

SENATE BILL 248

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 25, 1979	Rereferred to Committee on Taxation.
	On motion by chief sponsor Representative Vicki Johnson was added as an author to the pre-filed bill.
March 15, 1979	Committee recommend bill, as amended.
	Statement of Intent adopted.
March 17, 1979	Printed and placed on members' desks.
March 19, 1979	Second reading, do pass.
March 20, 1979	Considered correctly engrossed.
March 21, 1979	Third reading, passed.

IN THE HOUSE

March 22, 1979	Introduced and referred to Committee on Taxation.
April 16, 1979	Committee recommend bill, as amended.
April 18, 1979	Second reading, as amended, not concurred.

IN THE SENATE

April 18, 1979	Returned from House, not concurred, as amended.
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1 *SB 248* BILL NO. 248
2 INTRODUCED BY Mr.

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP YOUNG FARMERS
5 GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA HOMESTEAD
6 LAND PROGRAM FOR THE PURPOSES OF ACQUIRING LAND THAT MIGHT
7 BE PURCHASED BY FOREIGNERS, OUT-OF-STATE CORPORATIONS, OR
8 OTHER LARGE LANDOWNERS AND OF LEASING AND SELLING THIS LAND
9 FOR MONTANA FAMILY FARMS; AND AMENDING SECTION 77-1-202,
10 MCA."

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

12 Section 1. Section 77-1-202, MCA, is amended to read:
13 "77-1-202. Powers and duties of board. 111 The board
14 shall exercise general authority, direction, and control
15 over the care, management, and disposition of state lands
16 and, subject to the investment authority of the board of
17 investments, the funds arising from the ~~leasing~~ lease, use,
18 sale, and ~~or~~ disposition of those lands or otherwise coming
19 under its administration. In the exercise of these powers,
20 the guiding rule and principle is that these lands and funds
21 are held in trust for the support of education and for the
22 attainment of other worthy objects helpful to the well-being
23 of the people of this state. The board shall administer this
24 trust to secure the largest measure of legitimate and

1 reasonable advantage to the state.
2 121 The board shall also serve as the Montana
3 homestead board, whose powers are enumerated in [section
4 51a]
5 NEW SECTION Section 2. [Sections 2 through 42] may
6 be cited as the "Montana Homestead Land Act".
7 NEW SECTION Section 3. Legislative findings. The
8 legislature finds that the rapidly increasing cost of
9 agricultural land is preventing many Montanans from becoming
10 farmers and ranchers. In consequence, Montana's farmland is
11 being purchased by corporations and foreign investors and
12 Montana's farmers and ranchers are rapidly becoming hired
13 hands. Recognizing the value of family farms to the
14 economic, social, and political well-being of the state, the
15 legislature hereby establishes a program for the state's
16 acquisition of agricultural land and its lease and eventual
17 sale to eligible Montana citizens. In the belief that
18 increasing the economic opportunities available to Montanans
19 and preserving the family farm are public purposes, the
20 legislature proposes to fund this program by general
21 obligation bonds, backed by income from the constitutional
22 coal tax trust fund.

23 NEW SECTION Section 4. Definitions. (1) As used in
24 [sections 2 through 42], the following definitions apply:
25 (a) "Agricultural land" means land actively devoted to

1 agricultural use as defined in 15-7-202.

2 (b) "Board" means the board of land commissioners
3 established in Article X, section 4, of the Montana
4 constitution, which serves as the Montana homestead board
5 for the purposes of [sections 2 through 42].

6 (c) "Bonds" means bonds or bond anticipation notes
7 issued by the board under the provisions of [sections 2
8 through 42].

9 (d) "Conveyance" means an instrument in writing by
10 which any estate or interest in real property is created,
11 alienated, mortgaged, or encumbered or by which the title to
12 real property may be affected, except wills and conveyances
13 ordered by the court in constructive or resulting trusts.

14 (e) "Department" means the department of state lands.

15 (f) "Homestead land" means land acquired by the board
16 under the provisions of [sections 2 through 42].

17 (g) "Owner" means any individual, partnership, joint
18 venture, association, or corporation owning agricultural
19 land.

20 (2) References throughout [sections 2 through 42] to
21 the board apply only to the board of land commissioners
22 acting in its capacity as the Montana homestead board.
23 References to the board's property, revenues, or assets
24 apply only to property, revenues, and assets generated by
25 the Montana homestead program, not those owed or generated

1 by any other program or property over which the board of
2 land commissioners exercises general authority, direction,
3 and control.

4 NEW SECTION. Section 5. Homestead board -- general
5 powers. The board may:

6 (1) retain professional consultants and advisors;
7 (2) rely on the department's staff in its daily
8 functions;

9 (3) adopt rules governing its procedures;
10 (4) purchase agricultural land and related real and
11 personal property under the provisions of [section 9];

12 (5) upon authorization of an affirmative vote of
13 two-thirds of the members of each house of the legislature
14 or of a majority of the electors voting thereon, issue bonds
15 necessary to provide funds for implementing [sections 2
16 through 42];

17 (6) accept applications from those wishing to lease
18 homestead lands;

19 (7) evaluate applicants and award lease agreements to
20 qualified lessees;

21 (8) sell homestead lands as provided in [sections 2
22 through 42]; and

23 (9) invest any funds generated by sale of bonds in the
24 permissible investments outlined in 17-6-211 until such time
25 as the funds are needed for land acquisition or any of the

1 board's other functions.

2 NEW SECTION Section 6. Offer of sale to board
 3 required for land selling for \$2 million or more. (1) Before
 4 conveying in any single conveyance any agricultural land in
 5 Montana, including related real or personal property,
 6 offered for \$2 million or more, the owner shall offer the
 7 land to the board for the same price at which the owner has
 8 signed a contract for sale.

9 (2) Whenever the owner of record signs a contract to
 10 sell agricultural land, including related real or personal
 11 property, offered for \$2 million or more, he shall file a
 12 homestead land form with the board.

13 (3) The board shall:

14 (a) require such information on the form as it may
 15 prescribe; and

16 (b) provide an adequate supply of these forms to each
 17 county clerk and recorder in the state.

18 (4) No conveyance involving agricultural land subject
 19 to [sections 2 through 42] is effective until 60 days after
 20 the board's receipt of the homestead land form offering the
 21 land.

22 (5) Separate conveyances designed to evade the
 23 provisions of this section are ineffective unless the board
 24 has been offered an opportunity to purchase the land.

25 NEW SECTION Section 7. Criteria for purchase of

1 land. (1) Upon receipt of a homestead land form, the board
 2 may within 60 days purchase the land at the same price at
 3 which the owner is prepared to sign a contract, provided the
 4 following conditions are satisfied:

5 (a) The land has been appraised by the department.
 6 (b) The land constitutes an agricultural unit or can
 7 be divided into agricultural units capable of supporting an
 8 individual or family.

9 (c) The board determines that any selling price higher
 10 than the appraised value as determined by the department is
 11 based on a bona fide offer from a third party and the offer
 12 represents true market value.

13 (d) In the board's estimation, sufficient applicants
 14 exist to lease the land within 1 year.

15 (e) Purchase of the lands will not increase the
 16 board's indebtedness beyond \$200 million.

17 (2) Nothing in this section requires the board to
 18 purchase any agricultural land.

