

SENATE BILL 52

Introduced by Gage

1/02	Introduced
1/07	Referred to Taxation
1/07	First Reading
1/07	Fiscal Note Requested
1/11	Fiscal Note Received
1/14	Fiscal Note Printed
	Died in Committee

1 SENATE BILL NO. 52

2 INTRODUCED BY GAGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A RURAL
5 ELECTRIC OR TELEPHONE COOPERATIVE TO USE UNCLAIMED PATRONAGE
6 REFUNDS, CASH RETIREMENT OF CAPITAL CREDITS, OTHER PAYMENTS,
7 OR DEPOSITS FOR COLLEGE SCHOLARSHIPS TO STUDENTS IN ITS
8 SERVICE AREA; PROVIDING AN EXEMPTION TO THE UNIFORM
9 UNCLAIMED PROPERTY ACT; AMENDING SECTIONS 35-18-316,
10 70-9-203, 70-9-301, 70-9-309, AND 72-14-102, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 NEW SECTION. **Section 1.** Unclaimed patronage refunds,
15 cash retirement of capital credits, payments, or deposits --
16 scholarships. (1) A rural electric or telephone cooperative
17 may retain patronage refunds pursuant to 35-18-316, cash
18 retirement of capital credits, payments, or deposits given
19 to its customers that remain unclaimed for a period of 3
20 years after the end of the year in which the refund,
21 retirement, payment, or deposit is given.

22 (2) Refunds, retirements, payments, or deposits
23 retained by a cooperative may be used to provide college
24 scholarships to students in its service area who qualify for
25 financial assistance.

1 (3) The cooperative shall:

2 (a) establish guidelines for notification of persons
3 entitled to refunds, retirements, payments, or deposits;

4 (b) submit annually to the department of revenue the
5 amounts and names of persons whose unclaimed refunds have
6 been used for scholarships; and

7 (c) establish criteria, including but not limited to
8 income and financial need, for selecting those students in
9 its service area who qualify for financial assistance.

10 **Section 2.** Section 35-18-316, MCA, is amended to read:

11 "35-18-316. Refunds to members. (1) Revenues of a
12 cooperative for any fiscal year ~~shall~~ must, unless otherwise
13 determined by a vote of the members, be distributed by the
14 cooperative to its members as patronage refunds prorated in
15 accordance with the patronage of the cooperative by the
16 respective members paid for during ~~such~~ the fiscal year,
17 whenever ~~such~~ the revenues exceed the amount ~~thereof~~
18 necessary to:

19 (a) defray expenses of the cooperative and of the
20 operation and maintenance of its facilities during ~~such~~ the
21 fiscal year;

22 (b) pay interest and principal obligations of the
23 cooperative coming due in ~~such~~ the fiscal year;

24 (c) finance or provide a reserve for the financing of
25 the construction or acquisition by the cooperative of

1 additional facilities to the extent determined by the board
2 of trustees;

3 (d) provide a reasonable reserve for working capital;

4 (e) provide a reserve for the payment of indebtedness
5 of the cooperative maturing more than 1 year after the date
6 of the incurrence of such the indebtedness in an amount not
7 less than the total of the interest and principal payments
8 ~~in--respect--thereof~~ required to be made during the next
9 following fiscal year; and

10 (f) provide a fund, which ~~shall~~ may not be not less
11 than 2% or more than 5% of the balance remaining, for
12 education in cooperation and for the dissemination of
13 information concerning the effective use of electric energy
14 and other services made available by the cooperative.

15 (2) Nothing ~~herein~~ contained ~~shall~~ in this section may
16 be construed to prohibit the payment by a cooperative of all
17 or any part of its indebtedness prior to the date when the
18 ~~same-shall-become~~ payment becomes due.

19 (3) Nothing contained in this section may be construed
20 to prohibit the membership of a rural electric or telephone
21 cooperative from adopting a bylaw or amendment to its
22 articles of incorporation providing that any patronage
23 refunds, cash retirement of capital credits, other payments,
24 or deposits that are made by the cooperative to a member or
25 former member and that remain unclaimed for 3 years, as

1 provided in 70-9-203, are irrevocably assigned to the
2 cooperative for the benefit of the cooperative, its members,
3 or their dependents."

