

HOUSE TAXATION COMMITTEE MEETING MINUTES
April 8, 1981

A meeting of the House Taxation Committee was held on Wednesday, April 8, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present. EXECUTIVE ACTION was taken on SENATE BILLS 163, 150, 208, 207, SENATE JOINT RESOLUTION 26, and HOUSE BILL 870.

SENATE JOINT RESOLUTION 26 was considered. A copy of the bill with some proposed amendments were distributed; see Exhibit "A." Rep. Nordtvedt went over the amendments and moved that they be adopted. Motion carried unanimously. Rep. Nordtvedt then moved that SJR 26 BE CONCURRED IN AS AMENDED. Rep. Harrington submitted that value was increasing and that was why trending was used. Rep. Nordtvedt pointed out that this wasn't the case with computers, however.

Rep. Williams wanted to know why the Department of Revenue would want to instigate regulations to take more money away from the taxpayers than the law allowed. Rep. Sivertsen said in some instances the Department of Revenue hadn't followed that philosophy that they are the revenue raisers for Montana and they are "out to get all they can." Sometimes they act beyond the intent of the Legislature. The trending approach is something the Department came up with and he submitted that in some cases the Legislature needed to be more specific in what they wanted the Department to do in order that it didn't go beyond what the Legislature wanted. It was pointed out that rules could be adjusted to enable the Department to do what they wanted to.

Rep. Williams asked Dennis Burr (Montana Taxpayers Association) if, when he was working for the Department of Revenue, he followed that philosophy. Mr. Burr replied that he hadn't. He rose in support of the Resolution. Rep. Williams submitted that generally the Department of Revenue tried within the limits of the law to do their job. He said he didn't like to feel that whenever something comes up, the Department is trying to "gig" the taxpayer. He submitted that this worked both ways.

Rep. Switzer rose in support of the Resolution and said it gave Legislative direction to the Department of Revenue. Rep. Bertelsen rose in support of the Resolution. He submitted that the Legislature had a tendency to give direction, and if it didn't work out, they then placed the blame on the Department. He submitted that the Department wasn't trying to go outside of the Legislature's intent in the previous actions they had taken.

Rep. Harrington wanted to know what Ms. Feaver's (Department of Revenue Director) feeling was on the matter. She replied that this Resolution was a very serious one because it would have quite an impact fiscally. Trending has been used to comply with the law that says property taxes are based on market value. There is a statute that specifies market value and they will possibly be in Court if this Resolution is passed. The Department will be in the position of trying to decide whether they should comply with the law or the Resolution and in either case they will probably end up in Court.

Rep. Harrington wanted to know if the Resolution would have any effect on other property. Ms. Feaver said she thought it had to have an effect because trending was also used elsewhere, and these other categories would also become open to question with passage of the Resolution. Therefore, the \$1.5 million fiscal impact from the Resolution has to be projected to other areas also. The inequity in taxing furniture and fixtures at cost depreciated and other properties at market value is illogical.

Rep. Harrington said that the hearing on ore hauling trucks covered this issue. Ms. Feaver said that trending was used on mining equipment, and submitted that the \$1.5 million impact would be far greater if ore haulers were included.

Rep. Nordtvedt submitted that the biggest portion of property the State got taxes from wasn't trended at all: homes and land. Therefore, there is a strong precedent in the system at present of not having trending. This Resolution says that trending is artificial, and isn't getting true market value for this property. He pointed out this was especially true with computers.

Rep. Williams submitted that if it was the belief of the Committee, that trending wasn't good, then it should be applied to all property. Ms. Feaver submitted that it was already in the law; property has to be taxed at market value. If cost depreciation has to be used, that might not be any closer to market value than trending.

Rep. Williams submitted that the statutes would be messed up with this type of Resolution. Rep. Nordtvedt said that trending had been shown to be inappropriate in many forms of personal property taxing. He questioned how the problem could be addressed, if not by a Resolution.

Rep. Sivertsen said the problem was with trending and it needed to be addressed because with furniture and fixtures the way the Department had used trending had placed them in a much higher value category than they were actually worth. If the Department of Revenue would show the Committee where they were willing to make some changes in the use of the trending factor, he submitted that the Committee would take a much more favorable approach to this. If the Legislature doesn't do something, the taxpayers will and he submitted that it would be similar to what had happened in the 34% cases. He submitted that the Department had shown no signs of being willing to make changes and that was why this Resolution had been introduced. He submitted that the Department in the past several years hadn't changed their procedure to bring more equity.

Rep. Harrington said the item was one thing, but the use of the item is another, and that was part of the trending process. Part of the tax is put on the item as it sits and as it is used. This Resolution changes the entire process. Personal property such as ore haulers, in addition to the other items, will create a problem if this Resolution is passed. Rep. Nordtvedt said the State had set itself up for

lawsuits from personal property owners because real estate wasn't trended. He submitted that the Resolution didn't say that depreciated cost was ideal, only that it was more appropriate.

Rep. Harrington said that ore haulers, according to depreciated value, would be valued very low except the item has been performing the same function as a brand new ore hauler and by using this type of depreciation the taxable value is being depreciated on that item when really it has been performing the same as a new one and this Resolution would open the door to trending to be questioned in the ore hauler area, also. Lawsuits will result.

Rep. Williams asked Rep. Nordtvedt if it was his feeling that the Department of Revenue would be able to shut the door on everyone else who questioned trending in their area of taxation, also. Rep. Nordtvedt said the Resolution applied to commercial furniture and computers, etc., where trending isn't working in determining market value. Rep. Williams said he agreed, but he worried about the overall impact of the Resolution. Rep. Nordtvedt said that if in 1983 the ore haulers had a Resolution saying this for ore haulers, the Legislature would have to consider that at that time.

Ms. Feaver then commented. Having talked with their attorneys about the implication of this Resolution, she was told the Department should go with all personal property unless they wanted to invite litigation. She then addressed Rep. Sivertsen's previous comments about the Department of Revenue. She said they had come in already with plans for changing procedures. She referred to George Anderson's testimony which showed that trending wasn't used correctly. The Department of Revenue staff found that he was right. She met with the Montana Taxpayers Association representatives and told them there was no reference manual that the Department could use to determine market value on various computers. The trending factors didn't apply to computers and they were foolish to propose a rule saying that. She suggested that last year's taxing method be gone back to and a new method be worked on for the future, and the Taxpayers Association was agreeable with this solution.

Also, in livestock they were doing things incorrectly. They talked with interested parties and agreed upon a price that made sense. She proposed to the Committee that complying with the law and arriving at market value was what this administration would be doing and they weren't "out to get the taxpayer."

Rep. Roth asked for Dennis Burr's reaction. He said that the Resolution didn't come just from the problem with computers. They met with Ms. Feaver and her position was to do nothing other than to go back to last year's tables. They didn't agree that this was the proper solution, but they were agreeable to work with the Department to straighten the matter out. The market value concept is what taxes are based on. In the area of furniture and fixtures, the price is extremely low. In other areas, trending might work, but it doesn't in this instance. He

didn't think the market value concept was being thrown out with this Resolution. The Department needs to come as close as it can to find a value for property that doesn't sell every day.

Rep. Williams wanted to know what his guidelines would be if trending wasn't used. Mr. Burr replied that original cost depreciated is what should be used.

The question was then called for on the motion that the Resolution BE CONCURRED IN AS AMENDED; motion carried Reps. Harrington, Brand, Asay, Dozier, Oberg, and Hart opposed.

SENATE BILL 208 was then considered. Rep. Harrington moved that it BE CONCURRED IN; motion carried with Reps. Burnett, Vinger, Roth and Underdal opposed. Rep. Harrington agreed to carry the bill.

SENATE BILL 207 was considered. Rep. Nordtvedt moved an amendment changing the wording back to "principal" on P. 2, line 19. By creating a formula which used the principal rather the income from the trust fund, the argument for the coal severance tax is strengthened. Rep. Brand wanted to know what the reasoning was behind the Senate's amending the bill to income. Rep. Nordtvedt replied that there were some Senators who didn't want the principal used.

