2, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 208
 2 INTRODUCED BY Sen. Neuman

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LOAN
 5 GUARANTY AUTHORITY TO THE AGRICULTURAL LOAN AUTHORITY;
 6 CREATING AN AGRICULTURAL LOAN GUARANTY FUND; AMENDING
 7 SECTION 80-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

10 Section 1. Section 80-12-103, MCA, is amended to read:

11 "80-12-103. Agricultural loan authority -- general
 12 powers. The authority may:

- 13 (1) retain professional consultants and advisers;
- 14 (2) adopt rules governing its procedures;
- 15 (3) purchase agricultural loans made by financial
 16 institutions;
- 17 (4) issue bonds, in accordance with 80-12-301,
 18 necessary to provide funds for implementing this chapter;
- 19 (5) invest any funds generated by sale of bonds in the
 20 permissible investments outlined in 17-6-211 until such time
 21 as the funds are needed for any of the authority's other
 22 functions; and
- 23 (6) procure insurance or guaranties in amounts and in
 24 the form the authority considers desirable or necessary,
 25 from any party, including a governmental agency, against any

1 loss in connection with its loan agreements; and
 2 ~~(6)~~(7) use the assistance and services of the farmers
 3 home administration, the production credit association, the
 4 federal land bank, or private lenders in approving loans for
 5 issuance of bonds."

6 NEW SECTION. Section 2. Loan guaranty program.

7 (1) The authority may guarantee and make commitments to
 8 guarantee payment required by a loan funded under this
 9 chapter upon such terms and conditions as the authority may
 10 prescribe in accordance with this chapter. In administering
 11 the guaranty program, the authority may require the payment
 12 of a fee or premium, establish application fees, and
 13 prescribe application, notification, contract and guaranty
 14 forms, rules, and guidelines.

15 (2) Guaranties by the authority under this chapter
 16 must:

- 17 (a) be made for a loan that the authority finds meets
 18 the policies and objectives of this chapter;
- 19 (b) be made to an applicant for a guaranty approved by
 20 the authority;
- 21 (c) contain amortization provisions satisfactory to
 22 the authority; and
- 23 (d) be in such principal amount, be in such form, and
 24 contain such terms and provisions with respect to payment of
 25 property insurance, repairs, alterations, taxes,

1 assessments, delinquency charges, and default remedies as
2 the authority determines to be necessary.

3 (3) The authority is authorized from time to time to
4 enter into guaranties, insurance contracts, or any other
5 agreements or contracts with respect to the agricultural
6 loan guaranty fund and any guaranteed loan or other credit
7 agreement. Such an agreement or contract may contain terms
8 and provisions necessary or desirable in connection with the
9 guaranty program, subject to the requirements established,
10 including without limitation terms and provisions relating
11 to loan documentation, review, approval procedures,
12 origination and servicing rights and responsibilities,
13 default obligations, procedures and obligations, and
14 obligations with respect to guaranty contracts made under
15 this chapter.

16 (4) Any contract of guaranty made by the authority
17 under the authorization of this chapter must provide that
18 claims payable thereunder must be paid from amounts
19 available in the agricultural loan guaranty fund and from
20 amounts available under the terms of any applicable contract
21 or agreement with the financial institution that originated
22 the guaranteed loan. The obligation of the authority to make
23 payments under such a contract is limited solely to such
24 sources and does not constitute a debt or liability of the
25 state. A guaranty contract and any rule or guideline of the

1 authority implementing the guaranty program may contain such
2 other terms, provisions, or conditions as the authority
3 considers necessary or appropriate, including without
4 limitation those relating to the payment of guaranty
5 premiums, the giving of notice, claim procedure, the sources
6 of payment for claims, the priority of competing claims for
7 payment, the release or termination of loan security and
8 borrower liability, the timing of payment, the maintenance
9 and disposition of projects and the use of amounts received
10 during periods of loan delinquency or upon default, and any
11 other provision concerning the rights of insured parties or
12 conditions to the payment of guaranty claims. Any premiums
13 for the guarantee of loan payments under the provisions of
14 this chapter may be determined on such basis and be payable
15 by such person in such amounts and at such times as the
16 authority determines, and the amount of the premium need not
17 be uniform among the various loans, leases, or other credit
18 agreements guaranteed.

