

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY *Griffith* ^{Senate} *Anderson* BILL NO. 310

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE FAIR MARKET SECURITY ASSURANCE FOR RENEWABLE RESOURCE LOANS TO WATER USERS' ASSOCIATIONS; INCREASING THE DOLLAR AMOUNT FOR LOANS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ATTACH ADDITIONAL PROPERTY TO SECURE LOANS; PROVIDING THAT LOAN FUNDS MAY NOT BE USED FOR PROJECT OPERATION AND MAINTENANCE; AMENDING SECTIONS 85-1-603, 85-1-613, AND 85-1-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

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

Section 1. Section 85-1-603, MCA, is amended to read:

"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated -- renewable resource loan loss reserve fund created. (1) (a) There is created a renewable resource loan debt service fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the renewable resource loan debt service fund, as received:

(i) 0.95% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35;

(ii) any principal and accrued interest under 85-1-613~~(4)(a)~~ (5)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into the renewable resource grant and loan program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617; and

(v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

(2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type established in 17-2-102.

1 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
 2 reserve fund all accrued interest under 85-1-613~~(4)(b)~~ (5)(b) received in repayment of a loan made from
 3 the proceeds of bonds issued under 85-1-617.

4 (c) If the department determines that a loan loss has occurred on a loan made pursuant to this part,
 5 funds from the renewable resource loan loss reserve fund must be transferred to the renewable resource
 6 loan debt service fund in an amount equal to the amount that would otherwise be available for debt service
 7 under subsection (1)(b) as a result of the loan loss."
 8

9 **Section 2.** Section 85-1-613, MCA, is amended to read:

10 **"85-1-613. Limits on loans.** (1) Except as provided in subsection (2), A loan to a private person
 11 for a renewable resource grant and loan program project may not be made from the renewable resource
 12 grant and loan program state special revenue account or the renewable resource loan proceeds account if
 13 the loan exceeds the lesser of ~~\$200,000~~ \$300,000 or 80% of the fair market value of the security given
 14 for the project. In determining the fair market value for the security given for a loan, the department shall
 15 consider appraisals made by qualified appraisers and other factors that it considers important.

16 (2) For a loan to a private person that is a water users' association organized and incorporated
 17 pursuant to Title 85, chapter 6, part 1, the department may consider the income of a water users'
 18 association when determining the fair market value of the security given for the project.

19 ~~(2)(3)~~ A loan to the state or a local government for a renewable resource grant and loan program
 20 project may not be made by the department from the renewable resource grant and loan program state
 21 special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of
 22 ~~\$200,000~~ \$300,000 or the project sponsor's remaining debt capacity.

23 ~~(3)(4)~~ The period for repayment of loans may not exceed 30 years.

24 ~~(4)(5)~~ The interest rate at which loans may be made under this part must be sufficient to:

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

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

28 (6) A loan made under this part may not be used for the cost of operation and maintenance of a
 29 project."

30

1 **Section 3.** Section 85-1-615, MCA, is amended to read:

2 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The
 3 state has a lien upon a project constructed with money from the renewable resource grant and loan state
 4 special revenue account or the renewable resource loan proceeds account for the amount of the loan and
 5 interest due the state. This lien may attach to any project facilities, equipment, easements, real property,
 6 shares of stock in a water users' association, revenue of a water users' association, accounts receivable
 7 of a water users' association, water purchase agreements, and property of any kind or nature owned by
 8 the debtor, including all water rights. The department shall file with the county clerk and recorder of each
 9 county in which a part of the project is located either a financing statement or a real estate mortgage
 10 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
 11 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid
 12 until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state
 13 law governing foreclosure of mortgages and liens.

14 (2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

15 (a) purchase a lien that is prior to the state's lien if:

16 (i) the director of the department determines that the loan is in default and the prospects for
 17 collecting the loan may be materially increased by purchasing the prior lien; and

18 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

19 (b) operate property that is subject to the state's lien if the director of the department determines
 20 that the loan is in default and that the prospects for collecting the loan may be materially increased by
 21 operating the property that is subject to the state's lien; or

22 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
 23 subsection (2)(b).