It was brought out that how much is taken out of the principal depends on the size of the impact. The bill is trying to create a formula for this. Rep. Asay submitted that in effect the bill would give direction to the Coal Board, but he added that it would take away a lot of their discretion. In addition, he said he wasn't convinced the formula would work. Also, regarding the Senate amendment from principal to income, he submitted that HB 121 would have taken care of this problem; however, that bill was killed in the Senate.

Rep. Sivertsen said that as demands become greater on the Coal Board, the Board needs to base their decisions on something and this hasn't been done in the past. He submitted that it was good business to have a format although he wasn't sure that this was the right one. Rep. Asay said the formula had to be applied before it would be known if it was workable.

Rep. Nordtvedt said that if the formula produced an impact that was larger than the impact fund, the question was, should the principal or the income (which is now going into the General Fund) be tapped. Rep. Nordtvedt said that his amendment would be returning the bill to the way the Revenue Oversight Committee had recommended. The question was then called for on the amendment; motion carried with Reps. Oberg, Zabrocki, Asay and Neuman opposed.

Rep. Williams then suggested several more amendments: P. 2, line 9, and P. 1, line 24, insert the word "local." Rep. Nordtvedt suggested that "and State" also be inserted. The question was called for on the amend-

ments; motion carried unanimously. Mr. Oppedahl, Legislative Council, pointed out that an amendment might be needed on P. 1, line 23, and a motion was made to insert "or successor agency"; motion carried unanimously.

Rep. Williams then moved that SB 207 BE CONCURRED IN AS AMENDED; discussion took place. Rep. Neuman said he had a problem in that the funding might not be evenly distributed. Rep. Nordtvedt expressed hope that the formula would be sophisticated enough to account for all factors. The question was then called for on the bill; motion carried with Reps. Nordtvedt, Burnett and Neuman opposed.

SENATE BILL 163 was considered. Amendments were distributed. Rep. Nordtvedt moved an amendment to strike Section 23. (1) It is a very selective tax break, and (2) the net result of the bill will be to drive up the price of agricultural land. Every time a tax break is given, more people want to buy and this will drive the prices up. He added that there was nothing in the bill preventing anyone from speculating with the money.

Rep. Sivertsen submitted that the type of individual the bill hoped to accommodate would have to be screened by the loan authority and the individual would have to show he was interested in getting into the business and had some expertise in the business and if the individual didn't meet the criteria, he wouldn't get the loan to begin with.

Rep. Roth submitted that the loan authorities had been fooled many times by people who turned out to be washouts. She submitted that it was difficult to ascertain whether someone was going to be a success or not.

Rep. Sivertsen submitted that the banks, percentage-wise, came out good on their loans and had the ability to choose who they lent their money to.

Discussion took place regarding Rep. Nordtvedt's amendment. Rep. Neuman said that a lot of farmland was going to be sold in the coming years, due to the average age of a Montana farmer being so old, and an incentive needed to be provided for them to sell to beginning farmers instead of out-of-State interests. Rep. Sivertsen added that the bill was something like the inheritance tax philosophy: the property should be passed on to lineal descendants without penalty. This bill carries that philosophy on by giving the break to someone who wants to pass the land on to a like person.

Rep. Nordtvedt submitted that Section 23 might be in violation of the present IRS codes. Rep. Asay agreed that that might apply if a family member was sold to. He submitted that it wouldn't be a question otherwise.

Rep. Sivertsen said that if the transaction didn't "pencil out," the person wouldn't get the loan. Therefore, there is a safeguard because

the person isn't going to throw this money away. If the land price is too high, the person won't be able to pay for it and the loan won't be granted; therefore, he discounted the argument that the program would drive prices up.

Rep. Nordtvedt submitted that it was impossible to justify to constituents that some people can get a tax benefit from selling their property and others won't get one at all.

Rep. Dozier disagreed with the philosophy. Tax laws are used to encourage and discourage all kinds of things. All this bill does is encourage young people to get into agriculture because they are needed. Rep. Asay said he had a problem because he found he was agreeing with Rep. Dozier.

The question was then called for on the motion to strike Section 23; motion failed 7 - 12.

Another amendment, see Exhibit "B," was then presented. Sen. Tom Towe (sponsor of SB 163) explained the amendment. The language from HOUSE BILL 640 is taken and put into this bill and the sponsor of HB 640 was agreeable to this. He didn't feel that any of the amendments on P.1 of the Exhibit were necessary, but they wouldn't hurt and they might help a little. Section 5 of the amendments adds two things not presently in the bill. This addition won't hurt although it might not ever be used. Amendment No. 2 was worked out with Sen. Towe and interested parties related to Sen. Hammond's bill dealing with a bonding program giving a municipal rate of interest. The guaranty program worked out in that bill is incorporated into this bill. He submitted that the amendments weren't critical to the bill but would help it.

Rep. Sivertsen moved that the amendments on P. 1 down to Section 5 not be adopted; he moved the remainder of the amendments. Rep. Vinger submitted that with the amendments, the State would be put in the bonding business and private people would be run out of business. He rose in opposition to the amendments and the bill. Rep. Roth concurred with him.

Rep. Nordtvedt said if the guaranty fund was short, the amendment would authorize the Legislature to appropriate from the General Fund (income from the coal trust fund) to keep the fund in the black.

The question was called for on the amendments; motion carried 11 - 7; see roll call vote.

Sen. Towe then submitted some more amendments for SB 163; see Exhibit "C." The loss of revenue would be very nominal at present, but with the amendment this would be increased very substantially.

Rep. Dozier moved that if the bill passed, help would be given the secretary to carry all the amendments upstairs.

Rep. Nordtvedt submitted that the amendment would help the Department of Revenue hire more FTE's.

Rep. Asay moved that the amendment be adopted. Rep. Roth made a substitute motion that the amendment not be adopted. The substitute motion carried with Reps. Dozier and Brand opposed.

Another amendment was then considered; see Exhibit "D." Rep. Asay submitted that net worth should not be part of the criteria, and made a motion to strike the net worth provision of the bill. Sen. Towe suggested that the language, "which may not exceed" be stricken, and Rep. Asay's desire would be accomplished. Rep. Nordtvedt rose in support of the amendment. Rep. Switzer rose in favor of the amendment also. The question was called for on the amendment to strike the net worth requirement; motion failed 10 - 8; see roll call vote. The amendment on Exhibit "D" was then moved by Rep. Bertelsen; motion carried unanimously.

Another set of amendments for SB 163 was then considered; see Exhibit "E." Sen Towe explained the amendments. Rep. Sivertsen moved the amendments.

Rep. Vinger rose in opposition to the amendments. A second loan program will be necessary and the \$2 million from the State will be financing this, which will be the State in business and therefore, he wasn't in favor of the amendments. The question was called for on the amendments; motion failed 10 - 8; see roll call vote.

Sen. Towe suggested that amendments No. 3, 4, and 6 be adopted and also the title needed amending; Rep. Nordtvedt moved them. The motion carried unanimously.

Rep. Sivertsen then moved that SENATE BILL 163 BE CONCURRD IN AS AMENDED. In the past, he explained, he hadn't been in support of this kind of idea, but this is now one of the major problems in the State and in the Nation. He submitted that a water bonding bill passed and to say that this bill was not ordinary was inconsistent. If the State can help a willing individual to get into agriculture and produce, the Nation and the world can continue to be provided staples at a minimal cost. Once food production is controlled, it is the beginning of the end. It is absurd that the Legislature, which has always been especially concerned about agriculture, is only concerned so long as "I am set up in business and I am doing alright." As a result of that thinking, the State is put in a position of allowing the conglomerates to take over agriculture. He submitted that there was no longer a free enterprise system and expressed willingness to prove it to the Committee if they wanted to take the time.

At present because of the philosophy of the banks in this country and the philosophy of many of the Legislators, he is forced to try to keep agriculture as close to the basic family farm as possible. A family farm can be considered an investment of \$1 - 3 million, so it is no small operation, but can still be considered a family farm.

Rep. Burnett rose in opposition to the bill. He pointed out that the

FHA, the PCA, and the Federal Land Bank would take care of anything this bill would do if it was administered in the manner it should be. A bureaucracy is being built up, putting the State into the land business and the loaning business, and he was not in support of this.

Rep. Williams asked Sen. Towe to convince him why the seller should have a \$50,000 tax break just because he was selling to a beginning farmer. The seller has had breaks all along because the land was agricultural, and he didn't see why he should be given another break, now.

