

1 HOUSE BILL NO. 31

2 INTRODUCED BY HEAVY RUNNER

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT
6 TO PARTICIPATE IN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; DEFINING "TRIBAL
7 GOVERNMENT"; AMENDING SECTIONS 85-1-102, 85-1-601, 85-1-602, 85-1-605, 85-1-611, AND
8 85-1-613, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

11
12 **Section 1.** Section 85-1-102, MCA, is amended to read:

13 **"85-1-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
14 definitions apply:

15 (1) "Administrative costs" means costs incurred by the department:

16 (a) for the purpose of protecting the department's properties and assets;

17 (b) to oversee the operation and maintenance of the projects;

18 (c) to administer contracts and receivables;

19 (d) to maintain project financial records;

20 (e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

21 (f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

22 (2) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine
23 repairs and the costs incurred by the water users' association or the department in the distribution of water
24 from the project, excluding the department's administrative costs.

25 (3) "Cost of works" means:

26 (a) the cost of construction, including any rehabilitation or alteration of the project;

27 (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered
28 necessary for the construction;

29 (c) the cost of all water rights acquired or exercised by the department in connection with the
30 works;

1 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
2 construction and for a period not exceeding 3 years after the completion of construction;

3 (e) the cost of engineering and legal services, plans, specifications, surveys, estimates of cost, and
4 other expenses necessary or incident to determining the feasibility or practicability of any project;

5 (f) administrative expense; and

6 (g) other expenses that are necessary or incident to the financing authorized in this part and the
7 construction of the works and the placing of the works in operation.

8 (4) "Department" means the department of natural resources and conservation provided for in Title
9 2, chapter 15, part 33.

10 (5) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts,
11 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
12 easements, or franchises to be acquired.

13 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
14 nongovernmental entity that is not eligible for loans and grants under 85-1-605.

15 (b) The term does not include a governmental entity, such as an agency, local government, or
16 political subdivision of the state, the United States, or any agency of the United States, or any other
17 governmental entity.

18 (7) "Project" means any one of the works defined in this section or any combination of works that
19 are physically connected or jointly managed and operated as a single unit.

20 (8) "Public benefits" means those benefits that accrue from a water development project or activity
21 to persons other than the private grant or loan recipient and that enhance the common well-being of the
22 people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction,
23 agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation
24 opportunities, and wildlife conservation.

25 (9) "Renewable resource grant and loan program state special revenue account" means a separate
26 account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes
27 of the renewable resource grant and loan program as set forth in 85-1-604.

28 (10) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603
29 within the debt service fund type of the state treasury, to be used as provided in 85-1-619.

30 (11) "Renewable resource loan proceeds account" means a separate account created by 85-1-617

1 within the state special revenue fund of the state treasury to:

2 (a) finance loans under the provisions of the renewable resource grant and loan program to
3 agencies, local governments, and political subdivisions of the state, to private persons, and to any other
4 eligible recipients; and

5 (b) purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued
6 under part 6 of this chapter.

7 (12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
8 other organized group or community that is located in Montana, that exercises self-government powers,
9 and that is recognized as eligible for those services that are provided by the United States to Indians
10 because of their status as Indians.

11 ~~(12)~~(13) "Water development activity" means an action or program to protect and enhance
12 water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control,
13 or other uses, including but not limited to the promotion of efficient use of water in agriculture, the
14 improvement of water quality in agriculture and other nonpoint source uses, the protection and
15 enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation
16 in rivers and streams, and the provision of greater local and state control of Montana's water resources.
17 Water development activities may provide any combination of marketable and nonmarketable benefits.

18 ~~(13)~~(14) "Water development project" means a project as defined in subsection (7), except that
19 water development projects:

20 (a) are not limited to projects owned or operated by the department; and

21 (b) for purposes of the renewable resource grant and loan program, must include water
22 development activities.

23 ~~(14)~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property
24 and considered necessary or convenient for the operation of the works and all water rights acquired or
25 exercised by the department in connection with those works.

26 (b) The term includes:

27 (i) all means of conserving and distributing water, including but not limited to reservoirs, dams,
28 diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units,
29 mains, pipelines, and waterworks systems; and

30 (ii) all works for the conservation, development, storage, distribution, and utilization of water,

1 including but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife,
2 recreation, development of power, watering of stock, and supplying water for public, domestic, industrial,
3 or other uses and for fire protection."
4

5 **Section 2.** Section 85-1-601, MCA, is amended to read:

6 **"85-1-601. Purpose and policies.** (1) The legislature finds and declares that in order that the
7 people of Montana may enjoy the benefits of the state's water and other renewable resources, the state
8 ~~must~~ shall establish this long-term renewable resource grant and loan program providing financial and
9 administrative assistance to private for-profit, private, nonprofit, local government, ~~and~~ state government,
10 and tribal government entities for renewable resource grant and loan projects.

11 (2) The purpose of the renewable resource grant and loan program is to further the state's policies,
12 set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and
13 to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic
14 and other benefits of the state's natural heritage.

15 (3) The legislature recognizes the value of Montana's renewable resources; therefore, it is
16 appropriate that a portion of the taxes and other revenue from nonrenewable resources be invested in the
17 replacement of nonrenewable resources with the development of renewable resource projects that will
18 continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits
19 of the state's natural heritage.

20 (4) The conservation, development, management, and preservation of water and other renewable
21 resources are high priorities because a large portion of Montana's present and future economy is based
22 either directly or indirectly on the wise use of these resources.

23 (5) Developments supported by this part may not significantly diminish the quality of existing public
24 resources, such as land, air, fish, wildlife, and recreation opportunities.

