

MINUTES OF THE MEETING  
AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

March 27, 1987

Chairman Duane W. Compton called the meeting to order at 12:45 p.m. in Room 317 of the State Capitol.

ROLL CALL

All members were present. Also present was Tom Gomez, Legislative Council researcher.

This was to be an executive session on bills remaining in the committee.

EXECUTIVE SESSION

HOUSE BILL 10

Rep. John Cobb was the sponsor of HB 10. Rep. Cody moved HB 10 DO NOT PASS. Rep. Campbell seconded the motion. Rep. Cody felt this was another raid on the coal severance tax trust fund. Part of it she can live with and part of it she can't. Small business is hurting just as bad as agriculture. "I am in a community that is small. If I were going to support something like this, I think small business should be in there just as much as agriculture. They are interrelated as far as I'm concerned. To me we are trying to put something in place in this committee for the agriculture community. Things that they can live with, things that other people can live with to help them through tough times, and I just don't think that Rep. Cobb's bill is addressing the full problem."

Rep. Hanson felt that if agriculture was in good shape, Rep. Cody's small business would be in good shape. They are interrelated. She thinks this bill deserves a chance to be heard and approved. Rep. Hanson made a substitute motion to DO PASS, and Rep. Giacometto seconded the substitute motion.

Rep. Giacometto said Rep. Cobb is to address some of the questions from yesterday. His amendments will allow these loans to be put through the financial institutions that are already in place, if there is agreement on that. There was support for it because there were some questions about it, and I would move to amend the bill. On page 10, line 23, "participate in other financial institutions or individual lenders in making loans under section 2 through 9 upon such terms and conditions as may be prescribed by the authority consistent with sections 2 through 9." (EXHIBIT #1, HB 10 amendment)

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The amendment is just saying they can work together and put this money through those present financial institutions if they come under certain terms. It is more of a way of integrating it into the community by using the banks that are already there. He wondered if there was support for that or not.

Rep. Bachini believed the researcher brought something to the committee's attention the other day to the effect that allowing direct loans we would be liable for all the losses. He asked Tom Gomez to repeat what he had said to him.

Tom Gomez answered that under the Constitution the trust fund must be inviolate and the concern was in other legislation, especially if they were going to invest in other proposals that were coming up in the past. This is an issue that came up prior to this session. The attorneys in the Legislative Council believe that because of the provision not to use coal tax money for investments or for direct loans in agriculture, you might run afoul of that provision that the trust fund remain inviolate. Subsequent to their discussion, he looked at it real closely again and there is a loophole. If you get the 3/4 vote, you can violate the trust. So by a 3/4 vote apparently, and as the bill is written, you can violate the trust as contemplated under this bill.

Rep. Bachini asked Rep. Giacometto that instead of making direct loans, by his amendment he would be going through the financial institutions. Rep. Giacometto replied that they could if the parties wished to do that.

Tom Gomez recalled that Rep. Cobb had offered the amendment to allow participation with financial institutions in providing loans to agricultural borrowers.

Rep. Ellison asked if it would still allow direct loans. Mr. Gomez answered that by participating with financial institutions they are talking about direct loans but these would be made by the financial institution and the borrower with the State providing the capital.

Rep. Ellison remarked that unless they strike some of this other language it would allow them to do both. Rep. Giacometto replied that it would.

Rep. Jenkins mentioned that this is almost like the program they had during the Special Session, that if you went through the financial institutions they would want something like 3% to handle the money. The difference might be that under that program the financial institutions held all the responsibility for those loans.

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Rep. Jenkins said that under this bill, maybe the State would be responsible. If Rep. Cobb wants to put that on the floor, I won't propose the amendment now.

Rep. Cody thought that the new section on page 8 (section 9), "In addition to its powers prescribed in 80-12-103, the authority may 'sue and be sued'", would make the state liable.

Rep. Jenkins told Rep. Cody he thought maybe the reason for that is that if you were to read it that they would at some time have to repossess, that would be considered suing.

The vote on adoption of the amendments was 11 members voting no and 5 voting yes, so the amendment FAILED.

A roll call vote then was made on Rep. Hanson's substitute motion of DO PASS. It failed by an 8-9 vote, so Rep. Giacometto moved that the vote be reversed and leave the committee on a DO NOT PASS decision. The motion was ADOPTED.

#### HOUSE BILL 889

Rep. Campbell moved HB 889 DO PASS, and Rep. Giacometto seconded the motion.