19 NEW SECTION. Section 3. Agricultural loan guaranty
20 fund. (1) The authority shall create an agricultural loan
21 guaranty fund. The fund must be held by a trustee or other
22 fiduciary designated by the authority. There must be
23 deposited into the fund amounts, insurance fees, premiums,
24 and such other revenues and assets as the authority
25 considers necessary to comply with any contract or agreement

1 entered into by the authority under this chapter. The
 2 authority may borrow from and deposit in the agricultural
 3 loan guaranty fund up to \$20,000,000 from any available
 4 state fund, including funds of the Montana board of housing.

5 (2) The amounts in the fund must be used to satisfy
 6 any claim resulting from a defaulted loan or other credit
 7 agreement. The amounts in the fund may also be used for any
 8 other purpose prescribed by the authority in accordance with
 9 guaranty contracts with financial institutions entered into
 10 pursuant to this chapter, including without limitation the
 11 protection of the interest of the authority in loans during
 12 periods of delinquency or upon default.

13 (3) The minimum reserve requirement for the
 14 agricultural loan guaranty fund must be such amount as may
 15 be provided in an agreement, resolution, or indenture with
 16 the holders of bonds issued under this chapter, but not in
 17 excess of the aggregate annual payments due under the loans
 18 or other credit agreements guaranteed by the authority. No
 19 loan or other credit agreement may be guaranteed by the
 20 authority if the amount of money available in the
 21 agricultural loan guaranty fund would be less than the
 22 minimum reserve requirement.

23 (4) In order to assure the maintenance of the
 24 agricultural loan guaranty fund, the authority shall, on or
 25 before September 1 in each year preceding the convening of

1 the legislature, deliver to the governor a certificate
 2 stating the sum, if any, required to restore the
 3 agricultural loan guaranty fund to the minimum reserve
 4 requirement. The governor shall include in the executive
 5 budget submitted to the legislature the sum required to
 6 restore the agricultural loan guaranty fund to the minimum
 7 reserve requirement.

8 (5) All amounts remitted to the authority under this
 9 section constitute loans to the authority and must be repaid
 10 to the state treasury without interest from available
 11 operating revenues of the authority in excess of amounts
 12 required for the guarantee of loans.

13 NEW SECTION. Section 4. Codification instruction.
 14 Sections 2 and 3 are intended to be codified as an integral
 15 part of Title 80, chapter 12, and the provisions of Title
 16 80, chapter 12, apply to sections 2 and 3.

17 NEW SECTION. Section 5. Effective date. This act is
 18 effective July 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 236-85

Form BD-15

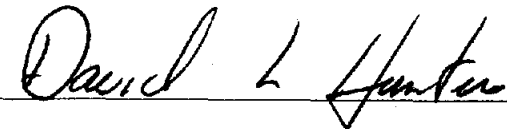
In compliance with a written request received January 25, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 208 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 208 is an Act to provide Loan Guaranty Authority to Agricultural Loan Authority; to create an Agricultural Loan Guaranty Fund and Amend Section 80-12-103, MCA.