Sen. Towe replied that the reason for the section was that society would be saying it was encouraging family farms. One of the most effective ways of encouraging this is to give the sellers a tax break for selling to beginners. He submitted that other States had enacted similar programs and they were working.

Rep. Williams asked him why everyone couldn't be given similar breaks. Sen. Towe said he wasn't opposed to this, but the problem at present was acute with farming. Rep. Williams wanted to know why \$50,000 was chose and wanted to know if it could be changed to \$25,000. Sen. Towe said he had no objection to this.

Rep. Vinger submitted that there would be no way a person could even then pay for the land, even if the loan was interest free, due to the high price of land.

Sen. Towe said this bill didn't address that situation; it addressed the situation where the man is working for his father and needed some help to buy that land. The idea is, with 15% and 16% interest, this wouldn't be possible, but if existing owners can be encouraged to sell at 9%, that is worth a lot to the State.

Rep. Vinger submitted that the net worth qualification wouldn't enable a person to own enough machinery to be able to make a go of it. Sen. Towe said the person who was struggling away on a few hundred acres and wanted more wouldn't be shut out by the requirement.

The question was then called for on the motion that the bill BE CONCURRED IN AS AMENDED; motion carried 11 - 7; see roll call vote.

A Committee bill was then presented to the Committee which raised the standard income tax deduction; see Exhibit "F." Rep. Nordtvedt moved that the bill DO PASS. Rep. Nordtvedt estimated that the fiscal impact would be \$3.5 million over the biennium. The question was called for; motion carried unanimously.

SENATE BILL 150 was then considered. Rep. Nordtvedt moved that it be amended from 40% to 30%, and applicability dates be inserted. Rep. Neuman wondered if the language at the top of P. 4 could be amended to apply only to smaller corporations. Rep. Williams said he had a problem also with lines 2 - 7 on P. 4. He wanted to know why this language was needed, and he submitted that it expanded the definition of small corporations.

The question was called for on Rep. Nordtvedt's amendments; motion carried unanimously. Rep. Nordtvedt moved that the bill BE CONCURRED IN AS AMENDED.

Rep. Williams moved that the language inserted by the Senate on Page 4 be deleted; motion carried with Rep. Underdal opposed. See Exhibit "G " for the amendments in their entirety.

Discussion then took place on the bill. Rep. Nordtvedt said the fiscal impact of this bill would be \$7 million in the biennium. Rep. Brand said he was opposed to the bill because business had gotten enough tax breaks already. The question was then called for and the motion carried, with Reps. Harrington, Brand, Zabrocki, Dozier, Oberg and Hart opposed.

The meeting was adjourned at 10:00 a.m.

Rep. Ken Nordtvedt, Chairman

da

1
2 INTRODUCED BY Amie Thomas JOINT RESOLUTION NO. 26

3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
5 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING
6 MODIFICATION OF THE ADMINISTRATIVE RULE GOVERNING THE
7 ASSESSMENT OF COMMERCIAL FURNITURE AND FIXTURES.

8
9 WHEREAS, subsection (1) of section 15-8-111, MCA,
10 provides that taxable property is to be assessed at 100% of
11 its market value, the price available to a willing seller
12 from a willing buyer; and

13 WHEREAS, subsection (1)(e) of section 15-6-139, MCA,
14 places commercial furniture and fixtures in class nine for
15 property tax purposes; and

16 WHEREAS, the Department of Revenue formerly provided
17 for the assessment of such property at its depreciated
18 original cost; and

19 WHEREAS, the Department in 1977 began the practice of
20 employing a "trended" original cost as the means of valuing
21 such property prior to the application of depreciation
22 schedules; and

23 WHEREAS, the Legislature has never mandated the use of
24 a "trending" process in assessing such property, ~~which~~
25 ~~process produces questionable and inflated values for a type~~

*Whereas, the Department presently
deprecates original cost to be used for ^{business} ~~business~~
purposes of determining income ~~taxes~~ subject
to taxation*

1 ~~of property that enjoys no ready market and~~
2 WHEREAS, the Legislature finds that the depreciated
3 original cost of commercial furniture and fixtures is a more
4 ^{appropriate} ~~appropriate~~ standard for the valuation of this property than its
5 ~~an artificial trended value which is not verified by sales~~
6 ~~information.~~

7
8 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
9 OF REPRESENTATIVES OF THE STATE OF MONTANA:

10 That the Department of Revenue shall, within 30 days of
11 passage of this resolution, initiate rulemaking proceedings
12 to modify its depreciation schedules for the assessment of
13 commercial furniture and fixtures, as embodied in section
14 42-21.134 of the Administrative Rules of Montana, so as to
15 continue the present use of 3-, 5- and 10-year depreciation
16 tables while deleting the use of a "trend factor" to arrive
17 at a "percentage trended depreciation" for property tax
18 purposes. The modified rule shall contain tables for the
19 determination of depreciated original cost values
20 substantially similar to those contained in section
21 42-21.134 of the Administrative Rules of Montana as
22 promulgated and effective on February 1, 1981.

-End-

EXHIBIT A
taxation 4/8

Amendment to SB 163, Third reading copy

1. Page 5, line 8.

Following: line 7

Insert: "(i) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under [sections 1 through 27];

(j) enter into agreements or other transactions with any federal, state, or local governmental agency, any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out [sections 1 through 27];

(k) enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of [sections 1 through 27];

(l) delegate primary responsibility for determination and implementation of its projects to any federal governmental agency that assumes any obligation to repay the loan, either directly or by insurance or guarantee;

(m) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them in carrying out [sections 1 through 27];

(n) acquire real or personal property or any right, interest, or easement therein by gift, purchase, transfer, foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose thereof; hold; sell, assign, or otherwise dispose of any mortgage or loan owned by the board or in its control or custody; release or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any equity or right of redemption; do any of the foregoing by public or private sale, with or without public bidding, commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement, bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure; and operate, manage, lease, dispose of, and otherwise deal with such property in any manner necessary or desirable to protect the board's interests and the holders of its bonds or notes and consistent with any agreement with such holders;

(o) service, contract, and pay for the servicing of loans;

(p) consent, whenever it considers it necessary, to the modification of the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, equipment or livestock loan, or agreement of any kind, subject to any agreement with bondholders and noteholders.

Section 5. Financing programs of the authority. The authority may:

(1) make loans to lending institutions under the terms and conditions adopted by the authority requiring the proceeds to be used by the lending institution for the making of loans for agricultural land and improvements in the state for persons residing in the state;

(2) invest in, purchase or make commitments to purchase, and take assignments from lending institutions of notes, mortgages, and other

Amendment to SB 163 (page 2)

securities for the acquisition, construction, rehabilitation, or purchase of agricultural land and improvements in this state, under terms and conditions adopted by the authority;

(3) make, undertake commitments to make, and participate in the making of loans to persons residing in the state for agricultural land and improvements when the authority determines that loans are not otherwise available, wholly or in part, from private lenders upon reasonable equivalent terms and conditions."

Renumber: subsequent sections.

2. Page 17, line 3

Following: line 2

Insert: "Section 26. Beginning farmer guaranty fund. (1) The authority shall create a beginning farmer guaranty fund. The fund shall be held by a trustee or other fiduciary designated by the authority. There shall be deposited into the fund the proceeds of the sale of bonds authorized by [section 29] and such other revenues and assets as the authority shall consider necessary to comply with any contract or agreement entered into by the authority under [this act].

(2) The amounts in the fund shall be used to satisfy any claim resulting from a defaulted loan. The amounts in the fund may also be used for any other purpose determined by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to [this act], including without limitation, the protection of the interest of the authority in the acquisition of a farm or ranch during periods of loan delinquency or upon loan defaults.

Section 27. Loan guaranty program. (1) The authority may guarantee and make commitments to guarantee payment required by a loan for any acquisition of a farm or ranch upon such terms and conditions as the authority may prescribe in accordance with [this act]. In administering the guaranty program, the authority may require the payment of a fee or premium, establish application fees, and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(2) A loan guaranteed by the authority under [this act] shall:

(a) be made for the acquisition of a farm or ranch;

(b) be financed initially from the proceeds of notes or bonds issued pursuant to [section 29];

(c) be made to a borrower approved by the authority or lending institution as responsible;

(d) contain complete amortization provisions satisfactory to the authority; and

(e) be in such principal amount, be in such form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, and default remedies.