Rep. Rapp-Svrcek moved the amendment DO PASS, and Rep. Corne' seconded the motion. (EXHIBIT # 2)

Rep. Rapp-Svrcek said he is very intrigued with this bill. It deals with the coal tax trust fund and takes a 3/4 vote, so this language was borrowed from Rep. Cobb's bill. The \$1 million seed money would have to be repaid to the trust fund with no interest and 20 years to repay. If this provision was in there it would have a better chance of passing into law.

Rep. Ellison asked where they were going to get the money to pay it back. Rep. Cody answered that it is a loan. See page 6, line 17.

Rep. Corne' thinks it is a GREAT bill and told Rep. Winslow he wanted to vote for it but refused to do so if it attacked the coal trust fund. The Rapp-Svrcek amendment would allow him to vote for it. Rep. Winslow didn't want to divert any money going into the fund. He said there probably wouldn't be any left.

Rep. Jenkins remarked that if he understood the testimony, Rep. Winslow intended to make a revolving fund. He asked if he would use interest to keep this fund revolving. If this program was to be successful, they would have the money over a

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period of 20 years. In a revolving fund some money would have to be diverted for repayment of the trust fund. He would leave it up to the financial experts.

Rep. Holliday didn't think Rep. Rapp-Svrcek borrowed enough language. There is a required payment put in of 100%: Rep. Rapp-Svrcek's amendment would make it 100%.

Rep. Rapp-Svrcek said that is correct. He intended the full \$1 million to be returned to the trust fund.

Rep. Holliday asked what provision is made for how and under what circumstances. That isn't laid out exactly how it would be done.

Rep. Rapp-Svrcek told her his only requirement was that it would be paid within 20 years and without any interest. The bill creates rulemaking and would take some kind of formula to set up the repayments that doesn't deplete the fund. He prefers leaving exact directions out of the bill. It creates a directive and the people doing it would set up that in the best way.

Rep. Holliday replied then he wasn't satisfied with the language in the bill already? Rep. Rapp-Svrcek said as he read it that it had nothing to do with agricultural endeavors.

Rep. Holliday said then it isn't the \$1 million. Rep. Rapp-Svrcek said that was correct.

Rep. Giacometto said he wasn't clear on section 9 about the 20 year program. They're having the trouble right now. if this is a good program and it looks good, at the end of 20 years possibly we would want to reinstate it if it is working. You could extend it another 20 years, or you could come back in and say to return it. At the end of 20 years, you might want to continue and let the program go on knowing that it has to be able to pay itself back.

Rep. Hanson said with this amendment you just made a 20-year life of the loan. Rep. Rapp-Svrcek said he realized that. Maybe it should be at the end of a shorter period of time, but you wouldn't want to cut the program back and say you have to pay it back next year.

Rep. Ellison said if your eggs don't hatch in this incubator, you won't have any money to pay it back!!

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Rep. Cody addressed Rep. Ellison's concerns. They aren't going to make loans to just anybody. They have to have their incubator money. They have a whole list of criteria. She thinks there are some built-in protections as far as the loan is concerned. The loan on the repayment it considers commensurate with the risk of its investment. They can develop its payback.

Rep. Ellison said when you risk loan capital with experienced companies they figure on about half the projects not going. Whether these people would have experience enough to do that well is problematical. The banks have criteria when they loan ranchers money and they have had to eat a lot of those loans too, and this risk capital is not too good.

Rep. Giacometto wanted to make sure that that counsel is good. He felt Reps. Rapp-Svrcek, Ellison, and Campbell did well on the committee.

After discussion, the committee ADOPTED the amendments proposed with Reps. Campbell, Ellison, and Holliday voting no.

Rep. Giacometto moved HB 889 DO PASS AS AMENDED WITH THE STATEMENT OF INTENT attached. Rep. Holliday seconded the motion and it was ADOPTED with Rep. Ellison voting no.

#### SENATE BILL 142

Rep. Corne' moved that the committee reconsider its action on Senate Bill 142. This was not necessary since nothing had been done definitely by the committee before. Rep. Corne' then moved SB 142 BE CONCURRED IN. Rep. Rapp-Svrcek seconded the motion. After discussion, the motion FAILED with 9 voting no and 8 yes. The motion was reversed to BE NOT CONCURRED IN AS AMENDED. The motion was discussed.