ASSUMPTIONS:

1. Assume up to 2% insurance guarantee fee on \$20,000,000.
2. Average 100 - \$100,000 loans annually beginning January, 1986.
3. Interest on investments based on current security rates (average 11% on \$15,000,000).
4. General Fund Loan of \$75,000 in FY 86 for startup costs.
5. Issuance rate on bonds approximately 12%.
6. Bond sale \$10,000,000 annually.
7. Average 20 year repayment schedule.
8. Act effective July 1, 1985.
9. Underwriter fee \$200,000 annually.
10. Mechanics of bond issue and sales operation contracted out.
11. Use interest to offset costs.
12. Use origination fee to offset costs.
13. Bond repayment start in FY 87.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 31, 1985

SB208

FISCAL IMPACT:

	<u>FY 86</u>	<u>Fy 87</u>
Revenue to Proprietary Fund		
Origination Fee	\$ 75,000	\$ 180,000
Interest	<u>700,000</u>	<u>1,500,000</u>
	\$ <u>775,000</u>	\$ <u>1,680,000</u>
Expenditures:		
Operation	128,415	122,665
Indirect	7,500	7,500
GF Payback	-0-	75,000
Bond Repayment	<u>-0-</u>	<u>1,325,000</u>
	\$ <u>135,915</u>	\$ <u>1,530,165</u>

AFFECT ON COUNTY OR OTHER LOCAL REVENUE:

None

LONG RANGE EFFECTS:

The bill proposes to establish a long term agricultural loan program. The bill will commit state funds to cover any deficits in the minimum reserve requirement and mandates the Governor to include funds in the Executive Budget to fund any deficit.

TECHNICAL NOTES:

None.

APPROVED BY COMM. OF
BUSINESS & INDUSTRY

1 STATEMENT OF INTENT

2 SENATE BILL 208

3 Senate Business & Industry Committee

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5 Section 1. A statement of intent is required for this
6 bill because it delegates authority to the agricultural loan
7 authority to adopt rules concerning loan guaranties. The
8 legislature intends that in adopting rules the authority
9 look to existing rules established by the Montana economic
10 development board, on which the authority contained in this
11 bill is patterned.

12 Section 2. It is the intent of the legislature that
13 the agricultural loan authority prepare rules to establish
14 the loan guaranty program authorized in Senate Bill 208 by
15 addressing and providing for the following terms and
16 conditions:

17 (1) Banks and other financial institutions should be
18 required to participate in any guaranty program. It is
19 suggested that the normal participation would be a minimum
20 of 20% by the bank or other financial institution and 80%
21 affected by the state guaranty authorized under Senate Bill
22 208.

23 (2) A program for guaranteeing existing operating
24 loans made by existing banks and other financial
25 institutions should be considered, provided all other

1 conditions are met, including: (a) an equity in real estate
2 or other comparable property is obtained; (b) the guaranty
3 does not extend beyond 10 years; and (c) the bank or other
4 financial institution agrees to reduce the interest rate to
5 at least no higher than the rate on federal obligations for
6 comparable maturities.

7 (3) Any loan guaranteed under the provisions of Senate
8 Bill 208 should be supported by a mortgage on real estate or
9 a lien on other comparable property.

10 (4) An appraisal by a qualified appraiser should be
11 required. The loan or guaranty secured by mortgage on real
12 estate or other comparable property should not exceed, when
13 taken in conjunction with any prior mortgages or obligations
14 on the real estate, 65% of the appraised value of the
15 property pledged as security.

16 (5) Before any loan can be guaranteed pursuant to
17 Senate Bill 208, the applicant should provide the
18 agricultural loan authority with sufficient information to
19 show that he can reasonably expect a positive cash flow from
20 the normal operation of the agriculture enterprise. The
21 agricultural loan authority may require a surplus cash flow
22 by rules properly adopted.

23 (6) The agricultural loan authority should not
24 guarantee loans that exist for more than 10 years.

25 (7) The guaranties provided in Senate Bill 208 should

1 be targeted primarily for existing farmers and ranchers who
2 own agricultural land on which their farming and ranching is
3 located and whose total debt from that agricultural
4 operation equals between 40% and 60% of their total farm and
5 ranch assets.

6 (8) The department of agriculture and the agricultural
7 loan authority should retain persons with sufficient
8 experience in agricultural credit to adequately review all
9 applications made for guaranty under Senate Bill 208. They
10 shall take such time in implementing this program as may be
11 necessary to guarantee that it will operate smoothly and
12 properly without undue exposure or risk of loss. Experienced
13 lenders who know and understand the Montana agricultural
14 situation are absolutely critical to the success of this
15 program.