24 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
 25 possible to recover funds used under this section and funds loaned to the borrower."

26
 27 **NEW SECTION. Section 4. Applicability.** (1) [This act] applies retroactively, within the meaning
 28 of 1-2-109, to loans made by the department of natural resources and conservation from the renewable
 29 resource grant and loan program to water users' associations for existing projects that were initiated after
 30 July 1, 1995.

1 (2) [This act] applies to loans made by the department of natural resources and conservation from
2 the renewable resource grant and loan program to water users' associations for new projects initiated after
3 [the effective date of this act].

4

5 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

6

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0310, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing an alternative fair market security assurance for renewable resource loans to water users' associations; increasing the dollar amount for loans; authorizing the Department of Natural Resources and Conservation to attach additional property to secure loans; providing that loan funds may not be used for project operation and maintenance.

ASSUMPTIONS:

1. The DNRC will expand the private loan program to water associations.
2. The Conservation and Resource Development Division (CARDD) will administer the private loan program as it does under current statute.
3. Expenditures and revenue for CARDD will remain within present law budgets for 1999 biennium as recommended in the Executive Budget.
4. The amount of GO bonds issued each year may be increased. On average \$1 million is issued per year and the borrowers pay back the loans at the bond rate.

FISCAL IMPACT:

None.

TECHNICAL NOTES:

Language in the bill for the pledge of user revenues to repay the debt could be more specific.

Dave Lewis 2-15-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Lorents Grosfield 2/17/97
LORENTS GROSFIELD, PRIMARY SPONSOR DATE

Fiscal Note for SB0310, as introduced
SB 310

1 SENATE BILL NO. 310

2 INTRODUCED BY GROSFIELD, ANDERSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE FAIR MARKET SECURITY
5 ASSURANCE FOR RENEWABLE RESOURCE LOANS TO WATER USERS' ASSOCIATIONS; INCREASING THE
6 DOLLAR AMOUNT FOR CERTAIN LOANS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES
7 AND CONSERVATION TO ATTACH ADDITIONAL PROPERTY TO SECURE LOANS; PROVIDING THAT LOAN
8 FUNDS MAY NOT BE USED FOR PROJECT OPERATION AND MAINTENANCE; AMENDING SECTIONS
9 85-1-603, 85-1-613, AND 85-1-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
10 APPLICABILITY DATES."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13
14 **Section 1.** Section 85-1-603, MCA, is amended to read:

15 **"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated --**
16 **renewable resource loan loss reserve fund created.** (1) (a) There is created a renewable resource loan debt
17 service fund within the debt service fund type established in 17-2-102.

18 (b) The state pledges and allocates and directs to be credited to the renewable resource loan debt
19 service fund, as received:

20 (i) 0.95% of all money from time to time received from the coal severance tax collected under Title
21 15, chapter 35;

22 (ii) any principal and accrued interest under ~~85-1-613(4)(a)~~ (5)(a) received in repayment of a loan
23 made from the proceeds of bonds issued under 85-1-617;

24 (iii) all interest income earned on proceeds of renewable resource grant and loan program bonds;

25 (iv) revenue or money otherwise required to be paid into the renewable resource grant and loan
26 program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in
27 connection with the issuance of bonds pursuant to 85-1-617; and

28 (v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

29 (2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type
30 established in 17-2-102.

1 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
 2 reserve fund all accrued interest under 85-1-613~~(4)(b)~~ (5)(b) received in repayment of a loan made from
 3 the proceeds of bonds issued under 85-1-617.