19 NEW SECTION Section 8. Voluntary sales. Any owner of
 20 agricultural land may offer his land to the board before
 21 another private offer has been received. The board may
 22 purchase the land provided the criteria listed in [section
 23 7] have been satisfied.

24 NEW SECTION Section 9. Purchase of land and related
 25 property. (1) Whenever the board decides to purchase offered

1 land and related improvements, it shall adopt a resolution
 2 containing a legal description of the land to be purchased,
 3 the sales price, and the terms of the sale.

4 (2) The board may, at the option of the seller, give
 5 consideration to the seller for the purchase price in any of
 6 the following ways:

7 (a) periodic payments of cash;

8 (b) assignments of bonds or securities issued by the
 9 board; or

10 (c) cash payments of the full amount of the purchase
 11 price.

12 NEW SECTION Section 10. Preparing homestead land for
 13 leasing. The board shall lease all homestead lands in
 14 agricultural units capable of supporting an individual or
 15 family. In determining whether individual purchases should
 16 be divided to secure such units, the board may request
 17 advice from the department or other state and federal
 18 agencies. The board shall assist the lessee in constructing
 19 any capital improvements necessary or desirable for the
 20 efficient development or use of homestead land.

21 NEW SECTION Section 11. Determining the lessee. (1)
 22 The board shall offer homestead land for lease to qualified
 23 Montana citizens.

24 (2) The board shall by rule establish a procedure for
 25 soliciting and evaluating applications from qualified

1 Montana citizens to lease the land.

2 (3) In evaluating the applications, the board shall
 3 consider:

4 (a) the applicant's training and experience in
 5 agriculture;

6 (b) the applicant's prospects for succeeding in an
 7 agricultural operation on the homestead land to be leased;

8 (c) the applicant's attempts to secure or prospects of
 9 securing other types of financing;

10 (d) the applicant's net worth and prior year's income;
 11 and

12 (e) any other factors it may prescribe.

13 (4) The board shall select the best qualified and most
 14 deserving applicant from among those applying for each unit.
 15 However, the board is not required to lease the land to any
 16 applicant and may solicit further applications.

17 NEW SECTION Section 12. Qualifications of lessee.

18 (1) To be eligible to lease homestead land, an applicant
 19 must reside in the state at the time of application and
 20 declare his intention to maintain his residence in Montana
 21 during the lease.

22 (2) Applications may be submitted by individuals,
 23 partnerships, associations, or joint ventures. All persons
 24 involved in the application must meet the requirements of
 25 subsection (1). Corporations, as defined in 35-1-102, may

1 not apply.

2 NEW SECTION Section 13. Lease -- terms --
 3 conditions. (1) The board shall enter into a lease agreement
 4 with the best qualified and most deserving applicant for a
 5 period not to exceed 7 years.

6 (2) The lease agreement shall provide that:

7 (a) the lessee will make semiannual lease payments in
 8 an amount sufficient to pay the costs of the debt incurred
 9 by the state in acquiring the homestead land. The board may
 10 reduce the lease payment in cases of financial hardship,
 11 provided the lessee agrees to pay a higher lease payment in
 12 later years to compensate for the loss.

13 (b) no lessee may sublet or assign the lease without
 14 obtaining the written consent of the board;

15 (c) a lessee may not encumber homestead land in any
 16 way during the period of a lease;

17 (d) the lessee must devote the majority of his time to
 18 the active management of homestead land and agree to use the
 19 land for agricultural purposes, as defined in 15-7-202; and

20 (e) the board has a lien on all unharvested crops on
 21 the leased land as security for lease payments and money due
 22 local taxing jurisdictions.

23 NEW SECTION Section 14. Payment of sum equal to
 24 taxes. Each lessee shall pay to the local taxing districts
 25 in which the leased homestead land is located an amount

1 equal to the sum of all real property taxes and other taxes
 2 and assessments that would have been levied on the property
 3 if it were owned by the lessee. If for any reason a parcel
 4 of land is not subject to a lease agreement, the board shall
 5 pay the required sum to the local taxing districts.

6 NEW SECTION Section 15. Improvements on leased land.
 7 During the term of the lease, the lessee may, subject to the
 8 approval of the board, make improvements on leased homestead
 9 land. The improvements shall be financed by the lessee and
 10 shall be his property. If the lease terminates without the
 11 lessee purchasing the homestead land, the board shall
 12 reimburse the lessee for the appraised value of the
 13 improvements, as determined by three independent appraisers.

14 NEW SECTION Section 16. Cancellation of lease. (1)
 15 The board may cancel a lease at any time if the lessee:

16 (a) is in default on lease payments;

17 (b) has failed to pay a local taxing district the sum
 18 due under [section 14];

19 (c) has not maintained his residence in the state;

20 (d) has used any portion of the land for
 21 nonagricultural purposes without written permission from the
 22 board;

23 (e) has failed to cultivate the land in accordance
 24 with generally accepted agricultural practices in that area
 25 or a practice developed for that area under supervision of

1 any governmental agricultural service agency; or
 2 (f) has otherwise violated or failed to perform the
 3 terms of the lease agreement.

4 (2) If the lessee refuses to vacate the land within 60
 5 days after the lease has been cancelled, the board shall
 6 apply for relief to the district court in which the land is
 7 situated.

8 NEW SECTION Section 17. Procedure for cancellation
 9 of leases. (1) If the board proposes to cancel a lease, it
 10 shall:

11 (a) send written notice by certified mail to the
 12 lessee that the lease will terminate on a specified date,
 13 not less than 30 days after the date on which the notice is
 14 sent, unless the lessee complies with subsection (1)(c) of
 15 this section;

16 (b) set out in writing the reasons for the proposed
 17 cancellation of the lease and the provision of law under
 18 which the termination is authorized;

19 (c) set out in the notice the steps that may be taken
 20 by the lessee to remedy the situation giving rise to the
 21 possible termination of the lease.

22 (2) If the lessee fails to comply with subsection
 23 (1)(c) within 30 days after receipt of notice or such period
 24 as the board prescribes, the board shall send the lessee
 25 written notification by certified mail of the cancellation

1 of the lease.

2 NEW SECTION Section 18. Application for court order
 3 to preserve or protect land. (1) The board may authorize a
 4 person, under authority of an order of the district court,
 5 to enter upon the land and perform such acts as are set out
 6 in the order if:

7 (a) the lessee has abandoned the land; or
 8 (b) the lessee dies and, in the opinion of the board,
 9 adequate arrangements have not been made for actions
 10 consistent with normal agricultural procedures necessary to
 11 preserve or protect the crops growing upon the land.

12 (2) The court order may authorize the board to sell
 13 any crop grown or harvested under this section to reimburse
 14 itself for any debt due the board by the lessee and
 15 authorize any costs incurred by the board in growing,
 16 harvesting, or selling the crops to be recovered as a debt
 17 due the board from the lessee or, if the lessee is deceased,
 18 from his estate. The balance, if any, shall be paid to the
 19 lessee or his estate.

20 NEW SECTION Section 19. Death of lessee. A lease
 21 terminates 30 days after the death of a lessee if death
 22 occurs during the month of January, February, or December or
 23 on December 31 of the year of the lessee's death if the
 24 event occurs on or after March 1 but before December 1.