25 (6) This renewable resource grant and loan program supports, in part, the implementation and
26 development of the comprehensive, coordinated, multiple-use water resources plan known as the "state
27 water plan". In making funding recommendations for grants and loans, the department shall give preference
28 to projects that will implement state water plan priorities if, in all other respects, the proposed projects are
29 equal in public benefit and technical feasibility."
30

1 **Section 3.** Section 85-1-602, MCA, is amended to read:

2 **"85-1-602. Objectives.** (1) The department shall administer a renewable resource grant and loan
3 program to enhance Montana's renewable resources through projects that measurably conserve, develop,
4 manage, or preserve resources. Either grants or loans may be provided to fund the following:

5 (a) feasibility, design, research, and resource assessment studies;

6 (b) preparation of construction, rehabilitation, or production plans; and

7 (c) construction, rehabilitation, production, education, or other implementation efforts.

8 (2) Projects that may enhance renewable resources in Montana include but are not limited to:

9 (a) development of natural resource-based recreation;

10 (b) development of offstream and tributary storage;

11 (c) improvement of water use efficiency, including development of new, efficient water systems,
12 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices
13 required under 85-2-113; and development of ~~state-tribal, state-federal, and state-tribal-federal~~ state, tribal,
14 and federal water projects; and

15 (d) advancement of farming practices that reduce agricultural chemical use.

16 (3) The renewable resource grant and loan program is the key implementation portion of the state
17 water plan and must be administered to encourage grant and loan applications for projects designed to
18 accomplish the objectives of the plan."

19
20 **Section 4.** Section 85-1-605, MCA, is amended to read:

21 **"85-1-605. Grants, loans, and bonds for state, and local, or tribal government assistance.** (1) The
22 department may recommend to the legislature that grants and loans be made from revenue deposited in
23 the renewable resource grant and loan program state special revenue account, that loans be made from
24 renewable resource bond proceeds deposited in the renewable resource loan proceeds account established
25 in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7,
26 to provide financial assistance to a department, agency, board, commission, or other division of state
27 government, ~~or~~ to a city, county, or other political subdivision or local government body of the state, or
28 to a tribal government. The legislature may approve by appropriation or other appropriate means those
29 grants and loans that it finds consistent with the policies and purposes of the program.

30 (2) Nothing in this part creates or expands the state's or a local government's authority to incur

1 debt, and the legislature may authorize loans only to state and local government entities otherwise
2 structured to incur debt.

3 (3) Loans may not be authorized except to a state, ~~or local,~~ or tribal government entity that agrees
4 to secure the authorized loan with its bond.

5 (4) In addition to implementing those projects approved by the legislature, the department may
6 request up to 10% of the grant funds available and up to \$1 million for loans from the renewable resource
7 grant and loan program state special revenue account and the renewable resource loan proceeds account
8 in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may
9 not be made because of the gross negligence of the state, ~~or local,~~ or tribal government applicant, must
10 be approved by the department, and must be defined as those projects otherwise eligible for either grant
11 funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause
12 substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall
13 inform the legislative finance committee of the legislature.

14 (5) The grants and loans provided for by this section may be made for projects that enhance
15 renewable resources in the state through conservation, development, management, or preservation; for
16 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
17 approved by the legislature."
18

19 **Section 5.** Section 85-1-611, MCA, is amended to read:

20 **"85-1-611. Department to solicit views.** The department shall solicit and consider in its evaluation
21 of proposed projects the views of interested and affected departments, boards, agencies, commissions, and
22 other subdivisions of the state, including local political subdivisions, of a tribal government, of the federal
23 government, and of other interested and affected persons."
24

25 **Section 6.** Section 85-1-613, MCA, is amended to read:

26 **"85-1-613. Limits on loans.** (1) A loan to a private person for a renewable resource grant and loan
27 program project may not be made from the renewable resource grant and loan program state special
28 revenue account or the renewable resource loan proceeds account if the loan exceeds the lesser of
29 \$200,000 or 80% of the fair market value of the security given for the project. In determining the fair
30 market value for the security given for a loan, the department shall consider appraisals made by qualified

1 appraisers and other factors it considers important.

2 (2) A loan to the state, ~~or~~ a local government, or a tribal government for a renewable resource
3 grant and loan program project may not be made by the department from the renewable resource grant and
4 loan program state special revenue account or renewable resource loan proceeds account if the loan
5 exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

6 (3) The period for repayment of loans may not exceed 30 years.

7 (4) The interest rate at which loans may be made under this part must be sufficient to:

8 (a) cover the bond debt service for a loan; and

9 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss
10 occurs."

11

12 NEW SECTION. **Section 7. Notification to tribal governments.** The secretary of state shall send
13 a copy of [this act] to each tribal government located on the seven Montana reservations.

14

15 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 1997.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0031, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a federally recognized tribal government to participate in the Renewable Resource Grant and Loan Program.

ASSUMPTIONS:

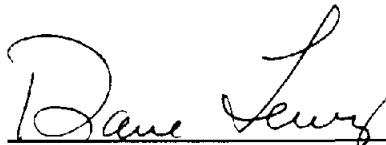
1. The Renewable Resource Grant and Loan Program will operate as it currently does.
2. The program allows application by the following public entities: cities, towns, counties, conservation districts, state agencies and other public entities.
3. As a result of the bill, there will be minimal costs for advertising the program promotion. Processing applications will be the same with or without tribal government participating in the program. If tribal governments elect to apply to the program the department will incur cost for review of their submitted projects. These costs would be absorbed into the existing budget for reviewing applications.
4. Current expenditures will be essentially the same with or without tribal government applications.
5. Current revenues will be about the same. There is a \$250 fee per application, so several more application fees may be collected by the program if tribal governments apply.
6. Passage of this act will make the Renewable Resource Grant and Loan Program applicants the same as the Reclamation and Development Grant Program which allows tribal governments to apply.

FISCAL IMPACT:


None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

This legislation would allow tribal governments to apply to the Renewable Resource Grant and Loan Program and finance projects that meet the program criteria.