(3) The authority is authorized from time to time to enter into guaranties, insurance contracts, or any other agreement or contracts with respect to the guaranty fund and any guaranteed loan. Any such agreement or contract may contain terms and provisions necessary or desirable in connection with the guaranty program subject to the requirements established, including without limitation terms and provisions relating to loan documentation, review and approval procedures, origination and servicing rights and responsibilities, default obligations, procedures and obligations, and obligations with respect to guaranty contracts made under [this act].

(4) Any contract of guaranty made by the authority under the authorization of [this act] shall provide that claims payable thereunder shall be paid from any amounts available in the economic development guaranty fund and from any amounts available under the terms of any applicable contract or agreement with the financial institution which originated the guaranteed loan. The obligation of the authority to make payments under any such contract shall be limited solely to such sources, and shall not constitute a debt or liability of the authority or the state. Any guaranty contract and any rule, regulation, or guideline of the authority implementing the guaranty program may contain such other terms, provisions or conditions as the authority considers necessary or appropriate, including without limitation those relating to the payment of guaranty premiums, the giving of notice, claim procedure, the sources of payment for claims, the priority of competing claims for payment, the release or termination of loan security and borrower liability, the timing of payment, the maintenance and disposition of projects and the use of amounts received during periods of loan delinquency or upon default, and any other provision concerning the rights of insured parties or conditions to the payment of guaranty claims. Any premiums for the guaranty of loan payments under the provisions of [this act] may be determined on such basis, be payable by such person, and be payable in such amounts and at such times as the authority shall determine, and the amount of the premium need not be uniform among the various loans guaranteed.

(5) The minimum reserve requirement for the beginning farmer guaranty fund shall be 10% of the aggregate amount of loans insured. No loan may be insured by the authority if such loan together with the aggregate of all other loans then insured exceeds 10 times the amount of funds available in the beginning farmer guaranty fund.

Section 28. Authority to request additional funds. (1) In order to assure the maintenance of the beginning farmer guaranty fund, the chairman of the authority shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the beginning farmer guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the beginning farmer guaranty fund to the minimum capital reserve requirement. The legislature

may appropriate all or any portion of the sum so required from the income from the coal tax constitutional trust fund.

(2) All amounts remitted to the authority under this section constitute advances to the authority and shall be repaid to the state treasury without interest from available operating revenues of the authority in excess of amounts required for the guaranty of loans.

Section 29. General obligation bonds authorized to fund beginning farmer guaranty fund. (1) The board of examiners, upon the recommendation of the authority created by [section 4], may issue and sell general obligation bonds in an amount not to exceed \$5 million. The bonds shall be issued, ¹⁷⁻⁵⁻¹⁰³ sold, and retired in the same manner as prescribed in ~~Title 17, chapter 5, part 4,~~ for the long-range building program bonds.

(2) The proceeds of the sale of the bonds authorized by subsection (1) shall be deposited in the beginning farmer guaranty fund as provided in [section 26]."

Renumber: subsequent subsections.

NOT ADOPTED
2 opposed

Taxation 4/3/81
EXHIBIT "C"

STANDING COMMITTEE AMENDMENT

SB 163

1. Page 16, line 6.

Following: "more to a"

Strike: "beginning"

Following: "farmer"

Insert: ",who, along with his immediate family, will operate the farm or ranch,"

2. Page 16, line 11.

Following: "\$50,000"

Strike: ", provided the" and all of lines 12 and 13

Insert: ". Sale to a corporation will not qualify for this credit. Any sale for a sale price in excess of \$2,000,000 will not qualify for this credit. The Department of Revenue may disallow the credit upon a determination that the sale price has been increased above the true market value to offset the low interest rate provided for in this section."

adopted unan.

Taxation 4/2/81
EXHIBIT "D"

STANDING COMMITTEE

SB 163 Amendment

Page 7, line 14.
Strike: "\$100,000"
Insert: "\$200,000"

STANDING COMMITTEE

SB 163 Amendment

1. Title, page 1, line 10.
Following: "FARMERS;"
Strike: "AND"
2. Title, page 1, line 11.
Following: "ACT"
Insert: " PROVIDING AN APPROPRIATION AND PROVIDING AN APPLICABILITY DATE"
3. Page 4, line 18.
Following: "through 29"
Insert: "except for Section 6"
4. Page 5, line 23.
Following: "economic"
Strike: "diversity"
Insert: "adversity"
5. Page 17, line 23.
Following: line 22
Insert: "Section 29. Appropriation. There is appropriated from the Coal Tax Constitutional Trust Fund income account the sum of \$2,000,000 for the second loan fund set forth in Section 6."
Renumber: subsequent sections.
6. Page 18, line 4.
Following: line 3
Insert: "Section 31. Applicability date. The provisions of Section 23 shall apply to all taxable years commencing after December 31, 1980."

#'s 3, 4 + 6 adopted
+ amended title

1 organizations. The state director of the Farmers Home
 2 Administration has indicated to the Senate Taxation
 3 Committee that the FHA could screen worthy applicants,
 4 participate with a subordinated loan of its own, participate
 5 with a guaranteed loan, and fully service the loan. This
 6 would include taking care of any defaults in the event there
 7 are defaults by either paying off the state in full or
 8 working with the state, foreclose on the farmland and
 9 immediately resell it to apply the proceeds to the defaulted
 10 loan. It is the intent of the Legislature that this program
 11 coordinate with the Farmers Home Administration or other
 12 similar organizations including private lenders to the
 13 maximum extent possible so that the Montana Agricultural
 14 Authority will not itself need to service the loan or take
 15 care of any defaults.

On Bill
Yes
NO
YH H
YH H
 |

STATEMENT OF INTENT
 SENATE BILL 163
 Senate Taxation Committee

1 Section 1. This statement of intent is required by the
 2 rulemaking authority granted to the Montana Agricultural
 3 Loan Authority in section 4(c) and section 4(a).
 4
 5 Section 2. It is the intent of the Legislature that
 6 the Montana Agricultural Loan Authority adopt rules for the
 7 orderly handling and processing of applications under the
 8 authority granted in this act to grant farm acquisition
 9 loans and to grant loans under the second loan program. The
 10 rules under section 9 are intended to be sufficiently
 11 specific to allow for an objective determination by the
 12 department of which applicants should receive a farm
 13 acquisition loan from the authority. The same criteria
 14 should be established by rule for the second loan program
 15 with special emphasis on need of the applicant and the
 16 applicant's possible prospects for success.

17 Section 3. It is the specific intent of the
 18 Legislature that the Montana Agricultural Loan Authority
 19 shall coordinate all loans made pursuant to Senate Bill 163
 20 through the Farmers Home Administration, the Production
 21 Credit Association, the Federal Land Bank, and private
 22 lenders, or some other similar organization or

1 SENATE BILL NO. 163
 2 INTRODUCED BY TOWE, SEVERSON, BOYLAN, SIVERTSEN,
 3 FABREJA, M. ANDERSON, SMITH, HAGER, NOYER,
 4 GRAHAM, CONOVER, R. ANDERSON

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP BEGINNING
 7 FARMERS GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA
 8 AGRICULTURAL LOAN AUTHORITY FOR THE PURPOSES OF HELPING
 9 BEGINNING FARMERS ACQUIRE LAND; PROVIDING AN INCOME TAX
 10 DEDUCTION FOR CERTAIN LAND SALES TO BEGINNING FARMERS; ~~AND~~
 11 PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT." *and primary an applicability date.*

12
 13 WHEREAS, obtaining sufficient financing to begin a farm
 14 or ranch operation in Montana is increasingly difficult; and
 15 WHEREAS, beginning farmers experience great difficulty
 16 in repaying loans under high interest rates and low market
 17 prices for agricultural products; and

18 WHEREAS, the agricultural loan programs administered by
 19 the Montana department of agriculture are inadequate to the
 20 real needs of the state; and
 21 WHEREAS, the federal farm home administration's farm
 22 ownership loan program is also inadequate to the real needs
 23 of the state; and

24 WHEREAS, low interest rate financing for beginning
 25 farmers is not available in the private sector; and

1 WHEREAS, the value of family farms to the economic,
 2 social, and political well-being of the state is worthy of
 3 legislative action and support.
 4 THEREFORE, it is the purpose of this bill to assist
 5 beginning farmers with financial support and encouragement
 6 by making low interest rate loans available to eligible
 7 farmers, by establishing a low interest rate second loan
 8 program to insure that beginning farmers can establish their
 9 agricultural operations on solid foundations, and by
 10 providing incentives to retiring farmers who sell their land
 11 to eligible beginning farmers.