25 NEW SECTION Section 20. Lease to relative. If a

1 lessee has expressed an intention in writing before death:
 2 (1) that the spouse continue farming the land, the
 3 board shall upon application enter into an agreement to
 4 lease the land to the spouse for the duration of the lease
 5 period; or

6 (2) that a lineal descendant or the spouse of a lineal
 7 descendant continue farming the land, the board shall upon
 8 application enter into an agreement to lease the land to
 9 such person if the person meets the requirements of [section
 10 12]; or

11 (3) that the land be leased to a specified person, the
 12 board shall give such person priority to enter into a lease
 13 agreement for the land if the applicant meets the
 14 requirements of [section 12].

15 NEW SECTION. Section 21. Termination of lease.
 16 Whenever the board receives written notice from a lessee
 17 indicating his intention of terminating the lease, it shall
 18 send written notice by certified mail to the lessee that the
 19 lease will terminate on a specified date not less than 30
 20 days after the date on which the notice is sent.

21 NEW SECTION. Section 22. Renewal of lease --
 22 prohibition. (1) If at the end of a 7-year lease the lessee
 23 has not entered into an agreement with the board to purchase
 24 the land, the board may not renew the lease but shall take
 25 applications for a new lessee for the property.

1 (2) Homestead land may not be leased for more than 15
 2 years after its initial purchase under [section 9]. If at
 3 the end of this period a lessee of the land has not entered
 4 into an agreement to purchase the land, the board shall
 5 offer it for sale to anyone wishing to purchase. In sales to
 6 nonlessees, the board may negotiate a sales price reflecting
 7 the value of the land as productive agricultural land only
 8 but sufficient to repay the debt the board incurred in
 9 purchasing the land.

10 NEW SECTION. Section 23. Sale of leased land. (1) A
 11 lessee may apply to purchase homestead land after he has
 12 leased the land for 2 or more years.

13 (2) The board shall sell homestead land to any lessee
 14 who has proven his ability to use the agricultural land
 15 productively and wisely.

16 (3) Any conveyance of homestead land shall contain a
 17 covenant running with the land that the land shall be
 18 forever used for agricultural purposes, as defined in
 19 15-7-202.

20 (4) Leased land shall be sold at the price at which
 21 the board originally purchased the land under the provisions
 22 of [section 9] plus any additional costs of financing
 23 incurred by the board.

24 (5) Lease payments in excess of the amount needed to
 25 pay the interest on the indebtedness incurred in purchasing

1 the land must be credited toward the sales price of the land
 2 if the lessee purchases the land from the board.

3 (6) The purchase agreement must require the purchaser
 4 to pay the entire purchase price for the land to the board
 5 within 6 months after signing the agreement.

6 (7) Lessees may apply to the board for a loan to
 7 finance the purchase of the land.

8 NEW SECTION Section 24. Loan program. (1) The board
 9 may establish a loan program, funded by the sale of general
 10 obligation bonds, to enable lessees to purchase homestead
 11 land.

12 (2) A loan agreement must provide for full payment of
 13 principal and interest on the homestead land loan within 60
 14 years.

15 (3) The board shall specify in the agreement the
 16 reasonable rate of interest it considers necessary.

17 (4) Loans made by the board must be secured by any
 18 liens or collateral the board considers necessary.

19 NEW SECTION Section 25. Issue of general obligation
 20 bonds -- credit of the state pledged. (1) When authorized by
 21 an affirmative vote of two-thirds of the members of each
 22 house of the legislature or of a majority of the electors
 23 voting thereon, the board may issue bonds of the state of
 24 Montana in a principal amount it determines necessary to
 25 provide sufficient funds for achieving any of the purposes

1 of the Montana homestead program, including the payment of
 2 interest on bonds, establishment of reserves to secure the
 3 bonds, and all other expenditures of the board incident to
 4 the program.

5 (2) Each issue of its bonds is an obligation of the
 6 board payable in the first instance out of any revenues,
 7 assets, or money generated by the Montana homestead program.
 8 The board shall manage, to the best of its ability, its
 9 lease agreements and sales so that the bonds are repaid by
 10 the revenue generated by the program. However, the
 11 legislature pledges one-half the interest and income
 12 produced by the coal tax trust fund established in section
 13 5, Article IX, of the Montana constitution to maintain the
 14 capital reserve accounts for bonds issued by the board at
 15 their minimum requirements. In addition, the full faith and
 16 credit and taxing powers of the state are pledged for the
 17 payment of bonds issued by the board under the provisions of
 18 [sections 2 through 42].

19 (3) The bonds must be authorized by resolution of the
 20 board and bear a date and mature at times as the board
 21 determines. A bond may not mature more than 60 years from
 22 the date of its issue. The bonds may be issued as serial
 23 bonds payable in annual installments or as term bonds or as
 24 a combination thereof. The bonds of the board may be sold
 25 at public or private sale, at prices determined by the

1 board.

2 (4) The resolution shall specify:

3 (a) the rate of interest of the bonds;

4 (b) the denomination of the bonds;

5 (c) whether the bonds shall be in coupon or registered
6 form and registration privileges, if any;

7 (d) the manner and place of execution;

8 (e) the manner and place and medium of payment; and

9 (f) the terms of redemption.

10 (5) The total amount of bonds outstanding at any one
11 time may not exceed \$200 million.

12 NEW SECTION. Section 26. Provisions of bond
13 resolutions or trust indentures. A resolution or trust
14 indenture authorizing any bonds or any issue thereof may
15 contain provisions, which shall be a part of the contract or
16 contracts with the holders thereof, as to:

17 (1) pledging all or any part of the revenues or the
18 property of the board to secure the payment of the bonds or
19 any issue thereof, subject to existing agreements with
20 bondholders;

21 (2) pledging all or any part of the assets of the
22 board, including mortgages and obligations securing them, to
23 secure the payment of the bonds;

24 (3) pledging the income and interest from the
25 constitutional coal tax trust fund;

1 (4) pledging the full faith and credit and taxing
2 powers of the state of Montana to secure the payment of the
3 bonds;

4 (5) specifying the use and disposition of the gross
5 income from mortgages owned by the board and payment of
6 principal of mortgages owned by the board;

7 (6) the setting aside of reserves or sinking funds in
8 the hands of trustees, paying agents, or other depositories
9 and the regulation and disposition of the reserves;

10 (7) limiting the purpose to which the proceeds of the
11 sale of the bonds may be applied and the pledge of the
12 proceeds to secure the payment of the bonds or of any issue
13 thereof;

14 (8) limiting the issuance of additional bonds, the
15 terms upon which additional bonds may be issued and secured,
16 and the refunding of outstanding bonds;

17 (9) specifying the procedure, if any, by which the
18 terms of any contract with bondholders may be amended or
19 abrogated, the amount of bonds the holders of which must
20 consent thereto, and the manner in which such consent may be
21 given;

22 (10) limiting the amount of money to be expended by the
23 board for its operating expenses;

24 (11) vesting in a trustee property, rights, powers, and
25 duties in trust as the board determines;

1 (12) defining the acts or failures to act which will
2 constitute a default in the obligations and duties of the
3 board to the holders of the bonds and providing for the
4 rights and remedies consistent with the laws of the state
5 and the provisions of [section 2 through 42] of the holders
6 of the bonds in the event of such default, including as a
7 matter of right the appointment of a receiver; and
8 (13) specifying any other matters of like or different
9 character which in any way affect the security or protection
10 of the holders of the bonds.