4 (c) If the department determines that a loan loss has occurred on a loan made pursuant to this part,
 5 funds from the renewable resource loan loss reserve fund must be transferred to the renewable resource
 6 loan debt service fund in an amount equal to the amount that would otherwise be available for debt service
 7 under subsection (1)(b) as a result of the loan loss."
 8

9 **Section 2.** Section 85-1-613, MCA, is amended to read:

10 **"85-1-613. Limits on loans.** (1) ~~Except as provided in subsection (2), A a~~ A loan to a private
 11 person THAT IS NOT A WATER USERS' ASSOCIATION ORGANIZED AND INCORPORATED PURSUANT
 12 TO TITLE 85, CHAPTER 6, PART 1, for a renewable resource grant and loan program project may not be
 13 made from the renewable resource grant and loan program state special revenue account or the renewable
 14 resource loan proceeds account if the loan exceeds the lesser of ~~\$200,000~~ ~~\$300,000~~ \$200,000 or 80%
 15 of the fair market value of the security given for the project. In determining the fair market value for the
 16 security given for a loan, the department shall consider appraisals made by qualified appraisers and other
 17 factors that it considers important.

18 (2) For a A loan to a private person that is a water users' association organized and incorporated
 19 pursuant to Title 85, chapter 6, part 1, the department may consider the income of a water users'
 20 association when determining the fair market value of the security given for the project. MAY NOT BE
 21 MADE FROM THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM STATE SPECIAL REVENUE
 22 ACCOUNT OR THE RENEWABLE RESOURCE LOAN PROCEEDS ACCOUNT IF THE LOAN WOULD EXCEED
 23 THE LESSER OF \$300,000 OR AN AMOUNT REPRESENTING THE ANNUAL DEBT SERVICE ON THE LOAN
 24 THAT WOULD EXCEED 80% OF THE ANNUAL NET REVENUE OF THE SYSTEM THAT WOULD BE
 25 PLEGGED FOR PAYMENT OF THE LOAN. IN DETERMINING THE AMOUNT OF ANNUAL NET REVENUE
 26 THAT MAY BE PLEDGED FOR PAYMENT OF THE LOAN, ANNUAL EXPENSES FOR OPERATION AND
 27 MAINTENANCE MUST BE SUBTRACTED FROM THE GROSS REVENUE OF THE SYSTEM.

28 ~~(2)(3)~~ (3) A loan to the state or a local government for a renewable resource grant and loan program
 29 project may not be made by the department from the renewable resource grant and loan program state
 30 special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of

1 ~~\$200,000~~ ~~\$300,000~~ \$200,000 or the project sponsor's remaining debt capacity.

2 ~~(3)~~(4) The period for repayment of loans may not exceed 30 years.

3 ~~(4)~~(5) The interest rate at which loans may be made under this part must be sufficient to:

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

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

7 (6) A loan made under this part may not be used for the cost of operation and maintenance of a
8 project."

9

10 **Section 3.** Section 85-1-615, MCA, is amended to read:

11 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The
12 state has a lien upon a project constructed with money from the renewable resource grant and loan state
13 special revenue account or the renewable resource loan proceeds account for the amount of the loan and
14 interest due the state. This lien may attach to any project facilities, equipment, easements, real property,
15 shares of stock in a water users' association, revenue of a water users' association, accounts receivable
16 of a water users' association, water purchase agreements, and property of any kind or nature owned by
17 the debtor, including all water rights. The department shall file with the county clerk and recorder of each
18 county in which a part of the project is located either a financing statement or a real estate mortgage
19 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
20 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid
21 until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state
22 law governing foreclosure of mortgages and liens.

23 (2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

24 (a) purchase a lien that is prior to the state's lien if:

25 (i) the director of the department determines that the loan is in default and the prospects for
26 collecting the loan may be materially increased by purchasing the prior lien; and

27 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

28 (b) operate property that is subject to the state's lien if the director of the department determines
29 that the loan is in default and that the prospects for collecting the loan may be materially increased by
30 operating the property that is subject to the state's lien; or

1 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
2 subsection (2)(b).

3 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
4 possible to recover funds used under this section and funds loaned to the borrower."

5

6 NEW SECTION. **Section 4. Applicability.** (1) [This act] applies retroactively, within the meaning
7 of 1-2-109, to loans made by the department of natural resources and conservation from the renewable
8 resource grant and loan program to water users' associations for existing projects that were initiated after
9 July 1, 1995.