 1-7-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-10-97

GEORGE HEAVY RUNNER, PRIMARY SPONSOR DATE

Fiscal Note for HB0031, as introduced

HB 31

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3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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6 TO PARTICIPATE IN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; DEFINING "TRIBAL
7 GOVERNMENT"; PROVIDING ADDITIONAL GRANT AND LOAN CONDITIONS; AMENDING SECTIONS
8 85-1-102, 85-1-601, 85-1-602, 85-1-605, 85-1-611, AND 85-1-613, MCA; AND PROVIDING AN
9 EFFECTIVE DATE."

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

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18 (b) to oversee the operation and maintenance of the projects;

19 (c) to administer contracts and receivables;

20 (d) to maintain project financial records;

21 (e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

22 (f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

23 (2) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine
24 repairs and the costs incurred by the water users' association or the department in the distribution of water
25 from the project, excluding the department's administrative costs.

26 (3) "Cost of works" means:

27 (a) the cost of construction, including any rehabilitation or alteration of the project;

28 (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered
29 necessary for the construction;

30 (c) the cost of all water rights acquired or exercised by the department in connection with the

1 works;

2 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
3 construction and for a period not exceeding 3 years after the completion of construction;

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5 other expenses necessary or incident to determining the feasibility or practicability of any project;

6 (f) administrative expense; and

7 (g) other expenses that are necessary or incident to the financing authorized in this part and the
8 construction of the works and the placing of the works in operation.

9 (4) "Department" means the department of natural resources and conservation provided for in Title
10 2, chapter 15, part 33.

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12 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
13 easements, or franchises to be acquired.

14 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
15 nongovernmental entity that is not eligible for loans and grants under 85-1-605.

16 (b) The term does not include a governmental entity, such as an agency, local government, or
17 political subdivision of the state, the United States, or any agency of the United States, or any other
18 governmental entity.

19 (7) "Project" means any one of the works defined in this section or any combination of works that
20 are physically connected or jointly managed and operated as a single unit.

21 (8) "Public benefits" means those benefits that accrue from a water development project or activity
22 to persons other than the private grant or loan recipient and that enhance the common well-being of the
23 people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction,
24 agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation
25 opportunities, and wildlife conservation.

26 (9) "Renewable resource grant and loan program state special revenue account" means a separate
27 account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes
28 of the renewable resource grant and loan program as set forth in 85-1-604.

29 (10) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603
30 within the debt service fund type of the state treasury, to be used as provided in 85-1-619.

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2 within the state special revenue fund of the state treasury to:

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4 agencies, local governments, and political subdivisions of the state, to private persons, and to any other
5 eligible recipients; and

6 (b) purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued
7 under part 6 of this chapter.

8 (12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
9 other organized group or community that is located in Montana, that exercises self-government powers,
10 and that is recognized as eligible for those services that are provided by the United States to Indians
11 because of their status as Indians.

12 ~~(12)~~(13) "Water development activity" means an action or program to protect and enhance
13 water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control,
14 or other uses, including but not limited to the promotion of efficient use of water in agriculture, the
15 improvement of water quality in agriculture and other nonpoint source uses, the protection and
16 enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation
17 in rivers and streams, and the provision of greater local and state control of Montana's water resources.
18 Water development activities may provide any combination of marketable and nonmarketable benefits.

19 ~~(13)~~(14) "Water development project" means a project as defined in subsection (7), except that
20 water development projects:

21 (a) are not limited to projects owned or operated by the department; and

22 (b) for purposes of the renewable resource grant and loan program, must include water
23 development activities.

24 ~~(14)~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property
25 and considered necessary or convenient for the operation of the works and all water rights acquired or
26 exercised by the department in connection with those works.

27 (b) The term includes:

28 (i) all means of conserving and distributing water, including but not limited to reservoirs, dams,
29 diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units,
30 mains, pipelines, and waterworks systems; and

1 (ii) all works for the conservation, development, storage, distribution, and utilization of water,
2 including but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife,
3 recreation, development of power, watering of stock, and supplying water for public, domestic, industrial,
4 or other uses and for fire protection."

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8 people of Montana may enjoy the benefits of the state's water and other renewable resources, the state
9 ~~must~~ shall establish this long-term renewable resource grant and loan program providing financial and
10 administrative assistance to private for-profit, private, nonprofit, local government, ~~and~~ state government,
11 and tribal government entities for renewable resource grant and loan projects.

12 (2) The purpose of the renewable resource grant and loan program is to further the state's policies,
13 set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and
14 to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic
15 and other benefits of the state's natural heritage.

16 (3) The legislature recognizes the value of Montana's renewable resources; therefore, it is
17 appropriate that a portion of the taxes and other revenue from nonrenewable resources be invested in the
18 replacement of nonrenewable resources with the development of renewable resource projects that will
19 continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits
20 of the state's natural heritage.

21 (4) The conservation, development, management, and preservation of water and other renewable
22 resources are high priorities because a large portion of Montana's present and future economy is based
23 either directly or indirectly on the wise use of these resources.

24 (5) Developments supported by this part may not significantly diminish the quality of existing public
25 resources, such as land, air, fish, wildlife, and recreation opportunities.

26 (6) This renewable resource grant and loan program supports, in part, the implementation and
27 development of the comprehensive, coordinated, multiple-use water resources plan known as the "state
28 water plan". In making funding recommendations for grants and loans, the department shall give preference
29 to projects that will implement state water plan priorities if, in all other respects, the proposed projects are
30 equal in public benefit and technical feasibility."

1 **Section 3.** Section 85-1-602, MCA, is amended to read:

2 **"85-1-602. Objectives.** (1) The department shall administer a renewable resource grant and loan
3 program to enhance Montana's renewable resources through projects that measurably conserve, develop,
4 manage, or preserve resources. Either grants or loans may be provided to fund the following:

5 (a) feasibility, design, research, and resource assessment studies;

6 (b) preparation of construction, rehabilitation, or production plans; and

7 (c) construction, rehabilitation, production, education, or other implementation efforts.