11 NEW SECTION Section 27. Validity of pledge. A pledge
12 made by the board is valid and binding from the time the
13 pledge is made. The revenues or property pledged and
14 thereafter received by the board are immediately subject to
15 the lien of the pledge without any physical delivery thereof
16 or further acts, and the lien of any pledge is valid and
17 binding against all parties having claims of any kind in
18 tort, contract, or otherwise against the board, irrespective
19 of whether such parties have notice thereof. Neither the
20 resolution, trust indenture, nor any other instrument by
21 which a pledge is created need be recorded.

22 NEW SECTION Section 28. Personal liability. The
23 board members and employees of the department are not
24 personally liable for any debt incurred by the board.

25 NEW SECTION Section 29. Purchase of bonds --

1 cancellation. The board, subject to existing agreements with
2 bondholders, may out of any funds available for that purpose
3 purchase bonds of the board, which shall thereupon be
4 cancelled, at a price not exceeding:

5 (1) the current redemption price plus accrued interest
6 to the next interest payment thereon if the bonds are then
7 redeemable; or

8 (2) the redemption price applicable on the first date
9 after purchase upon which the bonds become subject to
10 redemption, plus accrued interest to that date if the bonds
11 are not then redeemable.

12 NEW SECTION Section 30. Trust indenture. In the
13 discretion of the board, the bonds may be secured by a trust
14 indenture between the board and a corporate trustee, which
15 may be a trust company or bank having the power of a trust
16 company within or without the state.

17 NEW SECTION Section 31. Negotiability of bonds.
18 Bonds issued by the board are negotiable instruments under
19 the Uniform Commercial Code, subject only to the provisions
20 for registration of bonds.

21 NEW SECTION Section 32. Continuing validity of board
22 members' signatures. If any board member whose signature
23 appears on bonds or coupons ceases to be a member before the
24 delivery of the bonds, his signature continues to be valid
25 and sufficient for all purposes.

1 NEW SECTION. Section 33. Accounts of the board. There
 2 is a homestead land financing account in the bonds proceeds
 3 and insurance clearance fund provided for in 17-2-102. All
 4 funds from the proceeds of bonds issued under [sections 2
 5 through 42], fees and other money received by the board,
 6 money appropriated by the legislature for the use of the
 7 board in carrying out [sections 2 through 42], and money
 8 made available from any other source for the use of the
 9 board must be deposited in the homestead land financing
 10 account except as otherwise provided by law. All funds
 11 deposited in the homestead land financing account are
 12 continuously appropriated to and may be expended by the
 13 board for the purposes authorized in [sections 2 through
 14 42].

15 NEW SECTION. Section 34. Reserve funds and
 16 appropriations. (1) The board shall pay into one or more
 17 capital reserve accounts:

18 (a) any money appropriated and made available by the
 19 state for the purpose of the fund;

20 (b) any proceeds of sale of bonds to the extent
 21 provided in the resolutions of the board authorizing their
 22 issuance or in any trust indenture securing their repayment;
 23 and

24 (c) any other money which may be available to the
 25 board for the purpose of such a fund from any other source.

1 (2) All amounts held in a capital reserve account must
 2 be used solely for the payment of principal, interest, and a
 3 redemption premium with respect to bonds secured in whole or
 4 in part by the account. Funds in an account may not be
 5 withdrawn at any time in an amount which reduces the amount
 6 of the account to less than the minimum capital reserve
 7 requirement established for the account except for the
 8 purpose of making, with respect to bonds secured in whole or
 9 in part by the account, payment, when due, of principal,
 10 interest, or redemption premiums for the payment of which
 11 other money pledged is not available.

12 NEW SECTION. Section 35. Maintenance of capital
 13 reserve account. In order to assure the maintenance of the
 14 capital reserve accounts, the governor shall inform the
 15 director of the department of administration when the
 16 accounts fall below the minimum capital reserve requirement.
 17 The director shall transfer the sum necessary to restore
 18 this minimum from an earmarked revenue account containing
 19 income from the constitutional coal tax trust fund.

20 NEW SECTION. Section 36. Refunding obligations --
 21 sale. Refunding obligations issued as provided in 90-6-121
 22 may be sold or exchanged for outstanding obligations issued
 23 under [sections 2 through 42]. The proceeds may be applied
 24 to the purchase, redemption, or payment of outstanding
 25 obligations. Pending the application of the proceeds to the

1 payment of outstanding obligations, the proceeds may be
 2 invested as provided in Title 17, chapter 6, if permitted in
 3 the resolution authorizing the issuance of the refunding
 4 obligations or in the trust agreement securing them.

5 NEW SECTION Section 37. Refunding obligations --
 6 issuance. The board may provide for the issuance of
 7 refunding obligations for refunding any obligations then
 8 outstanding which have been issued under [sections 2 through
 9 42], including the payment of any redemption premium and any
 10 interest accrued or to accrue to the date of redemption of
 11 the obligations. The issuance of obligations, the maturities
 12 and other details, the rights of the holders, and the
 13 rights, duties, and obligations of the board are governed by
 14 the appropriate provisions of [sections 2 through 42] which
 15 relate to the issuance of obligations.

16 NEW SECTION Section 38. Tax exemption of bonds.
 17 Bonds issued by the board under [sections 2 through 42] and
 18 their transfer and income, including any profits made on
 19 their sale, are exempt from taxation by the state or any
 20 political subdivision or other instrumentality of the state,
 21 except for inheritance, estate, and gift taxes. The board is
 22 not required to pay recording or transfer fees or taxes on
 23 instruments recorded by it.

24 NEW SECTION Section 39. Pledge against impairment of
 25 contracts. In accordance with the constitutions of the

1 United States and the state of Montana, the state pledges
 2 that it will in no way impair the obligations of any
 3 agreement between the board and the holders of notes and
 4 bonds issued by the board.

5 NEW SECTION Section 40. Annual audit. (1) The
 6 board's books and records must be audited by an independent
 7 certified public accountant at least once each fiscal year.
 8 (2) The legislative auditor may conduct an audit at
 9 the request of the legislative audit committee.

10 NEW SECTION Section 41. Report. The department shall
 11 transmit to the governor and to each member of the
 12 legislature 30 days before the meeting of the legislature a
 13 report:

14 (1) detailing the operations of the homestead program
 15 since the adjournment of the last legislature; and
 16 (2) containing a financial statement showing the
 17 program's assets and liabilities.

18 NEW SECTION Section 42. Powers to be interpreted
 19 broadly. The powers enumerated in [sections 2 through 42]
 20 shall be interpreted broadly to effectuate the purposes of
 21 the board and may not be construed as a limitation of
 22 powers.

23 Section 43. Severability. If a portion of this act is
 24 invalid, all valid parts that are severable from the invalid
 25 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-

STATEMENT OF INTENT RE: SB 248

Section 1: This statement of intent is required by the rulemaking authority granted to the Department of Agriculture in Section 7(2)(c) and Section 11(1).