10 (2) [This act] applies to loans made by the department of natural resources and conservation from
11 the renewable resource grant and loan program to water users' associations for new projects initiated after
12 [the effective date of this act].

13

14 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

15

-END-

SENATE BILL NO. 310

INTRODUCED BY GROSFIELD, ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE FAIR MARKET SECURITY ASSURANCE FOR RENEWABLE RESOURCE LOANS TO WATER USERS' ASSOCIATIONS; INCREASING THE DOLLAR AMOUNT FOR CERTAIN LOANS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ATTACH ADDITIONAL PROPERTY TO SECURE LOANS; PROVIDING THAT LOAN FUNDS MAY NOT BE USED FOR PROJECT OPERATION AND MAINTENANCE; AMENDING SECTIONS 85-1-603, 85-1-613, AND 85-1-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

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

Section 1. Section 85-1-603, MCA, is amended to read:

"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated -- renewable resource loan loss reserve fund created. (1) (a) There is created a renewable resource loan debt service fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the renewable resource loan debt service fund, as received:

(i) 0.95% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35;

(ii) any principal and accrued interest under ~~85-1-613(4)(a)~~ (5)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into the renewable resource grant and loan program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617; and

(v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

(2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type established in 17-2-102.

1 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
 2 reserve fund all accrued interest under 85-1-613(4)(b) ~~(5)(b)~~ received in repayment of a loan made from
 3 the proceeds of bonds issued under 85-1-617.

4 (c) If the department determines that a loan loss has occurred on a loan made pursuant to this part,
 5 funds from the renewable resource loan loss reserve fund must be transferred to the renewable resource
 6 loan debt service fund in an amount equal to the amount that would otherwise be available for debt service
 7 under subsection (1)(b) as a result of the loan loss."
 8

9 **Section 2.** Section 85-1-613, MCA, is amended to read:

10 "**85-1-613. Limits on loans.** (1) ~~Except as provided in subsection (2),~~ A a A loan to a private
 11 person THAT IS NOT A WATER USERS' ASSOCIATION ORGANIZED AND INCORPORATED PURSUANT
 12 TO TITLE 85, CHAPTER 6, PART 1, for a renewable resource grant and loan program project may not be
 13 made from the renewable resource grant and loan program state special revenue account or the renewable
 14 resource loan proceeds account if the loan exceeds the lesser of ~~\$200,000 \$300,000~~ \$200,000 or 80%
 15 of the fair market value of the security given for the project. In determining the fair market value for the
 16 security given for a loan, the department shall consider appraisals made by qualified appraisers and other
 17 factors that it considers important.

18 (2) For a A loan to a private person that is a water users' association organized and incorporated
 19 pursuant to Title 85, chapter 6, part 1, the department may consider the income of a water users'
 20 association when determining the fair market value of the security given for the project. MAY NOT BE
 21 MADE FROM THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM STATE SPECIAL REVENUE
 22 ACCOUNT OR THE RENEWABLE RESOURCE LOAN PROCEEDS ACCOUNT IF THE LOAN WOULD EXCEED
 23 THE LESSER OF \$300,000 OR AN AMOUNT REPRESENTING THE ANNUAL DEBT SERVICE ON THE LOAN
 24 THAT WOULD EXCEED 80% OF THE ANNUAL NET REVENUE OF THE SYSTEM THAT WOULD BE
 25 PLEGGED FOR PAYMENT OF THE LOAN. IN DETERMINING THE AMOUNT OF ANNUAL NET REVENUE
 26 THAT MAY BE PLEDGED FOR PAYMENT OF THE LOAN, ANNUAL EXPENSES FOR OPERATION AND
 27 MAINTENANCE MUST BE SUBTRACTED FROM THE GROSS REVENUE OF THE SYSTEM.

28 ~~(2)(3)~~ (3) A loan to the state or a local government for a renewable resource grant and loan program
 29 project may not be made by the department from the renewable resource grant and loan program state
 30 special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of

1 ~~\$200,000~~ ~~\$300,000~~ \$200,000 or the project sponsor's remaining debt capacity.