8 (2) Projects that may enhance renewable resources in Montana include but are not limited to:

9 (a) development of natural resource-based recreation;

10 (b) development of offstream and tributary storage;

11 (c) improvement of water use efficiency, including development of new, efficient water systems,
12 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices
13 required under 85-2-113; and development of ~~state-tribal, state-federal, and state-tribal-federal~~ state, tribal,
14 and federal water projects; and

15 (d) advancement of farming practices that reduce agricultural chemical use.

16 (3) The renewable resource grant and loan program is the key implementation portion of the state
17 water plan and must be administered to encourage grant and loan applications for projects designed to
18 accomplish the objectives of the plan."

19

20 **Section 4.** Section 85-1-605, MCA, is amended to read:

21 **"85-1-605. Grants, loans, and bonds for state, and local, or tribal government assistance.** (1) The
22 department may recommend to the legislature that grants and loans be made from revenue deposited in
23 the renewable resource grant and loan program state special revenue account, that loans be made from
24 renewable resource bond proceeds deposited in the renewable resource loan proceeds account established
25 in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7,
26 to provide financial assistance to a department, agency, board, commission, or other division of state
27 government, ~~or~~ to a city, county, or other political subdivision or local government body of the state, or
28 to a tribal government. The legislature may approve by appropriation or other appropriate means those
29 grants and loans that it finds consistent with the policies and purposes of the program.

30 (2) Nothing in this part creates or expands the state's or a local government's authority to incur

1 debt, and the legislature may authorize loans only to state and local government entities otherwise
2 structured to incur debt.

3 (3) Loans may not be authorized except to a state, ~~or local,~~ or tribal government entity that agrees
4 to secure the authorized loan with its bond.

5 (4) In addition to implementing those projects approved by the legislature, the department may
6 request up to 10% of the grant funds available and up to \$1 million for loans from the renewable resource
7 grant and loan program state special revenue account and the renewable resource loan proceeds account
8 in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may
9 not be made because of the gross negligence of the state, ~~or local,~~ or tribal government applicant, must
10 be approved by the department, and must be defined as those projects otherwise eligible for either grant
11 funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause
12 substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall
13 inform the legislative finance committee of the legislature.

14 (5) The grants and loans provided for by this section may be made for projects that enhance
15 renewable resources in the state through conservation, development, management, or preservation; for
16 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
17 approved by the legislature.

18 (6) GRANT AND LOAN AGREEMENTS WITH TRIBAL GOVERNMENTS IN MONTANA MUST
19 CONTAIN, IN ADDITION TO OTHER APPROPRIATE TERMS AND CONDITIONS, THE FOLLOWING
20 CONDITIONS:

21 (A) A REQUIREMENT THAT IN THE EVENT A DISPUTE OR CLAIM ARISES UNDER THE
22 AGREEMENT, STATE LAW WILL GOVERN AS TO THE INTERPRETATION AND PERFORMANCE OF THE
23 AGREEMENT AND THAT ANY JUDICIAL PROCEEDING CONCERNING THE TERMS OF THE AGREEMENT
24 WILL BE BROUGHT IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
25 MONTANA;

26 (B) AN EXPRESS WAIVER OF SOVEREIGN IMMUNITY SIGNED BY THE TRIBAL GOVERNMENT;
27 AND

28 (C) AN EXPRESS WAIVER OF ANY RIGHT TO EXHAUST TRIBAL REMEDIES SIGNED BY THE
29 TRIBAL GOVERNMENT."

30

1 **Section 5.** Section 85-1-611, MCA, is amended to read:

2 **"85-1-611. Department to solicit views.** The department shall solicit and consider in its evaluation
3 of proposed projects the views of interested and affected departments, boards, agencies, commissions, and
4 other subdivisions of the state, including local political subdivisions, of a tribal government, of the federal
5 government, and of other interested and affected persons."

6

7 **Section 6.** Section 85-1-613, MCA, is amended to read:

8 **"85-1-613. Limits on loans.** (1) A loan to a private person for a renewable resource grant and loan
9 program project may not be made from the renewable resource grant and loan program state special
10 revenue account or the renewable resource loan proceeds account if the loan exceeds the lesser of
11 \$200,000 or 80% of the fair market value of the security given for the project. In determining the fair
12 market value for the security given for a loan, the department shall consider appraisals made by qualified
13 appraisers and other factors it considers important.

14 (2) A loan to the state, ~~or a local government,~~ or a tribal government for a renewable resource
15 grant and loan program project may not be made by the department from the renewable resource grant and
16 loan program state special revenue account or renewable resource loan proceeds account if the loan
17 exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

18 (3) The period for repayment of loans may not exceed 30 years.

19 (4) The interest rate at which loans may be made under this part must be sufficient to:

20 (a) cover the bond debt service for a loan; and

21 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss
22 occurs."

23

24 NEW SECTION. **Section 7. Notification to tribal governments.** The secretary of state shall send
25 a copy of [this act] to each tribal government located on the seven Montana reservations.

26

27 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 1997.