Rep. Cody asked what the amendments do. Rep. Rapp-Svrcek told her the Weeding amendment exempted state lands. Rep. Patterson said his amendments took language from the agriculture loan authority laws that particularly define what an owner is. Rep. Ellison's amendment more clearly defined what agriculture land is.

Rep. Corne' said the primary purpose for wanting to see this bill pass out of committee is that the bill's intention is to give people who have fallen on tough times and had their land repossessed an opportunity to come forward to attempt to purchase and use that land. He disagrees with the banks in opposition to the bill that perhaps these people are not good farmers.

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Maybe some of these people are living or operating on loans that were based on land that was overpriced and couldn't meet those obligations because of the poor economic times, acreage fixing, low markets, poor prices and they ought to have an opportunity to renegotiate and keep the land.

Rep. Giacometto remarked this is an emotional issue on both sides. The banks are opposed to it, but all the agriculture people are against it too and these are the people we are trying to help. The grassroots all the way up are opposed to it.

Rep. Bachini disagreed with Rep. Giacometto. He's gotten a lot of phone calls, messages on this issue from farmers. The organizations do represent a lot of the people, but a lot of the people's voices are not heard.

Rep. Compton said the MACO chairman of the agriculture committee told him that MACO is 100% in favor of the bill and he wanted me to know that before any action was taken on the bill.

SENATE JOINT RESOLUTION 15 is to be sent to the committee. It is to encourage the federal government to loan farm credit services help.

ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned.

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Rep. Duane W. Compton  
Chairman



# STANDING COMMITTEE REPORT

March 27 19 27

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION  
report SENATE BILL 142

do pass  be concurred in  as amended  
 do not pass  be not concurred in  statement of intent attached

REP. DUANE N. COMPTON Chairman

## RIGHT OF FIRST REFUSAL ON SALE OF FORECLOSED AGRICULTURAL LAND

Be Amended as Follows:

1. Title, line 3.  
Following: "PROVIDING"  
Insert: "AN APPLICABILITY DATE AND"
2. Page 1, lines 14 and 15.  
Following: "means" on line 14  
Strike: remainder of line 14 through "15-7-202" on line 15  
Insert: "real property that is principally used for the production of livestock, poultry, field crops, fruit, or other animal or vegetable matter for food or fiber"
3. Page 1, lines 23 and 24.  
Following: "LENDER," on line 23  
Insert: "or"  
Following: "AGENCY," on line 24  
Strike: remainder of line 24 in its entirety  
Insert: "that"
4. Page 2, line 1.  
Strike: "OR TRUST INCENTURE"
5. Page 2, line 10.  
Following: "owner"  
Insert: "if such owner has financial resources and farm management skills and experience to assure a reasonable prospect of success in the proposed farming operation. The offer to sell or lease land to the immediately preceding owner must be"
6. Page 2, line 25.  
Following: line 24  
Insert: "(4) This section does not apply to foreclosed agricultural land if such land is owned by the state pursuant to Montana's Enabling Act (Act of February 22, 1889, ch. 180, 25 Stat. 576)."

(Continued)

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color



7. Page 4, line 21 through line 6, page 5.

Strike: section 5 in its entirety

Insert: 'Section 5. Applicability. This act applies to agricultural land acquired by foreclosure or by judgment in satisfaction of debt after the effective date of this act.'

Renumber: subsequent sections

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# STANDING COMMITTEE REPORT

March 27 19 37

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION  
report HOUSE BILL 10

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

REP. DUANE W. COMPTON, chairman

## STATEMENT OF INTENT

House Bill No. 10 requires a statement of intent because section 3(4), section 5(2), and section 9 require the Montana agricultural loan authority (MALA) to adopt rules implementing the direct agricultural loan program provided for in the act.

It is the intent of the legislature that MALA adopt rules for the orderly handling and processing of loan applications under the authority granted in this act to make direct loans for agricultural operations. MALA may establish and charge fees and interest sufficient to cover loan program administrative costs, funding of a loan loss reserve, and annual payment of the amount required by section 11(3).

It is intended that MALA will have wide latitude in establishing eligibility and selection criteria for making loans, subject to the requirements of the act. MALA shall at all times apply prudent lending practices to ensure financially viable loans and may establish debt-to-asset limitations or equity limitations to ensure availability of loans to persons who may otherwise be unable to obtain financing.