2 ~~(3)~~(4) The period for repayment of loans may not exceed 30 years.

3 ~~(4)~~(5) The interest rate at which loans may be made under this part must be sufficient to:

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

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

7 (6) A loan made under this part may not be used for the cost of operation and maintenance of a
8 project."

9

10 **Section 3.** Section 85-1-615, MCA, is amended to read:

11 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The
12 state has a lien upon a project constructed with money from the renewable resource grant and loan state
13 special revenue account or the renewable resource loan proceeds account for the amount of the loan and
14 interest due the state. This lien may attach to any project facilities, equipment, easements, real property,
15 shares of stock in a water users' association, revenue of a water users' association, accounts receivable
16 of a water users' association, water purchase agreements, and property of any kind or nature owned by
17 the debtor, including all water rights. The department shall file with the county clerk and recorder of each
18 county in which a part of the project is located either a financing statement or a real estate mortgage
19 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
20 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid
21 until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state
22 law governing foreclosure of mortgages and liens.

23 (2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

24 (a) purchase a lien that is prior to the state's lien if:

25 (i) the director of the department determines that the loan is in default and the prospects for
26 collecting the loan may be materially increased by purchasing the prior lien; and

27 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

28 (b) operate property that is subject to the state's lien if the director of the department determines
29 that the loan is in default and that the prospects for collecting the loan may be materially increased by
30 operating the property that is subject to the state's lien; or

1 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
2 subsection (2)(b).

3 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
4 possible to recover funds used under this section and funds loaned to the borrower."
5

6 **NEW SECTION. Section 4. Applicability.** (1) [This act] applies retroactively, within the meaning
7 of 1-2-109, to loans made by the department of natural resources and conservation from the renewable
8 resource grant and loan program to water users' associations for existing projects that were initiated after
9 July 1, 1995.

10 (2) [This act] applies to loans made by the department of natural resources and conservation from
11 the renewable resource grant and loan program to water users' associations for new projects initiated after
12 [the effective date of this act].
13

14 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.
15

-END-

1 SENATE BILL NO. 310

2 INTRODUCED BY GROSFIELD, ANDERSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE FAIR MARKET SECURITY
5 ASSURANCE FOR RENEWABLE RESOURCE LOANS TO WATER USERS' ASSOCIATIONS; INCREASING THE
6 DOLLAR AMOUNT FOR CERTAIN LOANS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES
7 AND CONSERVATION TO ATTACH ADDITIONAL PROPERTY TO SECURE LOANS; PROVIDING THAT LOAN
8 FUNDS MAY NOT BE USED FOR PROJECT OPERATION AND MAINTENANCE; AMENDING SECTIONS
9 85-1-603, 85-1-613, AND 85-1-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
10 APPLICABILITY DATES."

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

13
14 **Section 1.** Section 85-1-603, MCA, is amended to read:

15 **"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated --**
16 **renewable resource loan loss reserve fund created.** (1) (a) There is created a renewable resource loan debt
17 service fund within the debt service fund type established in 17-2-102.

18 (b) The state pledges and allocates and directs to be credited to the renewable resource loan debt
19 service fund, as received:

20 (i) 0.95% of all money from time to time received from the coal severance tax collected under Title
21 15, chapter 35;

22 (ii) any principal and accrued interest under 85-1-613~~(4)(a)~~ (5)(a) received in repayment of a loan
23 made from the proceeds of bonds issued under 85-1-617;

24 (iii) all interest income earned on proceeds of renewable resource grant and loan program bonds;

25 (iv) revenue or money otherwise required to be paid into the renewable resource grant and loan
26 program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in
27 connection with the issuance of bonds pursuant to 85-1-617; and

28 (v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

29 (2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type
30 established in 17-2-102.

1 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
 2 reserve fund all accrued interest under 85-1-613~~(4)(b)~~ (5)(b) received in repayment of a loan made from
 3 the proceeds of bonds issued under 85-1-617.