7 Section 2: It is the intent of the legislature that
8 the Department of Agriculture would adopt rules for the
9 orderly handling and processing of applications under the
10 homestead loan program and for the second loan program. The
11 rules under Section 11(l) are intended to be sufficiently
12 specific to allow for an objective determination by the
13 department of which applicant should receive a loan from the
14 homestead loan program. The same criteria should be
15 established by rule for the second loan program with special
16 emphasis on need of the applicant and the applicant's
17 prospects for success.

18 Section 3: It is the specific intent of the
19 legislature that the programs set forth in SB 248 be
20 implemented during the 1979-81 biennium without the sale
21 bonds from whatever appropriation as may be appropriated by
22 the 46th Legislative Assembly.

23 Section 4: It is the specific intent of the
24 legislature that the Department of Agriculture shall
25 coordinate all loans made pursuant to SB 248 for the 1979-81

1 biennium through the Farmers Home Administration. The state
2 director of the Farmers Home Administration has indicated to
3 the Senate Taxation Committee that the FHA could screen
4 worthy applicants, participate with a subordinated loan of
5 its own and fully service the loan. By coordinating the SB
6 248 programs with the Farmers Home Administration the state
7 would assist the FHA in assisting Montana farmers who may
8 not otherwise obtain assistance because of a critical
9 shortage of federal funds.

10 Section 5: Based on the representations of both the
11 Director of the Department of Agriculture and the State
12 Director of the Farmers Home Administration, the legislature
13 specifically intends no more than 1/2 of one FTE to be
14 devoted to this program by the Department of Agriculture for
15 the 1979-81 biennium.

SB248

Approved by Committee
on Taxation

1 SENATE BILL NO. 248
2 INTRODUCED BY TOWE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP YOUNG FARMERS
5 GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA HOMESTEAD
6 LAND LOAN PROGRAM FOR THE PURPOSES OF ACQUIRING HELPING
7 YOUNG FARMERS ACQUIRE LAND THAT--MIGHT--BE--PURCHASED--BY
8 FOREIGNERS--OR--OF--STATE--CORPORATIONS--OR--OTHER--LARGE
9 LANDOWNERS--AND--OR--LEASING--AND--SELLING--THIS--LAND--FOR--MONTANA
10 FAMILY FARMS; PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT;
11 AND AMENDING SECTION 77-1-202 80-1-102, MCA."

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

14 Section--is--Section--77-1-282v-MEAy-is-amended-to-read--

15 #77-1-282v--Powers-and-duties-of-board--is--The--board

16 shall--exercise--general--authority--directions--and-control

17 over-the-carey-management--and-disposition--of--state--funds

18 and--subject--to--the--investment--authority--of--the--board--of

19 investments--the--funds--arising--from--the--leasing--lease--use,

20 sale--and--or--disposition--of--those--funds--or--otherwise--comtna

21 under--its--administrations--in--the--exercise--of--these--powers

22 the--guiding--rule--and--principle--is--that--these--funds--and--funds

23 are--held--in--trust--for--the--support--of--education--and--for--the

24 attainment--of--other--worthy--objects--helpful--to--the--well--being

25 of--the--people--of--this--state--the--board--shall--administer--this

1 trust to -- secure -- the -- largest -- measure -- of -- legitimate -- and
2 reasonable -- advantage -- to the state --
3 that the board shall state -- serve -- as the -- Montana
4 homestead board -- whose -- powers -- are -- enumerated -- in -- section
5 23*
6 SECTION 12. SECTION 80-1-102, MCA, IS AMENDED TO READ:
7 "80-1-102. Duties of department. The department shall:
8 (1) encourage and promote the interests of
9 agriculture, including horticulture and apiculture, and all
10 other allied industries;
11 (2) collect and publish statistics relating to the
12 production and marketing of crops and other agricultural
13 products so far, as the information may be of value to the
14 agricultural and allied interests of the state;
15 (3) assist, encourage, and promote the organization of
16 farmers' institutes, horticultural and agricultural
17 societies, the holding of fairs, livestock shows, or other
18 exhibits of the products of agriculture;
19 (4) adopt standards for open and closed receptacles
20 for farm products and standards for the grade and other
21 classification of farm products;
22 (5) cooperate with producers and consumers in devising
23 and maintaining economical and efficient systems of
24 distribution and aid in the reduction of waste and expense
25 incidental to marketing;

1 (6) have the authority to maintain a market news
 2 service, including information as to crops, freight rates,
 3 commission rates, and other matters as may be of service to
 4 producers and consumers, and act as a clearinghouse for
 5 information of value to producers and consumers;

6 (7) gather and diffuse information concerning the
 7 supply, demand, prevailing prices, and commercial movement
 8 of farm products;

9 (8) investigate the practices and methods of factors,
 10 commission merchants, and others who receive, solicit, buy,
 11 sell, handle on commission or otherwise, or deal in grains,
 12 vegetables, or other farm products, so that distribution of
 13 the commodities is accomplished efficiently, economically,
 14 and without hardship, waste, or fraud;

15 (9) cooperate with Montana state university, the
 16 agricultural experiment station, and the federal government
 17 for the betterment of the agricultural industries of the
 18 state, the improvement of rural life, and promotion of
 19 equality of opportunity for the farmers of the state;

20 (10) take and hold in the name of the state of Montana
 21 property, real and personal, acquired by gifts,
 22 subscriptions, donations, and bequests;

23 (11) sell and dispose of personal property owned by it
 24 in a manner the department may provide, when in the judgment
 25 of the department the sale or disposal best promotes the

1 purposes for which the department is established;
 2 (12) contract in respect to any matter within the scope
 3 of its authority;
 4 (13) enforce this title and all other laws for the
 5 protection and regulation of agriculture; and
 6 ~~141 establish and operate a loan program to enable~~
 7 ~~eligible Montana farmers to purchase agricultural land.~~"
 8 ~~NEW SECTION~~ Section 2. ~~SHORT TITLE~~ [Sections 2
 9 through 42 30] may be cited as the "Montana Homestead and
 10 LOAN Act".

11 ~~NEW SECTION~~ Section 3. ~~legislative findings~~ The
 12 legislature finds that the rapidly increasing cost of
 13 agricultural land is preventing many Montanans from becoming
 14 farmers and ranchers. In consequence, Montanans farm and is
 15 being purchased by corporations and foreign investors and
 16 Montanans farmers and ranchers are rapidly becoming hired
 17 hands. Recognizing the value of family farms to the
 18 economy, society and political well-being of the state, the
 19 legislature hereby establishes a program for the state's
 20 acquisition of agricultural land and its lease and eventual
 21 sale to eligible Montana citizens in the belief that
 22 increasing the economic opportunities available to Montanans
 23 and preserving the family farm are public purposes, the
 24 legislature proposes to fund this program by general
 25 obligation bonds backed by income from the constitutional

1 ~~cost-tax-trust-funds~~

2 ~~NEW SECTION~~ Section 3. Definitions. (1) As used in
3 [sections 2 through 42 30], the following definitions apply:

4 (a) "Agricultural land" means land actively devoted to
5 agricultural use as defined in 15-7-202.

6 ~~(b)~~ "Board" means the board of land commissioners
7 established in Article 4 of the Montana
8 constitution which serves as the Montana homestead board
9 for the purposes of [sections 2 through 42].