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Short title. [Sections 2 through 24] may
 15 be cited as the "Montana Agricultural Loan Authority Act".
 16 Section 2. Definitions. (1) As used in [sections 2
 17 through 24], the following definitions apply:

- 18 (a) "Agricultural land" means land actively devoted to
 19 agricultural use as defined in 15-7-202.
- 20 (b) "Authority" means the agricultural loan authority
 21 provided for in [section 3].
- 22 (c) "onds" means bonds or bond anticipation notes
 23 issued by the authority under the provisions of [sections 2
 24 through 24].
- 25 (2) References to the authority's property, revenues,

1 or assets apply only to property, revenues, and assets
 2 generated by the Montana agricultural loan authority
 3 program not those owned or generated by any other program
 4 or property over which the authority exercises general
 5 authority, direction, and control.

6 Section 3. Agricultural loan authority -- allocation
 7 -- composition -- quasi-judicial. (1) There is an
 8 agricultural loan authority.

9 (2) The authority consists of eight members appointed
 10 by the governor as provided in 2-15-124. The members shall
 11 be appointed as follows:

- 12 (a) one officer from a commercial lending institution;
- 13 (b) one fruit or vegetable farmer;
- 14 (c) two livestock farmers;
- 15 (d) two grain farmers;
- 16 (e) one officer from a farm credit association; and
- 17 (f) one member -- of -- the legislature THE MEMBER WHO IS

18 NOT ENGAGED IN FARMING OR AFFILIATED WITH A COMMERCIAL
 19 LENDING INSTITUTION OR FARM CREDIT ASSOCIATION.

20 (3) The authority is designated a quasi-judicial board
 21 for purposes of 2-15-124.

22 (4) The authority is allocated to the department of
 23 agriculture for administrative purposes only as provided in
 24 2-15-121.

25 (5) In compliance with the state city plan, the

1 department shall provide all staff and services to the
 2 authority as are determined by the authority in conjunction
 3 with the department to be necessary for the purposes of
 4 carrying out the authority's programs. The department shall
 5 assess the authority for reasonable costs.

6 (6) A member of the authority may not be considered to
 7 have a conflict of interest under the provisions of 2-2-201
 8 merely because the member is a stockholder, officer, or
 9 employee of a lending institution who may participate in the
 10 authority's programs.

11 Section 4. Agricultural loan authority -- general
 12 powers. (1) The authority may:

- 13 (a) retain professional consultants and advisors;
- 14 (b) rely on its staff in its daily functions;
- 15 (c) adopt rules governing its procedures;
- 16 (d) issue bonds in accordance with section 18
 17 necessary to provide funds for implementing sections 2
 18 through 18;

19 (e) accept applications from those wishing to secure
 20 agricultural loans and second loans;

21 (f) invest any funds generated by sale of bonds in the
 22 permissible investments outlined in 17-6-211 until such time
 23 as the funds are needed for any of the authority's other
 24 functions, and

25 (4) make loans from the agricultural loan authority

1 account to eligible Montana farmers for the purchase of
 2 agricultural land; and
 3 IN UTILIZE THE ASSISTANCE AND SERVICES OF THE
 4 FARMERS' HOME ADMINISTRATION, THE PRODUCTION CREDIT
 5 ASSOCIATION, THE FEDERAL LAND BANKS OR PRIVATE LENDERS IN
 6 PROCESSING APPLICATIONS FOR LOANS AND SERVICING LOANS
 7 AUTHORIZED BY THE A.C.I.

8 Section ⁶ Loan agreements -- general provisions.
 9 (1) A loan agreement shall include a payment schedule that
 10 may not exceed 60 years.

11 (2) The authority shall specify in the agreement the
 12 reasonable rate of interest it considers necessary.

13 (3) Loans made by the authority must be secured by any
 14 liens or collateral the authority considers necessary.

15 Section ⁷ Second loan program. (1) The authority may,
 16 upon application by a borrower under its loan program enter
 17 into a second loan agreement with a borrower to provide
 18 sufficient funds to the borrower to pay a part of the
 19 interest or principal or both of the original loan
 20 authorized under [section 4]. The second loan shall be
 21 available at the authority's discretion:

- 22 (a) to assist the borrower during a year resulting in
- 23 a crop failure or other similar economic ~~disturbance~~; and
- 24 (b) to help pay not to exceed 1/2 of the annual
- 25 interest due on the original loan. However, not more than 10

1 such annual loans for interest may be made to a borrower
 2 during the duration of the original loan.

3 (2) Interest on the amount of the second loan shall be
 4 at the authority's bond rate plus administrative expenses.

5 (4) The second loan becomes payable:
 6 (a) in installments to commence not later than 20
 7 years after the initial purchase of land; or

8 (b) immediately and in full upon the sale of land on
 9 which it was loaned.

10 Section ⁸ Immediate repayment. If an applicant who
 11 has secured a loan from the authority under the program
 12 created in [sections 4 and ⁶ 5] sells the land for which the
 13 loan was made to any person, firm, or corporation other than
 14 his spouse, children, or corporation wholly owned by them,
 15 the loan shall be repaid in full.

16 Section ⁹ Qualifications of applicants. (1) To be
 17 eligible for a loan, an applicant must:

- 18 (a) ~~reside in the state at the time of application~~
- 19 (b) ^(A) declare his intention to maintain his residence
- 20 in Montana during the length of the loan; and
- 21 (c) ^(B) have been approved by AN APPROPRIATE COMMITTEE

22 SUCH AS BUT NOT LIMITED TO a local committee of the farmers
 23 home administration for a loan from the farmers' home
 24 administration in connection with the same land purchase;
 25 THE PRODUCTION CREDIT ASSOCIATION, THE FEDERAL LAND BANK;

5
 ↓

advertiser-5-

PRIVATE LENDERS, OR OTHER SIMILAR ORGANIZATIONS.

(2) Applications may be submitted by individuals, partnerships, associations, or joint ventures. All persons involved in the application must meet the requirements of subsection (1). Corporations, as defined in 35-1-102, may not apply.

Section 10 Evaluation of applicants. (1) The authority shall by rule establish:

(a) rules for soliciting and evaluating applications from qualified Montana citizens; and
(b) a point system for evaluating the applicants, considering the following criteria:

- (i) the applicant's net worth, which may not exceed ~~200,000~~ 200,000 *OK 02*
- (ii) the applicant's access to livestock and machinery;
- (iii) the applicant's inability to secure ADEQUATE financing for purchase of agricultural land from other sources AT AN INTEREST RATE THAT WILL ALLOW A REASONABLE

PROSPECT FOR REPAYMENT:

- (iv) the applicant's training and experience in agriculture;
- (v) the applicant's prospects for succeeding in an agricultural operation on the land proposed for purchase; and
- (vi) any other factors it may prescribe.

(2) The authority shall select the best qualified and most deserving applicant from among those applying for loans.

The authority may seek the advice of the ~~state~~ director of SUCH LENDERS AS THE FARMERS HOME ADMINISTRATION, THE PRODUCTION CREDIT ASSOCIATION, THE FEDERAL LAND BANK, PRIVATE LENDERS, AND SIMILAR ORGANIZATIONS in Montana and coordinate its loan program through the ~~farmers-home~~ administration SUCH ORGANIZATIONS including assistance in screening applicants and servicing the loan.

Section 11. Issue of general obligation bonds -- credit of the state NOI pledged. (1) When authorized ~~by an affirmative vote of two-thirds of the members of each house of the legislature or of a majority of the electors~~ ~~thereon~~ the authority may issue bonds of the state of Montana in a principal amount it determines necessary to provide sufficient funds for achieving any of the purposes of the Montana agricultural loan authority program, including the payment of interest on bonds, establishment of reserves to secure the bonds, and all other expenditures of the authority incident to the program.