4 (c) If the department determines that a loan loss has occurred on a loan made pursuant to this part,
 5 funds from the renewable resource loan loss reserve fund must be transferred to the renewable resource
 6 loan debt service fund in an amount equal to the amount that would otherwise be available for debt service
 7 under subsection (1)(b) as a result of the loan loss."

8
 9 **Section 2.** Section 85-1-613, MCA, is amended to read:

10 "**85-1-613. Limits on loans.** (1) ~~Except as provided in subsection (2),~~ A a A loan to a private
 11 person THAT IS NOT A WATER USERS' ASSOCIATION ORGANIZED AND INCORPORATED PURSUANT
 12 TO TITLE 85, CHAPTER 6, PART 1, for a renewable resource grant and loan program project may not be
 13 made from the renewable resource grant and loan program state special revenue account or the renewable
 14 resource loan proceeds account if the loan exceeds the lesser of ~~\$200,000~~ ~~\$300,000~~ \$200,000 or 80%
 15 of the fair market value of the security given for the project. In determining the fair market value for the
 16 security given for a loan, the department shall consider appraisals made by qualified appraisers and other
 17 factors that it considers important.

18 ~~(2) For a A loan to a private person that is a water users' association organized and incorporated~~
 19 ~~pursuant to Title 85, chapter 6, part 1, the department may consider the income of a water users'~~
 20 ~~association when determining the fair market value of the security given for the project.~~ MAY NOT BE
 21 MADE FROM THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM STATE SPECIAL REVENUE
 22 ACCOUNT OR THE RENEWABLE RESOURCE LOAN PROCEEDS ACCOUNT IF THE LOAN WOULD EXCEED
 23 THE LESSER OF \$300,000 OR AN AMOUNT REPRESENTING THE ANNUAL DEBT SERVICE ON THE LOAN
 24 THAT WOULD EXCEED 80% OF THE ANNUAL NET REVENUE OF THE SYSTEM THAT WOULD BE
 25 PLEGGED FOR PAYMENT OF THE LOAN. IN DETERMINING THE AMOUNT OF ANNUAL NET REVENUE
 26 THAT MAY BE PLEDGED FOR PAYMENT OF THE LOAN, ANNUAL EXPENSES FOR OPERATION AND
 27 MAINTENANCE MUST BE SUBTRACTED FROM THE GROSS REVENUE OF THE SYSTEM.

28 ~~(2)(3)~~ (3) A loan to the state or a local government for a renewable resource grant and loan program
 29 project may not be made by the department from the renewable resource grant and loan program state
 30 special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of

1 ~~\$200,000~~ ~~\$300,000~~ \$200,000 or the project sponsor's remaining debt capacity.

2 ~~(3)~~(4) The period for repayment of loans may not exceed 30 years.

3 ~~(4)~~(5) The interest rate at which loans may be made under this part must be sufficient to:

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

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

7 ~~(6) A loan made under this part may not be used for the cost of operation and maintenance of a~~
8 project."

9

10 **Section 3.** Section 85-1-615, MCA, is amended to read:

11 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The
12 state has a lien upon a project constructed with money from the renewable resource grant and loan state
13 special revenue account or the renewable resource loan proceeds account for the amount of the loan and
14 interest due the state. This lien may attach to any project facilities, equipment, easements, real property,
15 shares of stock in a water users' association, revenue of a water users' association, accounts receivable
16 of a water users' association, water purchase agreements, and property of any kind or nature owned by
17 the debtor, including all water rights. The department shall file with the county clerk and recorder of each
18 county in which a part of the project is located either a financing statement or a real estate mortgage
19 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
20 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid
21 until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state
22 law governing foreclosure of mortgages and liens.

23 (2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

24 (a) purchase a lien that is prior to the state's lien if:

25 (i) the director of the department determines that the loan is in default and the prospects for
26 collecting the loan may be materially increased by purchasing the prior lien; and

27 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

28 (b) operate property that is subject to the state's lien if the director of the department determines
29 that the loan is in default and that the prospects for collecting the loan may be materially increased by
30 operating the property that is subject to the state's lien; or

1 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
2 subsection (2)(b).