First reading copy ( White color )

# STANDING COMMITTEE REPORT

March 27 19 37

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report HOUSE BILL 389

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

REP. DUANE W. COMPTON Chairman

## MONTANA GROWTH THROUGH AGRICULTURE ACT

Be Amended As Follows:

1. Page 3, line 6.

Following: line 2

Insert: NEW SECTION. Section 15. Repayment to coal tax trust fund required. The Montana agriculture development council shall repay \$1 million to the coal severance tax trust fund, without computation of interest, within 20 years after the effective date of this act."

Renumber: subsequent sections

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color

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### STATEMENT OF INTENT

A statement of intent is required for this bill because it directs the Montana Agriculture Development Council created by the bill to adopt administrative rules to implement and administer the various agricultural investment and market enhancement programs established by the bill.

The breadth and complexity of these program necessitates that the council have broad latitude in developing criteria, requirements, and procedures for carrying out this mandate. The legislature contemplates, however, that the council would, among other things:

(1) Establish procedures for the conduct of council business;

(2) provide for agricultural investments that will:

(a) stimulate applied agricultural research and product development;

(b) transfer new technology and provide technical assistance to business and industry; and

(c) furnish "seed" funds which provide leverage for the investment of private capital in new agricultural enterprises;

(3) provide for the protection of the confidentiality of trade secrets and business and financial information relating to applicants for investments;

(4) establish eligibility and selection criteria for agricultural investments;

(5) establish matching funding requirements for various types of investments; and

(6) provide for the enhancement and development of both foreign and domestic markets for current and new agricultural products.

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION

COMMITTEE

DATE Mar. 27, 1987 BILL NO. SB 142

NUMBER 1

NAME	AYE	NAY	ABSTAIN
Rep. Duane Compton, Chairman		✓	
Rep. Loren Jenkins, Vice Chairman		✓	
Rep. Bob Bachini	✓		
Rep. Bud Campbell		✓	
Rep. Dorothy Cody	✓		
Rep. Richard Corne'	✓		
Rep. Gene DeMars	✓		
Rep. Orval Ellison		✓	
Rep. Leo Giacometto		✓	
Rep. Marian Hanson	✓		
Rep. Gay Holliday	✓		
Rep. Vernon Keller		✓	
Rep. Francis Koehnke		✓	
Rep. John Patterson		✓	
Rep. Bing Poff	✓		
Rep. Paul Rapp-Svrcek	✓		
Rep. Harriet Hayne		✓	

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Jo Lahti  
Secretary

Duane H. Compton, Jr.  
Chairman

MOTION:

Do Concur As Amended on SB 142.

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION

COMMITTEE

DATE Mar. 27, 1987 BILL NO. HB 10 NUMBER 1

NAME	AYE	NAY	ABSTAIN
Rep. Duane Compton, Chairman	✓		
Rep. Loren Jenkins, Vice Chairman	✓		
Rep. Bob Bachini		✓	
Rep. Bud Campbell		✓	
Rep. Dorothy Cody		✓	
Rep. Richard Corne'		✓	
Rep. Gene DeMars	✓		
Rep. Orval Ellison		✓	
Rep. Leo Giacometto	✓		
Rep. Marian Hanson	✓		
Rep. Gay Holliday		✓	
Rep. Vernon Keller	✓		
Rep. Francis Koehnke	✓		
Rep. John Patterson		✓	
Rep. Bing Poff		✓	
Rep. Paul Rapp-Svrcek	✓		
Rep. Harriet Hayne		✓	

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Jo Lakti  
Secretary

Duane H. Compton jr  
Chairman

MOTION: Do Pass HB 10 - Motion fails

*Proposed but  
not moved*

EXHIBIT #1  
DATE Mar. 27, 1987  
HB10 - Rep. John  
Lab

Amendments to HB 10 (introduced bill)

1. Page 10.

Following: line 21

Insert: "(9) participate with other financial institutions or individual lenders in making loans under [sections 2 through 9], upon such terms and conditions as may be prescribed by the authority consistent with [sections 2 through 9];"

Renumber: subsequent subsection

EXHIBIT #2  
DATE Mar. 27, 1987  
HB 10 Rep. John  
Cobb

AMENDMENT TO HB 889

Requested by Rep. Rapp-Svrcek

1. Page 9, line 9.

Following: line 8

Insert: "NEW SECTION. Section 15. Repayment to coal tax trust fund required. The Montana agriculture development council shall repay \$1 million to the coal severance tax trust fund, without computation of interest, within 20 years after the effective date of this act."

Renumber: subsequent sections