(2) Each issue of its bonds is an obligation of the authority payable ~~in the first instance~~ out of any revenues, assets, or money generated by the Montana agricultural loan authority program. The authority shall manage, to the best

1 indentures. A resolution or trust indenture authorizing any
 2 bonds or any issue thereof may contain provisions, which
 3 shall be a part of the contract or contracts with the
 4 holders thereof, as to:
 5 (1) pledging all or any part of the revenues or the
 6 property of the authority to secure the payment of the bonds
 7 or any issue thereof, subject to existing agreements with
 8 bondholders;
 9 (2) pledging all or any part of the assets of the
 10 authority, including mortgages and obligations securing
 11 them, to secure the payment of the bonds;
 12 ~~(3) pledging the full faith and credit and taxing~~
 13 ~~powers of the state of Montana to secure the payment of the~~
 14 ~~bonds;~~
 15 ~~(4) [3] specifying the use and disposition of the gross~~
 16 ~~income from mortgages owned by the authority and payment of~~
 17 ~~principal of mortgages owned by the authority;~~
 18 ~~(5) [4] the setting aside of reserves or sinking funds~~
 19 ~~in the hands of trustees, paying agents, or other~~
 20 ~~depositories and the regulation and disposition of the~~
 21 ~~reserves;~~
 22 ~~(6) [5] limiting the purpose to which the proceeds of~~
 23 ~~the sale of the bonds may be applied and the pledge of the~~
 24 ~~proceeds to secure the payment of the bonds or of any issue~~
 25 ~~thereof;~~

1 of its ability, its lease agreements and sales LOANS so that
 2 the bonds are repaid by the revenue generated by the
 3 program. ~~in addition to the full faith and credit and~~
 4 ~~taxing powers of the state are not pledged for the payment~~
 5 of bonds issued by the authority under the provisions of
 6 [sections 2 through 29].
 7 (3) The bonds must be authorized by resolution of the
 8 authority and bear a date and mature at times as the
 9 authority determines. A bond may not mature more than 60
 10 years from the date of its issue. The bonds may be issued as
 11 serial bonds payable in annual installments or as term bonds
 12 or as a combination thereof. The bonds of the authority may
 13 be sold at public or private sale, at prices determined by
 14 the authority.
 15 (4) The resolution shall specify:
 16 (a) the rate of interest of the bonds;
 17 (b) the denomination of the bonds;
 18 (c) whether the bonds shall be in coupon or registered
 19 form and registration privileges, if any;
 20 (d) the manner and place of execution;
 21 (e) the manner and place and medium of payment; and
 22 (f) the terms of redemption.
 23 (5) The total amount of bonds outstanding at any one
 24 time may not exceed \$200 million.
 25 Section ~~41~~ ¹². Provisions of bond resolutions or trust

1 ~~§§(6)~~ limiting the issuance of additional bonds, the
 2 terms upon which additional bonds may be issued and secured,
 3 and the refunding of outstanding bonds;
 4 ~~§§(7)~~ specifying the procedure, if any, by which the
 5 terms of any contract with bondholders may be amended or
 6 abrogated, the amount of bonds the holders of which must
 7 consent thereto, and the manner in which such consent may be
 8 given;
 9 ~~§§(8)~~ limiting the amount of money to be expended by
 10 the authority for its operating expenses;
 11 ~~§§(9)~~ vesting in a trustee property, rights, powers,
 12 and duties in trust as the authority determines;
 13 ~~§§(10)~~ defining the acts or failures to act which
 14 will constitute a default in the obligations and duties of
 15 the authority to the holders of the bonds and providing for
 16 the rights and remedies consistent with the laws of the
 17 state and the provisions of [sections 2 through ~~§~~] of the
 18 holders of the bonds in the event of such default, including
 19 as a matter of right the appointment of a receiver; and
 20 ~~§§(11)~~ specifying any other matters of like or
 21 different character which in any way affect the security or
 22 protection of the holders of the bonds.

23 Section ~~12~~. Validity of pledge. A pledge made by the
 24 authority is ~~valid~~ and binding from the time the pledge is
 25 made. The revenues or property pledged and thereafter

1 received by the authority are immediately subject to the
 2 lien of the pledge without any physical delivery thereof or
 3 further act, and the lien of any pledge is valid and binding
 4 against all parties having claims of any kind in tort,
 5 contract, or otherwise against the authority, irrespective
 6 of whether such parties have notice thereof. Neither the
 7 resolution, trust indenture, nor any other instrument by
 8 which a pledge is created need be recorded.

9 Section ~~13~~.¹⁴ Personal liability. The authority members
 10 and employees of the department are not personally liable
 11 for any debt incurred by the authority.

12 Section ~~14~~.¹⁵ Purchase of bonds -- cancellation. The
 13 authority, subject to existing agreements with bondholders,
 14 may out of any funds available for that purpose purchase
 15 bonds of the authority, which shall thereupon be cancelled,
 16 at a price not exceeding:

17 (1) the current redemption price plus accrued interest
 18 to the next interest payment thereon if the bonds are then
 19 redeemable; or

20 (2) the redemption price applicable on the first date
 21 after purchase upon which the bonds become subject to
 22 redemption, plus accrued interest to that date if the bonds
 23 are not then redeemable.

24 Section ~~15~~.¹⁶ Trust indenture. In the discretion of the
 25 authority, the bonds may be secured by a trust indenture

1 between the authority and a corporate trustee, which may be
2 a trust company or bank having the power of a trust company
3 within or without the state.

4 Section ~~16~~¹⁷ Negotiability of bonds. Bonds issued by
5 the authority are negotiable instruments under the Uniform
6 Commercial Code, subject only to the provisions for
7 registration of bonds.

8 Section ~~17~~¹⁸ Continuing validity of authority members'
9 signatures. If any authority member whose signature appears
10 on bonds or coupons ceases to be a member before the
11 delivery of the bonds, his signature continues to be valid
12 and sufficient for all purposes.

13 Section ~~18~~¹⁹ Accounts of the authority. There is an
14 agricultural ~~fund~~^{fund} authority account in the bonds proceeds
15 and insurance clearance fund provided for in 17-2-102. All
16 funds from the proceeds of bonds issued under [sections 2
17 through 29], fees and other money received by the authority,
18 money appropriated by the legislature for the use of the
19 authority in carrying out [sections 2 through 29], and money
20 made available from any other source for the use of the
21 authority must be deposited in the agricultural loan
22 authority account except as otherwise provided by law. All
23 funds deposited in the agricultural loan authority account
24 are continuously appropriated to and may be expended by the
25 authority for the purposes authorized in [sections 2 through

29)
20 Section ~~19~~²⁰ Reserve funds and appropriations. (1) The
21 authority shall pay into one or more capital reserve
22 accounts:
23 (a) any money appropriated and made available by the
24 state for the purpose of the fund;
25 (b) any proceeds of sale of bonds to the extent
26 provided in the resolutions of the authority authorizing
27 their issuance or in any trust indenture securing their
28 repayment; and
29 (c) any other money which may be available to the
30 authority for the purpose of such a fund from any other
31 source.
32 (2) All amounts held in a capital reserve account must
33 be used solely for the payment of principal, interest, and a
34 redemption premium with respect to bonds secured in whole or
35 in part by the account. Funds in an account may not be
36 withdrawn at any time in an amount which reduces the amount
37 of the account to less than the minimum capital reserve
38 requirement established for the account except for the
39 purpose of making, with respect to bonds secured in whole or
40 in part by the account, payment, when due, of principal,
41 interest, or redemption premiums for the payment of which
42 other money pledged is not available.
43 Section ~~20~~²¹ Refunding obligations -- sale. Refunding

1 for inheritance, estate, and gift taxes. The authority is
2 not required to pay recording or transfer fees or taxes on
3 instruments recorded by it.