10 ~~(c)~~ "Bonds" means bonds or bond anticipation notes
11 issued by the board ~~DEPARTMENT~~ under the provisions of
12 [sections 2 through 42 30].

13 ~~(d)~~ "Conveyance" means an instrument in writing by
14 which any estate or interest in real property is created
15 alienated, mortgaged, or encumbered or by which the title to
16 property may be effected, except with and conveyances
17 ordered by the court in constructive or resulting trusts.

18 (e) "COUNCIL" MEANS THE FAMILY FARM ADVISORY COUNCIL
19 CREATED IN [SECTION 4].

20 (f) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
21 AGRICULTURE.

22 (g) "Department" means the department of state lands
23 AGRICULTURE.

24 ~~(h)~~ "Homestead land" means land acquired by the board
25 under the provisions of [sections 2 through 42].

1 ~~(i)~~ "Owner" means any individual, partnership, joint
2 venture, association, or corporation owning agricultural
3 land.

4 (2) References throughout [sections 2 through 42] to
5 the board apply only to the board of land commissioners
6 acting in its capacity as the Montana homestead board.
7 References to the board's ~~DEPARTMENT'S~~ property, revenues,
8 or assets apply only to property, revenues, and assets
9 generated by the Montana homestead ~~LAND~~ program, not those
10 owed ~~OWNER~~ or generated by any other program or property
11 over which the board of land commissioners ~~DEPARTMENT~~
12 exercises general authority, direction, and control.

13 ~~NEW SECTION~~ Section 5. Homestead board general
14 powers. The board may

15 retain professional consultants and advisors
16 to rely on the department's staff in its duty
17 function.

18 (1) adopt rules governing its procedures
19 (4) purchase agricultural land and related real and
20 personal property under the provisions of [section 9];
21 (5) upon authorization of an affirmative vote of
22 two-thirds of the members of each house of the legislature
23 or of a majority of the electors voting thereon, issue bonds
24 necessary to provide funds for implementing [sections 2
25 through 42].

1 t67--accept--applications--from--those-wishing-to-lease
 2 homestead-lands
 3 t77--evaluate-applicants-and-award-lease-agreements--to
 4 qualified-lessees
 5 t87--sell--homestead--lands--as-provided-in-sections-2
 6 through-423t-and
 7 t97--invest-any-funds-generated-by-sale-of-bonds-in-the
 8 permissible-investments-outlined-in-t7-6-2t-until-such-time
 9 as-the-funds-are-needed-for-land-acquisition-or-any--of--the
 10 board's-other-functions
 11 **NEW SECTION**--Section-6---Offer---of---sale---to---board
 12 required-for-land-setting--for--\$2--million--or--more---t7
 13 Before--conveying--in-any-state-conveyance-any-agricultural
 14 land--in--Montana--including--related-rent--or--personal
 15 property--offered--for--\$2--million-or-more--the-owner-shall
 16 offer-the-land-to-the-board-for-the-same-price-at-which--the
 17 owner-has-signed-a-contract-for-sale
 18 t27--Whenever--the--owner--of--record--signs--a--contract--to
 19 sell-agricultural-lands--including-related-rent--or--personal
 20 property--offered--for--\$2--million-or-more--he--shall--file-a
 21 homestead-land-form-with-the-boards
 22 t37--The-board--shall
 23 t47--require--such--information--on--the--form--as--it--may
 24 prescribe--and
 25 t57--provide--an--adequate--supply--of--these--forms--to--each

1 county-clerk-and-recorder-in-the-state
 2 t47--No-conveyance-involving-agricultural-land--subject
 3 to--[sections-2-through-423t--effective-until-60-days-after
 4 the-board's--receipt--of--the--homestead--land--form--offering--the
 5 lands
 6 t57--Separate---conveyances---designed---to--evade--the
 7 provisions--of--this--section--are--ineffective--unless--the--board
 8 has--been--offered--an--opportunity--to--purchase--the--lands
 9 **NEW SECTION**--Section-7---Criteria---for---purchase--of
 10 land--t7--Upon--receipt--of--a--homestead--land--form--the--board
 11 may--within--60--days--purchase--the--land--at--the--same--price--at
 12 which--the--owner--is--prepared--to--sign--a--contract--provided--the
 13 following--conditions--are--satisfied
 14 t67--The--land--has--been--appraised--by--the--department
 15 t77--The--land--constitutes--an--agricultural--unit--or--can
 16 be--divided--into--agricultural--units--capable--of--supporting--an
 17 individual--or--family
 18 t87--The--board--determines--that--any--setting--price--higher
 19 than--the--appraised--value--as--determined--by--the--department--is
 20 based--on--a--bond--filed--offer--from--a--third--party--and--the--offer
 21 represents--true--market--value
 22 t97--In--the--board's--estimation--sufficient--applicants
 23 exist--to--lease--the--land--within--1--year
 24 t107--Purchase--of--the--lands--will--not--increase--the
 25 board's--indebtedness--beyond--\$200--million

1 cost-tax-trust-funds*

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21 (5) upon authorization of an affirmative vote of
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23 or of a majority of the electors voting thereon, issue bonds
24 necessary to provide funds for implementing [sections 2
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 9 as-the-funds-are-needed-for-land-acquisition-or-any--of--the
 10 board's-other-functions
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 13 Before--conveying--in-any-single-conveyance-any-agricultural
 14 land--in--Montana--including--related-rent--or--personal
 15 property--offered--for--\$2--million-or-more--the-owner-shall
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 5 land--
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 12 which-the-owner-is-prepared-to-sign-a-contract--provided-the
 13 following-conditions-are-satisfied
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 16 be--divided-into-agricultural-units-capable-of-supporting-an
 17 individual-or-family
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 19 than-the-appraised-value-as-determined-by-the-department--is
 20 based--on-a-bona-fide-offer-from-a-third-party-and-the-offer
 21 represents-true-market-value
 22 t97--In-the-board's-estimation--sufficient--applicants
 23 exist-to-lease-the-land-within-1-year
 24 t67--Purchase--of--the--lands--will--not--increase--the
 25 board's-indebtedness-beyond-\$200-million

1 f2) Nothing in this section requires the board to
 2 purchase any agricultural land.
 3 **NEW SECTION--Section 8--Voluntary sales** Any owner
 4 of agricultural land may offer his land to the board before
 5 another private offer has been received. The board may
 6 purchase the land provided the criteria listed in section
 7 have been satisfied.
 8 **NEW SECTION--Section 9--Purchase of land and related**
 9 property. Whenever the board decides to purchase
 10 offered land and related improvements, it shall adopt a
 11 resolution containing a legal description of the land to be
 12 purchased, the sales price, and the terms of the sale.
 13 f2) The board may, at the option of the seller, give
 14 consideration to the seller for the purchase price in any of
 15 the following ways:
 16 f3) periodic payments of cash;
 17 f4) assignments of bonds or securities issued by the
 18 board; or
 19 f5) cash payments of the full amount of the purchase
 20 price.
 21 **NEW SECTION--Section 18--Preparing homestead land for**
 22 **leasing** The board shall lease all homestead lands in
 23 agricultural units capable of supporting an individual or
 24 family in determining whether individual purchases should
 25 be divided to secure such units. The board may request

1 advice from the department or other state and federal
 2 agencies. The board shall assist the lessee in constructing
 3 any capital improvements necessary or desirable for the
 4 efficient development or use of homestead lands.
 5 **NEW SECTION--Section 19--Determining the lessee** The
 6 board shall offer homestead land for lease to qualified
 7 Montana citizens.
 8 f2) The board shall by rule establish a procedure for
 9 soliciting and evaluating applications from qualified
 10 Montana citizens to lease the lands.
 11 f3) In evaluating the applications, the board shall
 12 consider:
 13 f4) the applicant's training and experience in
 14 agriculture;
 15 f5) the applicant's prospects for succeeding in an
 16 agricultural operation on the homestead land to be leased;
 17 f6) the applicant's attempts to secure or prospects of
 18 securing other types of financing;
 19 f7) the applicant's net worth and prior year's income;
 20 and
 21 f8) any other factors it may prescribe.
 22 f4) The board shall select the best qualified and most
 23 deserving applicant from among those applying for each unit.
 24 However, the board is not required to lease the land to any
 25 applicant and may solicit further applications.