16 (9) The bank or financial institution that originated
17 the guaranteed loan must initiate the appropriate action to
18 liquidate the property pledged as security. The costs of
19 liquidation should be shared pro rata at the same rate as
20 participation in the guaranty program.

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 21 effective July-17-1985 ON PASSAGE AND APPROVAL.

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2 SENATE BILL 208

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 8 budget submitted to the legislature the sum required to
 9 restore the agricultural loan guaranty fund to the minimum
 10 reserve requirement. NOTHING CONTAINED HEREIN SHALL
 11 OBLIGATE THE LEGISLATURE TO MAKE AN APPROPRIATION FOR THIS
 12 PURPOSE.

13 (5) All amounts remitted to the authority under this
 14 section constitute loans to the authority and must be repaid
 15 to the state treasury without interest from available
 16 operating revenues of the authority in excess of amounts
 17 required for the guarantee of loans.

18 NEW SECTION. Section 4. Codification instruction.
 19 Sections 2 and 3 are intended to be codified as an integral
 20 part of Title 80, chapter 12, and the provisions of Title
 21 80, chapter 12, apply to sections 2 and 3.

22 NEW SECTION. Section 5. Effective date. This act is
 23 effective ~~July 1, 1985~~ ON PASSAGE AND APPROVAL.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 208

3 Senate Business & Industry Committee
4

5 Section 1. A statement of intent is required for this
6 bill because it delegates authority to the agricultural loan
7 authority to adopt rules concerning loan guaranties. The
8 legislature intends that in adopting rules the authority
9 look to existing rules established by the Montana economic
10 development board, on which the authority contained in this
11 bill is patterned.

12 Section 2. It is the intent of the legislature that
13 the agricultural loan authority prepare rules to establish
14 the loan guaranty program authorized in Senate Bill 208 by
15 addressing and providing for the following terms and
16 conditions:

17 (1) Banks and other financial institutions should be
18 required to participate in any guaranty program. It is
19 suggested that the normal participation would be a minimum
20 of 20% by the bank or other financial institution and 80%
21 affected by the state guaranty authorized under Senate Bill
22 208.

23 (2) A program for guaranteeing existing operating
24 loans made by existing banks and other financial
25 institutions should be considered, provided all other

1 conditions are met, including: (a) an equity in real estate
2 or other comparable property is obtained; (b) the guaranty
3 does not extend beyond 10 years; and (c) the bank or other
4 financial institution agrees to reduce the interest rate to
5 at least no higher than the rate on federal obligations for
6 comparable maturities.

7 (3) Any loan guaranteed under the provisions of Senate
8 Bill 208 should be supported by a mortgage on real estate or
9 a lien on other comparable property.

10 (4) An appraisal by a qualified appraiser should be
11 required. The loan or guaranty secured by mortgage on real
12 estate or other comparable property should not exceed, when
13 taken in conjunction with any prior mortgages or obligations
14 on the real estate, 65% of the appraised value of the
15 property pledged as security.

16 (5) Before any loan can be guaranteed pursuant to
17 Senate Bill 208, the applicant should provide the
18 agricultural loan authority with sufficient information to
19 show that he can reasonably expect a positive cash flow from
20 the normal operation of the agriculture enterprise. The
21 agricultural loan authority may require a surplus cash flow
22 by rules properly adopted.

23 (6) The agricultural loan authority should not
24 guarantee loans that exist for more than 10 years.

25 (7) The guaranties provided in Senate Bill 208 should

1 be targeted primarily for existing farmers and ranchers who
2 own agricultural land on which their farming and ranching is
3 located and whose total debt from that agricultural
4 operation equals between 40% and 60% of their total farm and
5 ranch assets.