4 **Section 3.** Section 70-9-203, MCA, is amended to read:

5 "70-9-203. Deposits-and-refunds Unclaimed funds held by
6 utility -- scholarships. (1) The following funds held or
7 owing by any utility are presumed abandoned:

8 ~~{1}~~(a) any a deposit made by a subscriber with a
9 utility to secure payment for or any a sum paid in advance
10 for utility services to be furnished in this state, less any
11 lawful deductions, that has remained unclaimed by the person
12 appearing on the records of the utility entitled thereto to
13 it for more than 5 3 years after the termination of the
14 services for which the deposit or advance payment was made;

15 ~~{2}~~(b) any a sum which that a utility has been ordered
16 to refund and which that was received for utility services
17 rendered in this state, together with any interest thereon,
18 less any lawful deductions, that has remained unclaimed by
19 the person appearing on the records of the utility entitled
20 thereto to it for more than 5 3 years after the date it
21 became payable in accordance with the final determination or
22 order providing for the refund;

23 (c) a patronage refund, cash retirement of capital
24 credits, or payment refunded to a member of a rural electric
25 or telephone cooperative organized under Title 35, chapter

1 18, that has remained unclaimed by the person appearing on
 2 the records of the cooperative entitled to it for more than
 3 3 years.

4 (2) The unclaimed funds provided for in subsection (1)
 5 are not subject to or governed by any other provisions of
 6 parts 1 through 3. They may be used by the cooperative to
 7 provide college scholarships as provided in [section 1]."

8 **Section 4.** Section 70-9-301, MCA, is amended to read:

9 "70-9-301. Report of abandoned property -- duty to
 10 prevent abandonment prior to filing. (1) Every Except as
 11 provided in 70-9-203(2), a person holding moneys money or
 12 other property, tangible or intangible, presumed abandoned
 13 under parts 1 through 3 shall report the property to the
 14 department as hereinafter provided in this section.

15 (2) The report ~~shall~~ must be verified and ~~shall~~
 16 include:

17 (a) except with respect to travelers' checks and money
 18 orders, the name, if known, and last-known address, if any,
 19 of each person appearing from the records of the holder to
 20 be the owner of any property of value of \$10 or more
 21 presumed abandoned under parts 1 through 3;

22 (b) in case of unclaimed ~~moneys~~ money of life insurance
 23 corporations, the full name of the insured or annuitant and
 24 his last-known address according to the life insurance
 25 corporation's records;

1 (c) the nature and identifying number, if any, or
 2 description of the property and the amount appearing from
 3 the records to be due. Items of value under \$10 each may be
 4 reported in aggregate.

5 (d) the date when the property became payable,
 6 demandable, or returnable and the date of the last
 7 transaction with the owner with respect to the property; and

8 (e) other information ~~which~~ that the department
 9 prescribes by rule as necessary for the administration of
 10 parts 1 through 3.

11 (3) If the person holding property presumed abandoned
 12 is a successor to other persons who previously held the
 13 property for the owner or if the holder has changed his name
 14 while holding the property, he shall file with his report
 15 all prior known names and addresses of each holder of the
 16 property.

17 (4) The report ~~shall~~ must be filed before November 1
 18 every each year as of June 30 next preceding, but the
 19 reports of life insurance corporations, banking and
 20 financial organizations, and cooperatives ~~shall~~ must be
 21 filed before May 1 of each year as of December 31 next
 22 preceding. The department may postpone the reporting date
 23 upon written request by any person required to file a
 24 report. The department shall furnish forms for this report.

25 (5) Not more than 120 days before filing the report

1 required by this section, the holder in possession of
 2 property presumed abandoned and subject to custody as
 3 unclaimed property under parts 1 through 3 shall send
 4 written notice to the apparent owner at his last-known
 5 address informing him that the holder is in possession of
 6 property subject to this chapter if:

7 (a) the holder has in his records an address for the
 8 apparent owner ~~which~~ that the holder's records do not
 9 disclose to be inaccurate;

10 (b) the claim of the apparent owner is not barred by
 11 the statute of limitations; and

12 (c) the property has a value of \$100 or more.