28

-END-

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HOUSE BILL NO. 31
INTRODUCED BY HEAVY RUNNER
BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT
TO PARTICIPATE IN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; DEFINING "TRIBAL
GOVERNMENT"; PROVIDING ADDITIONAL GRANT AND LOAN CONDITIONS; AMENDING SECTIONS
85-1-102, 85-1-601, 85-1-602, 85-1-605, 85-1-611, AND 85-1-613, MCA; AND PROVIDING AN
EFFECTIVE DATE."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

HOUSE BILL NO. 31

INTRODUCED BY HEAVY RUNNER

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT TO PARTICIPATE IN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; DEFINING "TRIBAL GOVERNMENT"; PROVIDING ADDITIONAL GRANT AND LOAN CONDITIONS; AMENDING SECTIONS 85-1-102, 85-1-601, 85-1-602, 85-1-605, 85-1-611, AND 85-1-613, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

- (a) for the purpose of protecting the department's properties and assets;
- (b) to oversee the operation and maintenance of the projects;
- (c) to administer contracts and receivables;
- (d) to maintain project financial records;
- (e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and
- (f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(3) "Cost of works" means:

- (a) the cost of construction, including any rehabilitation or alteration of the project;
- (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered necessary for the construction;
- (c) the cost of all water rights acquired or exercised by the department in connection with the

1 works;

2 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
3 construction and for a period not exceeding 3 years after the completion of construction;

4 (e) the cost of engineering and legal services, plans, specifications, surveys, estimates of cost, and
5 other expenses necessary or incident to determining the feasibility or practicability of any project;

6 (f) administrative expense; and

7 (g) other expenses that are necessary or incident to the financing authorized in this part and the
8 construction of the works and the placing of the works in operation.

9 (4) "Department" means the department of natural resources and conservation provided for in Title
10 2, chapter 15, part 33.

11 (5) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts,
12 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
13 easements, or franchises to be acquired.

14 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
15 nongovernmental entity that is not eligible for loans and grants under 85-1-605.

16 (b) The term does not include a governmental entity, such as an agency, local government, or
17 political subdivision of the state, the United States, or any agency of the United States, or any other
18 governmental entity.

19 (7) "Project" means any one of the works defined in this section or any combination of works that
20 are physically connected or jointly managed and operated as a single unit.

21 (8) "Public benefits" means those benefits that accrue from a water development project or activity
22 to persons other than the private grant or loan recipient and that enhance the common well-being of the
23 people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction,
24 agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation
25 opportunities, and wildlife conservation.

26 (9) "Renewable resource grant and loan program state special revenue account" means a separate
27 account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes
28 of the renewable resource grant and loan program as set forth in 85-1-604.

29 (10) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603
30 within the debt service fund type of the state treasury, to be used as provided in 85-1-619.

1 (11) "Renewable resource loan proceeds account" means a separate account created by 85-1-617
2 within the state special revenue fund of the state treasury to:

3 (a) finance loans under the provisions of the renewable resource grant and loan program to
4 agencies, local governments, and political subdivisions of the state, to private persons, and to any other
5 eligible recipients; and

6 (b) purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued
7 under part 6 of this chapter.

8 (12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
9 other organized group or community that is located in Montana, that exercises self-government powers,
10 and that is recognized as eligible for those services that are provided by the United States to Indians
11 because of their status as Indians.

12 ~~(12)~~(13) "Water development activity" means an action or program to protect and enhance
13 water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control,
14 or other uses, including but not limited to the promotion of efficient use of water in agriculture, the
15 improvement of water quality in agriculture and other nonpoint source uses, the protection and
16 enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation
17 in rivers and streams, and the provision of greater local and state control of Montana's water resources.
18 Water development activities may provide any combination of marketable and nonmarketable benefits.

19 ~~(13)~~(14) "Water development project" means a project as defined in subsection (7), except that
20 water development projects:

21 (a) are not limited to projects owned or operated by the department; and

22 (b) for purposes of the renewable resource grant and loan program, must include water
23 development activities.

24 ~~(14)~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property
25 and considered necessary or convenient for the operation of the works and all water rights acquired or
26 exercised by the department in connection with those works.

27 (b) The term includes:

28 (i) all means of conserving and distributing water, including but not limited to reservoirs, dams,
29 diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units,
30 mains, pipelines, and waterworks systems; and

1 (ii) all works for the conservation, development, storage, distribution, and utilization of water,
2 including but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife,
3 recreation, development of power, watering of stock, and supplying water for public, domestic, industrial,
4 or other uses and for fire protection."

5

6 **Section 2.** Section 85-1-601, MCA, is amended to read:

7 **"85-1-601. Purpose and policies.** (1) The legislature finds and declares that in order that the
8 people of Montana may enjoy the benefits of the state's water and other renewable resources, the state
9 ~~must~~ shall establish this long-term renewable resource grant and loan program providing financial and
10 administrative assistance to private for-profit, private, nonprofit, local government, ~~and~~ state government,
11 and tribal government entities for renewable resource grant and loan projects.

12 (2) The purpose of the renewable resource grant and loan program is to further the state's policies,
13 set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and
14 to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic
15 and other benefits of the state's natural heritage.

16 (3) The legislature recognizes the value of Montana's renewable resources; therefore, it is
17 appropriate that a portion of the taxes and other revenue from nonrenewable resources be invested in the
18 replacement of nonrenewable resources with the development of renewable resource projects that will
19 continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits
20 of the state's natural heritage.

21 (4) The conservation, development, management, and preservation of water and other renewable
22 resources are high priorities because a large portion of Montana's present and future economy is based
23 either directly or indirectly on the wise use of these resources.

24 (5) Developments supported by this part may not significantly diminish the quality of existing public
25 resources, such as land, air, fish, wildlife, and recreation opportunities.

26 (6) This renewable resource grant and loan program supports, in part, the implementation and
27 development of the comprehensive, coordinated, multiple-use water resources plan known as the "state
28 water plan". In making funding recommendations for grants and loans, the department shall give preference
29 to projects that will implement state water plan priorities if, in all other respects, the proposed projects are
30 equal in public benefit and technical feasibility."

1 **Section 3.** Section 85-1-602, MCA, is amended to read:

2 **"85-1-602. Objectives.** (1) The department shall administer a renewable resource grant and loan
3 program to enhance Montana's renewable resources through projects that measurably conserve, develop,
4 manage, or preserve resources. Either grants or loans may be provided to fund the following:

5 (a) feasibility, design, research, and resource assessment studies;

6 (b) preparation of construction, rehabilitation, or production plans; and

7 (c) construction, rehabilitation, production, education, or other implementation efforts.