3 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
4 possible to recover funds used under this section and funds loaned to the borrower."
5

6 **NEW SECTION. Section 4. Applicability.** (1) [This act] applies retroactively, within the meaning
7 of 1-2-109, to loans made by the department of natural resources and conservation from the renewable
8 resource grant and loan program to water users' associations for existing projects that were initiated after
9 July 1, 1995.

10 (2) [This act] applies to loans made by the department of natural resources and conservation from
11 the renewable resource grant and loan program to water users' associations for new projects initiated after
12 [the effective date of this act].
13

14 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.
15

-END-

1 SENATE BILL NO. 310

2 INTRODUCED BY GROSSFIELD, ANDERSON

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE FAIR MARKET SECURITY
 5 ASSURANCE FOR RENEWABLE RESOURCE LOANS TO WATER USERS' ASSOCIATIONS; INCREASING THE
 6 DOLLAR AMOUNT FOR CERTAIN LOANS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES
 7 AND CONSERVATION TO ATTACH ADDITIONAL PROPERTY TO SECURE LOANS; PROVIDING THAT LOAN
 8 FUNDS MAY NOT BE USED FOR PROJECT OPERATION AND MAINTENANCE; AMENDING SECTIONS
 9 85-1-603, 85-1-613, AND 85-1-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
 10 APPLICABILITY DATES."

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

13
 14 **Section 1.** Section 85-1-603, MCA, is amended to read:

15 **"85-1-603. Renewable resource loan debt service fund created -- coal severance tax allocated --**
 16 **renewable resource loan loss reserve fund created.** (1) (a) There is created a renewable resource loan debt
 17 service fund within the debt service fund type established in 17-2-102.

18 (b) The state pledges and allocates and directs to be credited to the renewable resource loan debt
 19 service fund, as received:

20 (i) 0.95% of all money from time to time received from the coal severance tax collected under Title
 21 15, chapter 35;

22 (ii) any principal and accrued interest under 85-1-613~~(4)(a)~~ (5)(a) received in repayment of a loan
 23 made from the proceeds of bonds issued under 85-1-617;

24 (iii) all interest income earned on proceeds of renewable resource grant and loan program bonds;

25 (iv) revenue or money otherwise required to be paid into the renewable resource grant and loan
 26 program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in
 27 connection with the issuance of bonds pursuant to 85-1-617; and

28 (v) money received from the renewable resource loan loss reserve fund as the result of a loan loss.

29 (2) (a) There is a renewable resource loan loss reserve fund within the debt service fund type
 30 established in 17-2-102.

1 (b) The state pledges and allocates and directs to be credited to the renewable resource loan loss
 2 reserve fund all accrued interest under 85-1-613(4)(b) ~~(5)(b)~~ received in repayment of a loan made from
 3 the proceeds of bonds issued under 85-1-617.

4 (c) If the department determines that a loan loss has occurred on a loan made pursuant to this part,
 5 funds from the renewable resource loan loss reserve fund must be transferred to the renewable resource
 6 loan debt service fund in an amount equal to the amount that would otherwise be available for debt service
 7 under subsection (1)(b) as a result of the loan loss."

8

9 **Section 2.** Section 85-1-613, MCA, is amended to read:

10 "**85-1-613. Limits on loans.** (1) ~~Except as provided in subsection (2),~~ A a A loan to a private
 11 person THAT IS NOT A WATER USERS' ASSOCIATION OR DITCH COMPANY ORGANIZED AND
 12 INCORPORATED PURSUANT TO TITLE 85, CHAPTER 6, PART 1, OR TITLE 35, CHAPTER 1, PART 2, for
 13 a renewable resource grant and loan program project may not be made from the renewable resource grant
 14 and loan program state special revenue account or the renewable resource loan proceeds account if the
 15 loan exceeds the lesser of ~~\$200,000~~ ~~\$300,000~~ \$200,000 or 80% of the fair market value of the security
 16 given for the project. In determining the fair market value for the security given for a loan, the department
 17 shall consider appraisals made by qualified appraisers and other factors that it considers important.