1 NEW SECTION--Section-32--Qualifications--of--teesee
 2 ~~to be eligible to lease homestead land~~--an--applicant
 3 must--reside--in--the--state--at--the--time--of--application--and
 4 declare--his--intention--to--maintain--his--residence--in--Montana
 5 during--the--lessee

6 ~~Applications--may--be--submitted--by--individuals--~~
 7 partnerships--associations--or--joint--ventures--~~and~~--persons
 8 involved--in--the--application--must--meet--the--requirements--of
 9 subsection--~~17~~--Corporations--as--defined--in--35-1-102--may
 10 not--apply.

11 NEW SECTION--Section-33--lease-----terms-----
 12 conditions--~~17~~--The--board--shall--enter--into--a--lease
 13 agreement--with--the--best--qualified--and--most--deserving
 14 applicant--for--a--period--not--to--exceed--7--years--

15 ~~The--lease--agreement--shall--provide--that~~
 16 ~~for~~--the--teesee--will--make--semiannual--lease--payments--in
 17 an--amount--sufficient--to--pay--the--costs--of--the--debt--incurred
 18 by--the--state--in--acquiring--the--homestead--land--The--board--may
 19 reduce--the--lease--payment--in--cases--of--financial--hardship--
 20 provided--the--teesee--agrees--to--pay--a--higher--lease--payment--in
 21 later--years--to--compensate--for--the--loss--

22 ~~for~~--no--teesee--may--sublet--or--assign--the--lease--without
 23 obtaining--the--written--consent--of--the--board--

24 ~~for~~--a--lessee--may--not--encumber--homestead--land--in--any
 25 way--during--the--period--of--a--lease--

1 ~~for~~--the--teesee--must--devote--the--majority--of--his--time--to
 2 the--active--management--of--homestead--land--and--agree--to--use--the
 3 land--for--agricultural--purposes--as--defined--in--35-7-202--and
 4 ~~for~~--the--board--has--a--lien--on--all--unharvested--crops--on
 5 the--leased--land--as--security--for--lease--payments--and--money--due
 6 local--taxing--jurisdictions.

7 NEW SECTION--Section-34--Payment--of--sum--equal--to
 8 taxes--Each--teesee--shall--pay--to--the--local--taxing--districts
 9 in--which--the--leased--homestead--land--is--located--an--amount
 10 equal--to--the--sum--of--all--real--property--taxes--and--other--taxes
 11 and--assessments--that--would--have--been--levied--on--the--property
 12 if--it--were--owned--by--the--teesee--if--for--any--reason--a--parcet
 13 of--land--is--not--subject--to--a--lease--agreement--the--board--shall
 14 pay--the--required--sum--to--the--local--taxing--districts.

15 NEW SECTION--Section-35--Improvements--on--leased--land--
 16 During--the--term--of--the--lease--the--teesee--may--subject--to--the
 17 approval--of--the--board--make--improvements--on--leased--homestead
 18 land--The--improvements--shall--be--financed--by--the--teesee--and
 19 shall--be--his--property--if--the--lease--terminates--without--the
 20 teegee--purchasing--the--homestead--land--The--board--shall
 21 reimburse--the--teesee--for--the--appraised--value--of--the
 22 improvements--as--determined--by--three--independent--appraisers--

23 NEW SECTION--Section-36--Cancellation--of--lease--~~for~~
 24 The--board--may--cancel--a--lease--at--any--time--if--the--teesee
 25 ~~for~~--is--in--default--on--lease--payments--

1 (b) -- has failed to pay a local taxing district the sum
 2 due under [section 34];
 3 (c) -- has not maintained his residence in the state
 4 (d) -- has used any portion of the land for
 5 nonagricultural purposes without written permission from the
 6 board;
 7 (e) -- has failed to cultivate the land in accordance
 8 with generally accepted agricultural practices in that area
 9 or a practice developed for that area under supervision of
 10 any governmental agricultural service agency; or
 11 (f) -- has otherwise violated or failed to perform the
 12 terms of the lease agreement.
 13 (2) -- If the lessee refuses to vacate the land within 60
 14 days after the lease has been canceled, the board shall
 15 apply for relief to the district court in which the land is
 16 situated.
 17 **NEW SECTION** -- Section 17 -- Procedure for cancellation
 18 of leases -- (1) If the board proposes to cancel a lease, it
 19 shall:
 20 (a) send written notice by certified mail to the
 21 lessee that the lease will terminate on a specified date
 22 not less than 30 days after the date on which the notice is
 23 sent, unless the lessee complies with subsection (1)(c) of
 24 this section;
 25 (b) set out in writing the reasons for the proposed

1 cancellation of the lease and the provision of law under
 2 which the termination is authorized;
 3 (c) set out in the notice the steps that may be taken
 4 by the lessee to remedy the situation giving rise to the
 5 possible termination of the lease;
 6 (d) if the lessee fails to comply with subsection
 7 (1)(c) within 30 days after receipt of notice or such period
 8 as the board prescribes, the board shall send the lessee
 9 written notification by certified mail of the cancellation
 10 of the lease.
 11 **NEW SECTION** -- Section 18 -- Application for court order
 12 to preserve or protect land -- (1) The board may authorize a
 13 person under authority of an order of the district court
 14 to enter upon the land and perform such acts as are set out
 15 in the order if:
 16 (a) the lessee has abandoned the land or
 17 (b) the lessee dies and in the opinion of the board no
 18 adequate arrangements have not been made for actions
 19 consistent with normal agricultural procedures necessary to
 20 preserve or protect the crops growing upon the land;
 21 (c) the court order may authorize the board to sell
 22 any crop grown or harvested under this section to reimburse
 23 itself for any debt due the board by the lessee and
 24 authorize any costs incurred by the board in growing
 25 harvesting or setting the crops to be recovered as a debt

1 due-the-board-from-the-tessee-or,-if-the-tessee-is-deceased,
 2 from--his-estate--The-balance,-if-any,-shall-be-paid-to-the
 3 tessee-or-his-estate.

4 **NEW-SECTION**--Section-19--Death-of--tessee---A--Tense
 5 terminates--30--days--after--the--death-of-a-tessee-if-death
 6 occurs-during-the-month-of-January,-February,-or-December-or
 7 on-December-31-of-the-year-of--the-tessee's--death--if--the
 8 event-occurs-on-or-after-March-1-but-before-December-1.