6 (8) The department of agriculture and the agricultural
7 loan authority should retain persons with sufficient
8 experience in agricultural credit to adequately review all
9 applications made for guaranty under Senate Bill 208. They
10 shall take such time in implementing this program as may be
11 necessary to guarantee that it will operate smoothly and
12 properly without undue exposure or risk of loss. Experienced
13 lenders who know and understand the Montana agricultural
14 situation are absolutely critical to the success of this
15 program.

16 (9) The bank or financial institution that originated
17 the guaranteed loan must initiate the appropriate action to
18 liquidate the property pledged as security. The costs of
19 liquidation should be shared pro rata at the same rate as
20 participation in the guaranty program.

1 SENATE BILL NO. 208

2 INTRODUCED BY TOWE, NEUMAN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LOAN
 5 GUARANTY AUTHORITY TO THE AGRICULTURAL LOAN AUTHORITY;
 6 CREATING AN AGRICULTURAL LOAN GUARANTY FUND; AMENDING
 7 SECTION 80-12-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 8 DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 80-12-103, MCA, is amended to read:

12 "80-12-103. Agricultural loan authority -- general
 13 powers. The authority may:

- 14 (1) retain professional consultants and advisers;
 15 (2) adopt rules governing its procedures;
 16 (3) purchase agricultural loans made by financial
 17 institutions;
 18 (4) issue bonds, in accordance with 80-12-301,
 19 necessary to provide funds for implementing this chapter;
 20 (5) invest any funds generated by sale of bonds in the
 21 permissible investments outlined in 17-6-211 until such time
 22 as the funds are needed for any of the authority's other
 23 functions; and
 24 (6) procure insurance or guaranties in amounts and in
 25 the form the authority considers desirable or necessary,

1 from any party, including a governmental agency, against any
 2 loss in connection with its loan agreements; and

3 ~~(6)(7)~~ use the assistance and services of the farmers
 4 home administration, the production credit association, the
 5 federal land bank, or private lenders in approving loans for
 6 issuance of bonds."

7 NEW SECTION. Section 2. Loan guaranty program.

8 (1) The authority may guarantee and make commitments to
 9 guarantee payment required by a loan funded under this
 10 chapter OR ANY OTHER AGRICULTURAL LOAN FOR WHICH A GUARANTY
 11 HAS BEEN APPROVED BY THE AUTHORITY upon such terms and
 12 conditions as the authority may prescribe in accordance with
 13 this chapter. In administering the guaranty program, the
 14 authority may require the payment of a fee or premium,
 15 establish application fees, and prescribe application,
 16 notification, contract and guaranty forms, rules, and
 17 guidelines.

18 (2) Guaranties by the authority under this chapter
 19 must:

- 20 (a) be made for a loan that the authority finds meets
 21 the policies and objectives of this chapter;
 22 (b) be made to an applicant for a guaranty approved by
 23 the authority;
 24 (c) contain amortization provisions satisfactory to
 25 the authority; and

1 (d) be in such principal amount, be in such form, and
 2 contain such terms and provisions with respect to payment of
 3 property insurance, repairs, alterations, taxes,
 4 assessments, delinquency charges, and default remedies as
 5 the authority determines to be necessary.

6 (3) The authority is authorized from time to time to
 7 enter into guaranties, insurance contracts, or any other
 8 agreements or contracts with respect to the agricultural
 9 loan guaranty fund and any guaranteed loan or other credit
 10 agreement. Such an agreement or contract may contain terms
 11 and provisions necessary or desirable in connection with the
 12 guaranty program, subject to the requirements established,
 13 including without limitation terms and provisions relating
 14 to loan documentation, review, approval procedures,
 15 origination and servicing rights and responsibilities,
 16 default obligations, procedures and obligations, and
 17 obligations with respect to guaranty contracts made under
 18 this chapter.