4 Section ~~23~~²⁴. Income tax deduction for land sale to
5 beginning farmers. A landowner who sells land consisting of
6 twenty ~~80~~ acres or more to a beginning farmer who--~~quantities~~
7 ~~under--[section--0] AI--9% OR LESS INTEREST ON A LUNG-TERM~~
8 ~~CONTRACT~~ is entitled to a reduction in his taxable income in
9 an amount equal to 100% of any income or capital gain, or
10 both, realized and otherwise subject to state income taxes
11 from the sale, up to a maximum of \$50,000. ~~PROVIDED THE~~
12 ~~TRANSACTION IS FIRST APPROVED BY THE AUTHORITY FOR THIS~~
13 ~~PURPOSE.~~

14 Section ~~24~~²⁵. Pledge against impairment of contracts. In
15 accordance with the constitutions of the United States and
16 the state of Montana, the state pledges that it will in no
17 way impair the obligations of any agreement between the
18 authority and the holders of notes and bonds issued by the
19 authority.

20 Section ~~25~~²⁶. Annual audit. (1) The authority's books
21 and records must be audited by an independent-certified
22 public-accountant-at-least-once-each-fiscal-year
23 (2) ~~the-legislative-auditor-may-conduct-an-audit-at~~
24 ~~the-request-of--the--legislative-audit-committee AT LEAST~~
25 ~~ONCE EACH YEAR BY THE LEGISLATIVE AUDITOR OR BY A CONTRACT~~

1 obligations issued as provided in 90-6-121 may be sold or
2 exchanged for outstanding obligations issued under [sections
3 2 through 29]. The proceeds may be applied to the purchase,
4 redemption, or payment of outstanding obligations. Pending
5 the application of the proceeds to the payment of
6 outstanding obligations, the proceeds may be invested as
7 provided in Title 17, chapter 6, if permitted in the
8 resolution authorizing the issuance of the refunding
9 obligations or in the trust agreement securing them.

10 Section ~~21~~²². Refunding obligations -- issuance. The
11 authority may provide for the issuance of refunding
12 obligations for refunding any obligations then outstanding
13 which have been issued under [sections 2 through 29],
14 including the payment of any redemption premium and any
15 interest accrued or to accrue to the date of redemption of
16 the obligations. The issuance of obligations, the maturities
17 and other details, the rights of the holders, and the
18 rights, duties, and obligations of the authority are
19 governed by the appropriate provisions of [sections 2
20 through 29] which relate to the issuance of obligations.

21 Section ~~21~~²³. Tax exemption of bonds. Bonds issued by
22 the authority under [sections 2 through 29] and their
23 transfer and income, including any profits made on their
24 sale, are exempt from taxation by the state or any political
25 subdivision or other instrumentality of the state, except

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AUDITOR AS DIRECTED BY THE LEGISLATIVE AUDIT COMMITTEE. THE COST OF THE AUDIT SHALL BE PAID BY THE AUTHORITY.

Section ~~20~~ ³⁴ Report. The department shall transmit to the governor and to each member of the legislature 30 days before the meeting of the legislature a report:

- (1) detailing the operations of the agricultural loan authority program since the adjournment of the last legislature; and
- (2) containing a financial statement showing the program's assets and liabilities.

Section ~~27~~ ³² Powers to be interpreted broadly. The powers enumerated in [sections 2 through 29] shall be interpreted broadly to effectuate the purposes of the authority and may not be construed as a limitation of powers.

Section ~~28~~ ³³ Legislative review required. The agricultural loan authority program shall be reviewed by the legislature at the third legislative session following the first sale of bonds under the provision of [section ~~19~~ ³⁴] to determine whether the program should continue. However, any existing commitments incurred by the authority are not affected by this review.

Section ~~27~~ ³⁴ Severability. If a portion of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

-End-
35.

Applicability -
December 31, 1980

Appropriation -
AT \$2,000,000

1. Statement of Intent, page 1, line 7. SB 163

F: "and section"

S: "9"

I: "10"

3. Title, line 10.

Following: "FARMERS;"

Strike: "AND"

4. Title, line 11.

Following: "ACT"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Statement ~~of~~ of Intent, page 1, line 13

F: section

S: 9

I: 10

5. Page 2, line 14.

F: through

S: 29

Insert: 33

6. Page 2, line 17.

F: "through"

S: 29

I: 33

7. Page 2, line 24.

F: through

S: 29

I: 33

8. Page 4, line 16.

F: "section"

S: 10

I: 11

9. Page 4, line 18

F: "through"

S: 29

I: "6 and 8 through 33"

10: See attached

Passed

Yes
|||||

NO
|||||

#10

Amendment to SB 163, Third reading copy

1. Page 5, line 8.

Following: line 7

Insert: "(i) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under [sections 1 through 27];

(j) enter into agreements or other transactions with any federal, state, or local governmental agency, any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out [sections 1 through 27];

(k) enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of [sections 1 through 27];

(l) delegate primary responsibility for determination and implementation of its projects to any federal governmental agency that assumes any obligation to repay the loan, either directly or by insurance or guarantee;

(m) accept services, appropriations, gifts, grants, bequests, and devises and utilize or dispose of them in carrying out [sections 1 through 27];

(n) acquire real or personal property or any right, interest, or easement therein by gift, purchase, transfer, foreclosure, lease, or otherwise; hold sell, assign, lease, encumber, mortgage, or otherwise dispose thereof; hold; sell, assign, or otherwise dispose of any mortgage or loan owned by the board or in its control or custody; release or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any equity or right of redemption; do any of the foregoing by public or private sale, with or without public bidding, commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement, bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure; and operate, manage, lease, dispose of, and otherwise deal with such property in any manner necessary or desirable to protect the board's interests and the holders of its bonds or notes and consistent with any agreement with such holders;

(o) service, contract, and pay for the servicing of loans;

(p) consent, whenever it considers it necessary, to the modification of the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, equipment or livestock loan, or agreement of any kind, subject to any agreement with bondholders and noteholders.

"Section 5. Financing programs of the authority. The authority may:

(1) make loans to lending institutions under ~~the~~ terms and conditions adopted by the authority requiring the proceeds to be used by the lending institution for the making of loans for agricultural land and improvements in the state for persons residing in the state;

(2) invest in, purchase or make commitments to purchase, and take assignments from lending institutions of notes, mortgages, and other

Page 5, line 8
F: line 7

Insert:

securities for the acquisition, construction, rehabilitation, or purchase of agricultural land and improvements in this state, under terms and conditions adopted by the authority;

(3) make, undertake commitments to make, and participate in the making of loans to persons residing in the state for agricultural land and improvements when the authority determines that loans are not otherwise available, wholly or in part, from private lenders upon reasonable equivalent terms and conditions."

Renumber: subsequent sections.

Page 17, line 3

Following: line 2 ²⁷

Insert: "Section ²⁰. Beginning farmer guaranty fund. (1) The authority shall create a beginning farmer guaranty fund. The fund shall be held by a trustee or other fiduciary designated by the authority. There shall be deposited into the fund the proceeds of the sale of bonds authorized by [section ³⁰ and such other revenues and assets as the authority shall consider necessary to comply with any contract or agreement entered into by the authority under ~~the provisions of~~ ^{the provisions of} [sections 2 through 33].

(2) The ~~proceeds~~ ^{assets} in the fund shall be used to satisfy any claim resulting from a defaulted loan. The ~~proceeds~~ ^{assets} in the fund may also be used for any other purpose determined by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to [this act], including without limitation, the protection of the interest of the authority in the acquisition of a farm or ranch during periods of loan delinquency or upon loan defaults.

Section ²⁸. Loan guaranty program. (1) The authority may guarantee and make commitments to guarantee payment required by a loan for any acquisition of a farm or ranch upon such terms and conditions as the authority may prescribe in accordance with [this act]. In administering the guaranty program, the authority may require the payment of a fee or premium, establish application fees, and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(2) A loan guaranteed by the authority under [this act] shall:

- (a) be made for the acquisition of a farm or ranch;
- (b) be financed initially from the proceeds of notes or bonds issued pursuant to [section ³⁰];
- (c) be made to a borrower approved by the authority or lending institution as responsible;
- (d) contain complete amortization provisions satisfactory to the authority; and

(e) be in such principal amount, be in such form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, and default remedies.