8 (2) Projects that may enhance renewable resources in Montana include but are not limited to:

9 (a) development of natural resource-based recreation;

10 (b) development of offstream and tributary storage;

11 (c) improvement of water use efficiency, including development of new, efficient water systems,
12 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices
13 required under 85-2-113; and development of ~~state-tribal, state-federal, and state-tribal-federal~~ state, tribal,
14 and federal water projects; and

15 (d) advancement of farming practices that reduce agricultural chemical use.

16 (3) The renewable resource grant and loan program is the key implementation portion of the state
17 water plan and must be administered to encourage grant and loan applications for projects designed to
18 accomplish the objectives of the plan."

19

20 **Section 4.** Section 85-1-605, MCA, is amended to read:

21 **"85-1-605. Grants, loans, and bonds for state, and local, or tribal government assistance.** (1) The
22 department may recommend to the legislature that grants and loans be made from revenue deposited in
23 the renewable resource grant and loan program state special revenue account, that loans be made from
24 renewable resource bond proceeds deposited in the renewable resource loan proceeds account established
25 in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7,
26 to provide financial assistance to a department, agency, board, commission, or other division of state
27 government, ~~or~~ to a city, county, or other political subdivision or local government body of the state, or
28 to a tribal government. The legislature may approve by appropriation or other appropriate means those
29 grants and loans that it finds consistent with the policies and purposes of the program.

30 (2) Nothing in this part creates or expands the state's or a local government's authority to incur

1 debt, and the legislature may authorize loans only to state and local government entities otherwise
2 structured to incur debt.

3 (3) Loans may not be authorized except to a state, ~~or local,~~ or tribal government entity that agrees
4 to secure the authorized loan with its bond.

5 (4) In addition to implementing those projects approved by the legislature, the department may
6 request up to 10% of the grant funds available and up to \$1 million for loans from the renewable resource
7 grant and loan program state special revenue account and the renewable resource loan proceeds account
8 in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may
9 not be made because of the gross negligence of the state, ~~or local,~~ or tribal government applicant, must
10 be approved by the department, and must be defined as those projects otherwise eligible for either grant
11 funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause
12 substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall
13 inform the legislative finance committee of the legislature.

14 (5) The grants and loans provided for by this section may be made for projects that enhance
15 renewable resources in the state through conservation, development, management, or preservation; for
16 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
17 approved by the legislature.

18 (6) GRANT AND LOAN AGREEMENTS WITH TRIBAL GOVERNMENTS IN MONTANA ENTERED
19 INTO UNDER THIS PART MUST CONTAIN, IN ADDITION TO OTHER APPROPRIATE TERMS AND
20 CONDITIONS, THE FOLLOWING CONDITIONS:

21 (A) A REQUIREMENT THAT IN THE EVENT A DISPUTE OR CLAIM ARISES UNDER THE
22 AGREEMENT, STATE LAW WILL GOVERN AS TO THE INTERPRETATION AND PERFORMANCE OF THE
23 AGREEMENT AND THAT ANY JUDICIAL PROCEEDING CONCERNING THE TERMS OF THE AGREEMENT
24 WILL BE BROUGHT IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
25 MONTANA;

26 (B) AN EXPRESS WAIVER OF SOVEREIGN IMMUNITY SIGNED BY THE TRIBAL GOVERNMENT THE
27 TRIBAL GOVERNMENT'S IMMUNITY FROM SUIT ON ANY ISSUE SPECIFICALLY ARISING FROM THE
28 TRANSACTION OF A LOAN OR GRANT; AND

29 (C) AN EXPRESS WAIVER OF ANY RIGHT TO EXHAUST TRIBAL REMEDIES SIGNED BY THE
30 TRIBAL GOVERNMENT."

1 **Section 5.** Section 85-1-611, MCA, is amended to read:

2 **"85-1-611. Department to solicit views.** The department shall solicit and consider in its evaluation
3 of proposed projects the views of interested and affected departments, boards, agencies, commissions, and
4 other subdivisions of the state, including local political subdivisions, of a tribal government, of the federal
5 government, and of other interested and affected persons."

6

7 **Section 6.** Section 85-1-613, MCA, is amended to read:

8 **"85-1-613. Limits on loans.** (1) A loan to a private person for a renewable resource grant and loan
9 program project may not be made from the renewable resource grant and loan program state special
10 revenue account or the renewable resource loan proceeds account if the loan exceeds the lesser of
11 \$200,000 or 80% of the fair market value of the security given for the project. In determining the fair
12 market value for the security given for a loan, the department shall consider appraisals made by qualified
13 appraisers and other factors it considers important.

14 (2) A loan to the state, ~~or a local government,~~ or a tribal government for a renewable resource
15 grant and loan program project may not be made by the department from the renewable resource grant and
16 loan program state special revenue account or renewable resource loan proceeds account if the loan
17 exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

18 (3) The period for repayment of loans may not exceed 30 years.

19 (4) The interest rate at which loans may be made under this part must be sufficient to:

20 (a) cover the bond debt service for a loan; and

21 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss
22 occurs."

23

24 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send
25 a copy of [this act] to each tribal government located on the seven Montana reservations.

26

27 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1997.

28

-END-

1 HOUSE BILL NO. 31

2 INTRODUCED BY HEAVY RUNNER

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT
 6 TO PARTICIPATE IN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; DEFINING "TRIBAL
 7 GOVERNMENT"; PROVIDING ADDITIONAL GRANT AND LOAN CONDITIONS; AMENDING SECTIONS
 8 85-1-102, 85-1-601, 85-1-602, 85-1-605, 85-1-611, AND 85-1-613, MCA; AND PROVIDING AN
 9 EFFECTIVE DATE."