19 (4) Any contract of guaranty made by the authority
 20 under the authorization of this chapter must provide that
 21 claims payable thereunder must be paid from amounts
 22 available in the agricultural loan guaranty fund and from
 23 amounts available under the terms of any applicable contract
 24 or agreement with the financial institution that originated
 25 the guaranteed loan. The obligation of the authority to make

1 payments under such a contract is limited solely to such
 2 sources and does not constitute a debt or liability of the
 3 state. A guaranty contract and any rule or guideline of the
 4 authority implementing the guaranty program may contain such
 5 other terms, provisions, or conditions as the authority
 6 considers necessary or appropriate, including without
 7 limitation those relating to the payment of guaranty
 8 premiums, the giving of notice, claim procedure, the sources
 9 of payment for claims, the priority of competing claims for
 10 payment, the release or termination of loan security and
 11 borrower liability, the timing of payment, the maintenance
 12 and disposition of projects and the use of amounts received
 13 during periods of loan delinquency or upon default, and any
 14 other provision concerning the rights of insured parties or
 15 conditions to the payment of guaranty claims. Any premiums
 16 for the guarantee of loan payments under the provisions of
 17 this chapter may be determined on such basis and be payable
 18 by such person in such amounts and at such times as the
 19 authority determines, and the amount of the premium need not
 20 be uniform among the various loans, leases, or other credit
 21 agreements guaranteed.

22 NEW SECTION. Section 3. Agricultural loan guaranty
 23 fund. (1) The authority shall create an agricultural loan
 24 guaranty fund. The fund must be held by a trustee or other
 25 fiduciary designated by the authority. There must be

1 deposited into the fund amounts, insurance fees, premiums,
2 and such other revenues and assets as the authority
3 considers necessary to comply with any contract or agreement
4 entered into by the authority under this chapter. The
5 authority may borrow from and deposit in the agricultural
6 loan guaranty fund up to \$20,000,000 from any available
7 state fund, including funds of the Montana board of housing.

8 (2) The amounts in the fund must be used to satisfy
9 any claim resulting from a defaulted loan or other credit
10 agreement. The amounts in the fund may also be used for any
11 other purpose prescribed by the authority in accordance with
12 guaranty contracts with financial institutions entered into
13 pursuant to this chapter, including without limitation the
14 protection of the interest of the authority in loans during
15 periods of delinquency or upon default.

16 (3) The minimum reserve requirement for the
17 agricultural loan guaranty fund must be such amount as may
18 be provided in an agreement, resolution, or indenture with
19 the holders of bonds issued under this chapter, but not in
20 excess of the aggregate annual payments due under the loans
21 or other credit agreements guaranteed by the authority. No
22 loan or other credit agreement may be guaranteed by the
23 authority if the amount of money available in the
24 agricultural loan guaranty fund would be less than the
25 minimum reserve requirement.

1 (4) In order to assure the maintenance of the
2 agricultural loan guaranty fund, the authority shall, on or
3 before September 1 in each year preceding the convening of
4 the legislature, deliver to the governor a certificate
5 stating the sum, if any, required to restore the
6 agricultural loan guaranty fund to the minimum reserve
7 requirement. The governor shall include in the executive
8 budget submitted to the legislature the sum required to
9 restore the agricultural loan guaranty fund to the minimum
10 reserve requirement. NOTHING CONTAINED HEREIN SHALL
11 OBLIGATE THE LEGISLATURE TO MAKE AN APPROPRIATION FOR THIS
12 PURPOSE.

13 (5) All amounts remitted to the authority under this
14 section constitute loans to the authority and must be repaid
15 to the state treasury without interest from available
16 operating revenues of the authority in excess of amounts
17 required for the guarantee of loans.

18 NEW SECTION. Section 4. Codification instruction.
19 Sections 2 and 3 are intended to be codified as an integral
20 part of Title 80, chapter 12, and the provisions of Title
21 80, chapter 12, apply to sections 2 and 3.

22 NEW SECTION. Section 5. Effective date. This act is
23 effective ~~July 17, 1985~~ ON PASSAGE AND APPROVAL.

-End-