(3) The authority is authorized from time to time to enter into guaranties, insurance contracts, or any other agreement or contracts with respect to the guaranty fund and any guaranteed loan. Any such agreement or contract may contain terms and provisions necessary or desirable in connection with the guaranty program subject to the requirements established, including without limitation terms and provisions relating to loan documentation, review and approval procedures, origination and servicing rights and responsibilities, default obligations, procedures and obligations, and obligations with respect to guaranty contracts made under (this act).

(4) Any contract of guaranty made by the authority under the authorization of (this act) shall provide that claims payable thereund shall be paid from any amounts available in the economic development guaranty fund and from any amounts available under the terms of any applicable contract or agreement with the financial institution which originated the guaranteed loan. The obligation of the authority to make payments under any such contract shall be limited solely to such sources, and shall not constitute a debt or liability of the authority or the state. Any guaranty contract and any rule, regulation, or guideline of the authority implementing the guaranty program may contain such other terms, provisions or conditions as the authority considers necessary or appropriate, including without limita those relating to the payment of guaranty premiums, the giving of notice, claim procedure, the sources of payment for claims, the priority of competing claims for payment, the release or termination of loan security and borrower liability, the timing of payment, the maintenance and/disposition of projects and the use of amounts received during periods of loan delinquency or upon default, and any other provision concerning the rights of insured parties or conditions to the payment of guaranty claims. Any premiums for the guaranty of loan payments under the provisions of (this act) may be determined on such basis, be payable by such person, and be payable in such amounts and at such times as the authority shall determine, and the amount of the premium need not be uniform among the various loans guaranteed.

(5) The minimum reserve requirement for the beginning farmer guaranty fund shall be 10% of the aggregate amount of loans insured. No loan may be insured by the authority if such loan together with the aggregate of all other loans then insured exceeds 10 times the amount of funds available in the beginning farmer guaranty fund.

Section ~~28~~²⁹. Authority to request additional funds. (1) In order to assure the maintenance of the beginning farmer guaranty fund, the chairman of the authority shall on or before September 1 in the year preceding the convening of ^{a regular} ~~any~~ legislative ^{session} deliver to the governo a certificate stating the sum, if any, required to restore the begin- ning farmer guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the beginning farmer guaranty fund to the minimum capital reserve requirement. The legislature

may appropriate all or any portion of the sum so required from the income from the coal tax constitutional trust fund.

(2) All amounts remitted to the authority under this section constitute advances to the authority and shall be repaid to the state treasury without interest from available operating revenues of the authority in excess of amounts required for the guaranty of loans.

~~Section 25.~~³⁰ General obligation bonds authorized to fund beginning farmer guaranty fund. (1) The board of examiners, upon the recommendation of the authority created by [section 4], may issue and sell general obligation bonds in an amount not to exceed \$5 million. The bonds shall be issued, sold, and retired in the same manner as prescribed in ~~title 17, chapter 5, part 4,~~¹⁷⁻⁵⁻⁴⁰³ for the long-range building program bonds.

(2) The proceeds of the sale of the bonds authorized by subsection (1) shall be deposited in the beginning farmer guaranty fund as provided in [section ~~25.~~^{27.}"]

Renumber: subsequent ~~sections.~~

~~14~~ Page 5, line 23.

F: economic
S: diversity
I: adversity

~~2~~ Page 6, line 12

F: "and"

S: "6"

I: "7"

~~13~~ Page 7, ~~line 14.~~

F: line 13

S: "\$100,000"

I: "\$200,000"

~~14~~ Page 9, line 6.

F: through

S: 29

I: 33

~~15~~ Page 11, line 17

F: through

S: 29

I: 33

~~16~~ Page 13, line 17

F: through

S: 29

I: 33

~~17~~ Page 13, line 19

F: through

S: 29

I: 33

~~18~~ Page 14, line 1

F: Page 13, line 25

S: 29

I: 33

~~19~~ Page 15, line 3.

F: through

S: 29

I: 33

~~20~~ Page 15, line 13

F: through

S: 29

I: 33

~~21~~ Page 15, line 20.

F: through

S: 29

I: 33

~~22~~ Page 15, line 22

F: through

S: 29

I: 33

~~23~~ See attached

24 ~~23~~. Page 17, line 12
F: through
S: 29
I: 33

5 ~~27~~. Page 17, line 19
F: ~~section~~ section
S: 10
I: 11

6 ~~28~~
Page 18, ~~line 4~~.
Following: line 3
Insert: "Section 35. Applicability date. The provisions of Section ²⁴/₂₅
~~apply to~~ taxable years ~~beginning~~ after December 31, 1980."
↓
beginning

TAXATION 4/8/81
EXHIBIT 1-4

FISCAL NOTE MAY BE NECESSARY
JOINT RULE 6-26

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE
6 STANDARD DEDUCTION ALLOWED FOR INCOME TAX PURPOSES; AMENDING
7 SECTION 4 OF INITIATIVE NO. 86; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

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

11 Section 1. Section 4 of Initiative No. 86 is amended
12 to read:

13 "Section 4. Section 15-30-122, MCA, is amended to
14 read:

15 "15-30-122. Standard deduction. (1) In the case of a
16 resident individual, a standard deduction equal to ~~15%~~ 20%
17 of adjusted gross income shall be allowed if elected by the
18 taxpayer on his return. The standard deduction shall be in
19 lieu of all deductions allowed under 15-30-121. The maximum
20 standard deduction shall be ~~\$1,000~~ \$1,500, as adjusted under
21 the provisions of subsection (2), except in the case of a
22 single joint return of husband and wife the maximum standard
23 deduction shall be ~~\$2,000~~ \$3,000, as adjusted under the
24 provisions of subsection (2). The standard deduction shall
25 not be allowed to either the husband or the wife if the tax

1 of one of the spouses is determined without regard to the
2 standard deduction. For purposes of this section, the
3 determination of whether an individual is married shall be
4 made as of the last day of the taxable year; provided,
5 however, if one of the spouses dies during the taxable year,
6 the determination shall be made as of the date of death.

7 (2) By November 1 of each year, the department shall
8 multiply the maximum standard deduction for single returns
9 and joint returns by the inflation factor for that taxable
10 year and round the product to the nearest \$10. The resulting
11 adjusted deductions are effective for that taxable year and
12 shall be used in calculating the tax imposed in 15-30-103."

13 Section 2. Effective date -- applicability. This act
14 is effective on passage and approval and applies to taxable
15 years beginning after December 31, 1980.

-End-

SB 150

1 Title, line 10,
F: "100"
S: "40"
I: "30"
4

2 Title, line 11.
Following: "MCA"
Insert: "; PROVIDING APPLICABILITY DATES"

3. Page 2, line 11.
F: "20%"
S: "40%"
I: "30%"

Page 4, lines 2 through 7.
"made" on line 2
lines 2 through "PERSONS" on line 7.

Page 4, line 16.
"of"
"40%"
"30%"

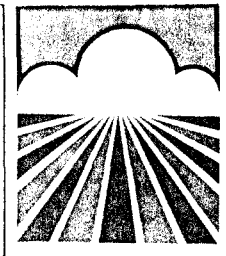


6. Page 5.
Following: line 15

Insert: "Section 4. Applicability. This act is
applicable to ^{only} taxable years beginning after
December 31, 1980, and before January
1, 1983.

v

2000
2000



**Montana
Merchandising
Inc.**

March 20, 1981

Rep. Ken Nordtvedt, Chairman
House Taxation Committee
State Capitol
Helena, Montana 59601

Dear Sir:

Montana Merchandising, Inc. is a locally owned and operated Montana Corporation, dealing in the marketing of Montana produced Wheat and Barley. We currently own and operate five elevators located in Montana. With the availability of unit train freight rates it is necessary for us to build new and remodel existing facilities in order to remain competitive with major Grain Companies.

The passage of Senate Bill 361, allowing for favorable tax treatment for Domestic International Sales Corporations (DISC) would allow our Corporation to reinvest our tax savings in Montana, as well as injecting new dollars into the Montana economy. We support the passage of Senate Bill 361.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary A. Black".

Gary A. Black
Secretary-Treasurer
MONTANA MERCHANDISING, INC.

GAB/v

cc: Committee Members

P.O. Box D / 800 Crescent Drive
Great Falls, Montana 59403 / (406) 761-5764