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

12
 13 **Section 1.** Section 85-1-102, MCA, is amended to read:

14 **"85-1-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 15 definitions apply:

16 (1) "Administrative costs" means costs incurred by the department:

17 (a) for the purpose of protecting the department's properties and assets;

18 (b) to oversee the operation and maintenance of the projects;

19 (c) to administer contracts and receivables;

20 (d) to maintain project financial records;

21 (e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

22 (f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

23 (2) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine
 24 repairs and the costs incurred by the water users' association or the department in the distribution of water
 25 from the project, excluding the department's administrative costs.

26 (3) "Cost of works" means:

27 (a) the cost of construction, including any rehabilitation or alteration of the project;

28 (b) the cost of all lands, property, rights, easements, and franchises acquired that are considered
 29 necessary for the construction;

30 (c) the cost of all water rights acquired or exercised by the department in connection with the

1 works;

2 (d) the cost of all machinery and equipment, financing charges, and interest prior to and during
3 construction and for a period not exceeding 3 years after the completion of construction;

4 (e) the cost of engineering and legal services, plans, specifications, surveys, estimates of cost, and
5 other expenses necessary or incident to determining the feasibility or practicability of any project;

6 (f) administrative expense; and

7 (g) other expenses that are necessary or incident to the financing authorized in this part and the
8 construction of the works and the placing of the works in operation.

9 (4) "Department" means the department of natural resources and conservation provided for in Title
10 2, chapter 15, part 33.

11 (5) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts,
12 incorporated companies, societies, or associations that have any title or interest in any properties, rights,
13 easements, or franchises to be acquired.

14 (6) (a) "Private person" means any individual, association, partnership, corporation, or other
15 nongovernmental entity that is not eligible for loans and grants under 85-1-605.

16 (b) The term does not include a governmental entity, such as an agency, local government, or
17 political subdivision of the state, the United States, or any agency of the United States, or any other
18 governmental entity.

19 (7) "Project" means any one of the works defined in this section or any combination of works that
20 are physically connected or jointly managed and operated as a single unit.

21 (8) "Public benefits" means those benefits that accrue from a water development project or activity
22 to persons other than the private grant or loan recipient and that enhance the common well-being of the
23 people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction,
24 agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation
25 opportunities, and wildlife conservation.

26 (9) "Renewable resource grant and loan program state special revenue account" means a separate
27 account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes
28 of the renewable resource grant and loan program as set forth in 85-1-604.

29 (10) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603
30 within the debt service fund type of the state treasury, to be used as provided in 85-1-619.

1 (11) "Renewable resource loan proceeds account" means a separate account created by 85-1-617
2 within the state special revenue fund of the state treasury to:

3 (a) finance loans under the provisions of the renewable resource grant and loan program to
4 agencies, local governments, and political subdivisions of the state, to private persons, and to any other
5 eligible recipients; and

6 (b) purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued
7 under part 6 of this chapter.

8 (12) "Tribal government" means the officially recognized government of an Indian tribe, nation, or
9 other organized group or community that is located in Montana, that exercises self-government powers,
10 and that is recognized as eligible for those services that are provided by the United States to Indians
11 because of their status as Indians.

12 ~~{12}~~(13) "Water development activity" means an action or program to protect and enhance
13 water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control,
14 or other uses, including but not limited to the promotion of efficient use of water in agriculture, the
15 improvement of water quality in agriculture and other nonpoint source uses, the protection and
16 enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation
17 in rivers and streams, and the provision of greater local and state control of Montana's water resources.
18 Water development activities may provide any combination of marketable and nonmarketable benefits.

19 ~~{13}~~(14) "Water development project" means a project as defined in subsection (7), except that
20 water development projects:

21 (a) are not limited to projects owned or operated by the department; and

22 (b) for purposes of the renewable resource grant and loan program, must include water
23 development activities.

24 ~~{14}~~(15) (a) "Works" means all property and rights, easements, and franchises relating to property
25 and considered necessary or convenient for the operation of the works and all water rights acquired or
26 exercised by the department in connection with those works.

27 (b) The term includes:

28 (i) all means of conserving and distributing water, including but not limited to reservoirs, dams,
29 diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units,
30 mains, pipelines, and waterworks systems; and

1 (ii) all works for the conservation, development, storage, distribution, and utilization of water,
2 including but not limited to works for the purpose of irrigation, flood prevention, drainage, fish and wildlife,
3 recreation, development of power, watering of stock, and supplying water for public, domestic, industrial,
4 or other uses and for fire protection."

5

6 **Section 2.** Section 85-1-601, MCA, is amended to read:

7 **"85-1-601. Purpose and policies.** (1) The legislature finds and declares that in order that the
8 people of Montana may enjoy the benefits of the state's water and other renewable resources, the state
9 ~~must~~ shall establish this long-term renewable resource grant and loan program providing financial and
10 administrative assistance to private for-profit, private, nonprofit, local government, ~~and~~ state government,
11 and tribal government entities for renewable resource grant and loan projects.

12 (2) The purpose of the renewable resource grant and loan program is to further the state's policies,
13 set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and
14 to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic
15 and other benefits of the state's natural heritage.

16 (3) The legislature recognizes the value of Montana's renewable resources; therefore, it is
17 appropriate that a portion of the taxes and other revenue from nonrenewable resources be invested in the
18 replacement of nonrenewable resources with the development of renewable resource projects that will
19 continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits
20 of the state's natural heritage.

21 (4) The conservation, development, management, and preservation of water and other renewable
22 resources are high priorities because a large portion of Montana's present and future economy is based
23 either directly or indirectly on the wise use of these resources.

24 (5) Developments supported by this part may not significantly diminish the quality of existing public
25 resources, such as land, air, fish, wildlife, and recreation opportunities.

26 (6) This renewable resource grant and loan program supports, in part, the implementation and
27 development of the comprehensive, coordinated, multiple-use water resources plan known as the "state
28 water plan". In making funding recommendations for grants and loans, the department shall give preference
29 to projects that will implement state water plan priorities if, in all other respects, the proposed projects are
30 equal in public benefit and technical feasibility."