18 ~~(2) For a A loan to a private person that is a water users' association OR DITCH COMPANY~~
 19 ~~organized and incorporated pursuant to Title 85, chapter 6, part 1, OR TITLE 35, CHAPTER 1, PART 2, the~~
 20 ~~department may consider the income of a water users' association when determining the fair market value~~
 21 ~~of the security given for the project.~~ MAY NOT BE MADE FROM THE RENEWABLE RESOURCE GRANT AND
 22 LOAN PROGRAM STATE SPECIAL REVENUE ACCOUNT OR THE RENEWABLE RESOURCE LOAN
 23 PROCEEDS ACCOUNT IF THE LOAN WOULD EXCEED THE LESSER OF \$300,000 OR AN AMOUNT
 24 REPRESENTING THE ANNUAL DEBT SERVICE ON THE LOAN THAT WOULD EXCEED 80% OF THE
 25 ANNUAL NET REVENUE OF THE SYSTEM THAT WOULD BE PLEDGED FOR PAYMENT OF THE LOAN. IN
 26 DETERMINING THE AMOUNT OF ANNUAL NET REVENUE THAT MAY BE PLEDGED FOR PAYMENT OF THE
 27 LOAN, ANNUAL EXPENSES FOR OPERATION AND MAINTENANCE MUST BE SUBTRACTED FROM THE
 28 GROSS REVENUE OF THE SYSTEM.

29 ~~(2)(3)~~ (3) A loan to the state or a local government for a renewable resource grant and loan program
 30 project may not be made by the department from the renewable resource grant and loan program state

1 special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of
 2 ~~\$200,000~~ ~~\$300,000~~ \$200,000 or the project sponsor's remaining debt capacity.

3 ~~(3)~~(4) The period for repayment of loans may not exceed 30 years.

4 ~~(4)~~(5) The interest rate at which loans may be made under this part must be sufficient to:

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

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

8 (6) A loan made under this part may not be used for the cost of operation and maintenance of a
 9 project."

10

11 **Section 3.** Section 85-1-615, MCA, is amended to read:

12 **"85-1-615. Security interests -- purchase, operation, and resale of encumbered property.** (1) The
 13 state has a lien upon a project constructed with money from the renewable resource grant and loan state
 14 special revenue account or the renewable resource loan proceeds account for the amount of the loan and
 15 interest due the state. This lien may attach to any project facilities, equipment, easements, real property,
 16 shares of stock in a water users' association, revenue of a water users' association, accounts receivable
 17 of a water users' association, water purchase agreements, and property of any kind or nature owned by
 18 the debtor, including all water rights. The department shall file with the county clerk and recorder of each
 19 county in which a part of the project is located either a financing statement or a real estate mortgage
 20 covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall
 21 record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid
 22 until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state
 23 law governing foreclosure of mortgages and liens.

24 (2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

25 (a) purchase a lien that is prior to the state's lien if:

26 (i) the director of the department determines that the loan is in default and the prospects for
 27 collecting the loan may be materially increased by purchasing the prior lien; and

28 (ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

29 (b) operate property that is subject to the state's lien if the director of the department determines
 30 that the loan is in default and that the prospects for collecting the loan may be materially increased by

1 operating the property that is subject to the state's lien; or

2 (c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in
3 subsection (2)(b).

4 (3) Any property acquired under the provisions of this section must be resold as expeditiously as
5 possible to recover funds used under this section and funds loaned to the borrower."

6

7 **NEW SECTION. Section 4. Applicability.** (1) [This act] applies retroactively, within the meaning
8 of 1-2-109, to loans made by the department of natural resources and conservation from the renewable
9 resource grant and loan program to water users' associations for existing projects that were initiated after
10 July 1, 1995.

11 (2) [This act] applies to loans made by the department of natural resources and conservation from
12 the renewable resource grant and loan program to water users' associations for new projects initiated after
13 [the effective date of this act].

14

15 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

16

-END-