13 (6) Verification, if made by a partnership, ~~shall~~ must
 14 be executed by a partner; if made by an unincorporated
 15 association or private corporation, by an officer; and if
 16 made by a public corporation, by its chief fiscal officer."

17 **Section 5.** Section 70-9-309, MCA, is amended to read:

18 "70-9-309. Deposit of moneys ~~money~~ -- record --
 19 deduction of costs. (1) ~~All~~ Except for patronage refunds,
 20 cash retirements, payments, or deposits retained under
 21 [section 1], all moneys money received under parts 1 through
 22 3, including the proceeds from the sale of abandoned
 23 property under 70-9-308, ~~shall-forthwith~~ must be immediately
 24 deposited by the department of revenue with the state
 25 treasurer for credit to the public school nonexpendable

1 trust fund of the state, except that the state treasurer
 2 shall retain in the agency fund an amount not exceeding
 3 \$25,000 from which he shall make prompt payment of claims
 4 allowed by the department as ~~hereinafter~~ provided in this
 5 section.

6 (2) Before making the deposit, the department shall
 7 record the name and ~~last-known~~ last-known address of each
 8 person appearing from the holders' reports to be entitled to
 9 the abandoned property and of the name and ~~last-known~~
 10 last-known address of each insured person or annuitant and,
 11 with respect to each policy or contract listed in the report
 12 of a life insurance corporation, its number, the name of the
 13 corporation, and the amount due. The record ~~shall~~ must be
 14 available for public inspection at all reasonable business
 15 hours.

16 (3) Before making any deposit to the credit of the
 17 public school nonexpendable trust fund, the department may
 18 deduct:

19 (a) any costs in connection with sale of abandoned
 20 property;

21 (b) any costs of mailing and publication in connection
 22 with any abandoned property; and

23 (c) reasonable service charges."

24 **Section 6.** Section 72-14-102, MCA, is amended to read:

25 "72-14-102. When title to escheated property vests in

1 state. (1) Whenever the title to any property, either real
2 or personal or mixed, fails for any reason, including want
3 of heirs or next of kin, such the title vests in the state
4 of Montana immediately upon the death of the owner without
5 an inquest or other similar proceeding and there is no
6 presumption that such the owner died leaving heirs or next
7 of kin.

8 (2) This chapter does not apply to any rural electric
9 or telephone cooperative organized under Title 35, chapter
10 18, if the cooperative has adopted a bylaw or amendment to
11 its articles of incorporation providing that patronage
12 refunds, cash retirement of capital credits, other payments,
13 or deposits that are made by the cooperative to a member or
14 former member and that remain unclaimed for 3 years, as
15 provided in 70-9-203, are irrevocably assigned to the
16 cooperative for the benefit of the cooperative, its members,
17 or their dependents."

18 NEW SECTION. Section 7. Effective date. [This act] is
19 effective on passage and approval.

20 NEW SECTION. Section 8. Codification instruction.
21 [Section 1] is intended to be codified as an integral part
22 of Title 35, chapter 18, part 3, and the provisions of Title
23 35, chapter 18, part 3, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0052, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act allowing a rural electric or telephone cooperative to use unclaimed patronage refunds, cash retirement of capital credits, other payments, or deposits for college scholarships to students in its service area; providing an exemption to the uniform unclaimed property act; amending sections 35-18-316, 70-9-203, 70-9-309, and 72-14-102, MCA; and providing an immediate effective date.

ASSUMPTIONS:

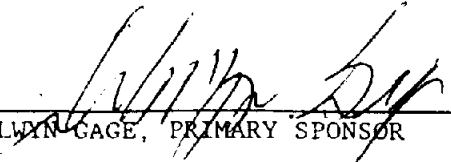
1. The Department of Revenue will not incur any significant additional administrative duties with the proposed legislation.

FISCAL IMPACT:

The proposal will result in a reduction in unclaimed property proceeds deposited in the common school trust. However, the effect on the trust and its earnings should be insignificant.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning 1-11-91



DELYN GAGE, PRIMARY SPONSOR DATE
Fiscal Note for SB0052, as introduced 1/12/91
SB 52