1 **Section 3.** Section 85-1-602, MCA, is amended to read:

2 **"85-1-602. Objectives.** (1) The department shall administer a renewable resource grant and loan
3 program to enhance Montana's renewable resources through projects that measurably conserve, develop,
4 manage, or preserve resources. Either grants or loans may be provided to fund the following:

5 (a) feasibility, design, research, and resource assessment studies;

6 (b) preparation of construction, rehabilitation, or production plans; and

7 (c) construction, rehabilitation, production, education, or other implementation efforts.

8 (2) Projects that may enhance renewable resources in Montana include but are not limited to:

9 (a) development of natural resource-based recreation;

10 (b) development of offstream and tributary storage;

11 (c) improvement of water use efficiency, including development of new, efficient water systems,
12 rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices
13 required under 85-2-113; and development of ~~state-tribal, state-federal, and state-tribal-federal~~ state, tribal,
14 and federal water projects; and

15 (d) advancement of farming practices that reduce agricultural chemical use.

16 (3) The renewable resource grant and loan program is the key implementation portion of the state
17 water plan and must be administered to encourage grant and loan applications for projects designed to
18 accomplish the objectives of the plan."

19

20 **Section 4.** Section 85-1-605, MCA, is amended to read:

21 **"85-1-605. Grants, loans, and bonds for state, and local, or tribal government assistance.** (1) The
22 department may recommend to the legislature that grants and loans be made from revenue deposited in
23 the renewable resource grant and loan program state special revenue account, that loans be made from
24 renewable resource bond proceeds deposited in the renewable resource loan proceeds account established
25 in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7,
26 to provide financial assistance to a department, agency, board, commission, or other division of state
27 government, ~~or~~ to a city, county, or other political subdivision or local government body of the state, or
28 to a tribal government. The legislature may approve by appropriation or other appropriate means those
29 grants and loans that it finds consistent with the policies and purposes of the program.

30 (2) Nothing in this part creates or expands the state's or a local government's authority to incur

1 debt, and the legislature may authorize loans only to state and local government entities otherwise
2 structured to incur debt.

3 (3) Loans may not be authorized except to a state, ~~or local,~~ or tribal government entity that agrees
4 to secure the authorized loan with its bond.

5 (4) In addition to implementing those projects approved by the legislature, the department may
6 request up to 10% of the grant funds available and up to \$1 million for loans from the renewable resource
7 grant and loan program state special revenue account and the renewable resource loan proceeds account
8 in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may
9 not be made because of the gross negligence of the state, ~~or local,~~ or tribal government applicant, must
10 be approved by the department, and must be defined as those projects otherwise eligible for either grant
11 funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause
12 substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall
13 inform the legislative finance committee of the legislature.

14 (5) The grants and loans provided for by this section may be made for projects that enhance
15 renewable resources in the state through conservation, development, management, or preservation; for
16 assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes
17 approved by the legislature.

18 (6) GRANT AND LOAN AGREEMENTS WITH TRIBAL GOVERNMENTS IN MONTANA ENTERED
19 INTO UNDER THIS PART MUST CONTAIN, IN ADDITION TO OTHER APPROPRIATE TERMS AND
20 CONDITIONS, THE FOLLOWING CONDITIONS:

21 (A) A REQUIREMENT THAT IN THE EVENT A DISPUTE OR CLAIM ARISES UNDER THE
22 AGREEMENT, STATE LAW WILL GOVERN AS TO THE INTERPRETATION AND PERFORMANCE OF THE
23 AGREEMENT AND THAT ANY JUDICIAL PROCEEDING CONCERNING THE TERMS OF THE AGREEMENT
24 WILL BE BROUGHT IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
25 MONTANA;

26 (B) AN EXPRESS WAIVER OF SOVEREIGN IMMUNITY SIGNED BY THE TRIBAL GOVERNMENT THE
27 TRIBAL GOVERNMENT'S IMMUNITY FROM SUIT ON ANY ISSUE SPECIFICALLY ARISING FROM THE
28 TRANSACTION OF A LOAN OR GRANT; AND

29 (C) AN EXPRESS WAIVER OF ANY RIGHT TO EXHAUST TRIBAL REMEDIES SIGNED BY THE
30 TRIBAL GOVERNMENT."

1 **Section 5.** Section 85-1-611, MCA, is amended to read:

2 **"85-1-611. Department to solicit views.** The department shall solicit and consider in its evaluation
3 of proposed projects the views of interested and affected departments, boards, agencies, commissions, and
4 other subdivisions of the state, including local political subdivisions, of a tribal government, of the federal
5 government, and of other interested and affected persons."
6

7 **Section 6.** Section 85-1-613, MCA, is amended to read:

8 **"85-1-613. Limits on loans.** (1) A loan to a private person for a renewable resource grant and loan
9 program project may not be made from the renewable resource grant and loan program state special
10 revenue account or the renewable resource loan proceeds account if the loan exceeds the lesser of
11 \$200,000 or 80% of the fair market value of the security given for the project. In determining the fair
12 market value for the security given for a loan, the department shall consider appraisals made by qualified
13 appraisers and other factors it considers important.

14 (2) A loan to the state, ~~or a local government,~~ or a tribal government for a renewable resource
15 grant and loan program project may not be made by the department from the renewable resource grant and
16 loan program state special revenue account or renewable resource loan proceeds account if the loan
17 exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

18 (3) The period for repayment of loans may not exceed 30 years.

19 (4) The interest rate at which loans may be made under this part must be sufficient to:

20 (a) cover the bond debt service for a loan; and

21 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss
22 occurs."
23

24 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send
25 a copy of [this act] to each tribal government located on the seven Montana reservations.
26

27 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1997.
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