9 **NEW-SECTION**--Section-28--Lease--to--Relative---If-a
 10 tessee-has-expressed-an-intention-in-writing--before--death
 11 t1--that--the--spouse--continue--farming-the-land--the
 12 board-shall-upon-application--enter--into--an--agreement--to
 13 lease--the--land--to--the--spouse--for--the--duration--of--the--lease
 14 period--or

15 t2--that-a-lineal-descendant-or-the-spouse-of-a-lineal
 16 descendant-continue-farming-the-land--the-board--shall--upon
 17 application--enter--into--an--agreement--to--lease--the--land--to
 18 such-person-if-the-person-meets-the-requirements-of-[section
 19 t2]--or

20 t3--that-the-land-be-leased-to-a-specified-person--the
 21 board-shall-give-such-person-priority-to-enter-into-a--lease
 22 agreement--for--the--land--if--the--applicant--meets--the
 23 requirements-of-[section-t2].

24 **NEW-SECTION**--Section-21--Termination---et----Tense
 25 whenever--the--board--receives--written--notice--from-a-tessee

1 indicating-his-intention-of-terminating-the-lease--it--shall
 2 send-written-notice-by-certified-mail-to-the-tessee-that-the
 3 lease--will--terminate--on-a-specified-date-not-less-than-30
 4 days--after--the--date--on--which--the--notice--is--sent.

5 **NEW-SECTION**--Section-22--Renewal---of----Tense----
 6 prohibitions--t1--if-at-the-end-of-a-7-year-lease-the-tessee
 7 has-not-entered-into-an-agreement-with-the-board-to-purchase
 8 the--land--the-board-may-not-renew-the-lease-but-shall-take
 9 applications-for-a-new-tessee-for-the-property.

10 t2--Homestead-land-may-not-be-leased-for-more-than--15
 11 years--after--its--initial-purchase-under-[section-9]--if-at
 12 the-end-of-this-period-a-tessee-of-the-land-has-not--entered
 13 into--an--agreement--to--purchase--the--land--the-board-shall
 14 offer-it-for-sale-to-anyone-wishing-to-purchase--in--sets--to
 15 non-tessees--the-board-may-negotiate-a-sale--price-reflecting
 16 the-value-of-the-land-as-productive-agricultural--land--only
 17 but--sufficient--to--repay--the--debt--the-board-incurred-in
 18 purchasing-the-land.

19 **NEW-SECTION**--Section-23--Sale-of-leased-land--t1--A
 20 tessee--may--apply--to--purchase-homestead-land--after--he--has
 21 leased-the-land-for-2-or-more-years.

22 t2--The-board-shall-sett-homestead-land--to--any--tessee
 23 who--has--proven--his--ability--to--use--the--agricultural-land
 24 productively-and-wisely.

25 t3--Any-conveyance-of-homestead-land-shall--contain--a

1 covenant--running--with--the--land--that--the--land-shall-be
 2 forever--used--for--agricultural--purposes--as--defined--in
 3 15-7-202.

4 47--leased--land--shall--be-sold-at-the-price-at-which
 5 the-board-originally-purchased-the-land-under-the-provisions
 6 of-section--9j--plus--any--additionel--costs--of--financing
 7 incurred-by-the-boards

8 48--lessee--payments--in-excess-of-the-amount-needed-to
 9 pay-the-interest-on-the-indebtedness-incurred-in--purchasing
 10 the-land-must-be-credited-toward-the-sates-price-of-the-land
 11 if-the-lessee-purchases-the-land-from-the-boards

12 49--The--purchase-agreement-must-require-the-purchaser
 13 to-pay-the-entire-purchase-price-for-the-land-to--the--board
 14 within-6-months-after-signing-the-agreement.

15 50--Lessees--may--apply--to--the--board--for-a-loan-to
 16 finance-the-purchase-of-the-land.

17 SECTION 4. THERE IS A NEW MCA SECTION THAT READS:
 18 Family farm advisory council created. (1) If the funds
 19 available for the Montana homestead loan program exceeds
 20 \$5,000,000 for any biennium, there shall be created a family
 21 farm advisory council.

22 (2) The council shall consist of seven members
 23 appointed by the department, as follows:

24 (a) one officer from a commercial lending institution;
 25 (b) one fruit or vegetable farmer;

1 (c) two livestock farmers;
 2 (d) two grain farmers; and
 3 (e) one officer from a farm credit association.
 4 (3) Each member must be a resident of the state.
 5 (4) Each member shall serve for a term of 6 years. The
 6 department shall appoint members to fill any vacancy that
 7 may occur.
 8 (5) One member of the council shall be a legislator.
 9 (6) The council is allocated to the department of
 10 agriculture for administrative purposes only as prescribed
 11 in 2-15-121.

12 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:
 13 Duties of family farm advisory council. The council
 14 shall:

15 (1) consider applications for homestead loans and make
 16 recommendations to the department; and
 17 (2) advise and assist the department on other matters
 18 as the department may request.

19 NEW SECTION. Section 6. Loan program ==
 20 ADMINISTRATION. (1) The board-may DEPARTMENT SHALL establish
 21 a HOMESTEAD loan program--funded--by--the--sate--of--general
 22 obligation--bonds-- to enable lessees APPLICANTS to purchase
 23 homestead AGRICULTURAL land.

24 121. TO ADMINISTER THIS PROGRAM, THE DEPARTMENT MAY:
 25 1A1. RETAIN PROFESSIONAL CONSULTANTS AND ADVISORS;

1 (B) RELY ON ITS STAFF IN ITS DAILY FUNCTIONS;
 2 (C) ADOPT RULES GOVERNING ITS PROCEDURES;
 3 (D) UPON AUTHORIZATION OF AN AFFIRMATIVE VOTE OF
 4 TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE
 5 OR OF A MAJORITY OF THE ELECTORS VOTING THEREON, ISSUE BONDS
 6 NECESSARY TO PROVIDE FUNDS FOR IMPLEMENTING [SECTIONS 2
 7 THROUGH 30];

8 (E) ACCEPT APPLICATIONS FROM THOSE WISHING TO SECURE
 9 HOMESTEAD LOANS;

10 (F) INVEST ANY FUNDS GENERATED BY SALE OF BONDS IN THE
 11 PERMISSIBLE INVESTMENTS OUTLINED IN 17-6-211 UNTIL SUCH TIME
 12 AS THE FUNDS ARE NEEDED FOR ANY OF THE DEPARTMENT'S OTHER
 13 FUNCTIONS; AND

14 (G) MAKE LOANS FROM THE HOMESTEAD LOAN ACCOUNT TO
 15 ELIGIBLE MONTANA FARMERS FOR THE PURCHASE OF AGRICULTURAL
 16 LAND.

17 f2713] A loan agreement must provide for full payment
 18 of principal and interest on the homestead land loan--within
 19 SHALL INCLUDE A PAYMENT SCHEDULE THAT MAY NOT EXCEED 60
 20 years.

21 f3714] The board DEPARTMENT shall specify in the
 22 agreement the reasonable rate of interest it considers
 23 necessary.

24 f4715] Loans made by the board DEPARTMENT must be
 25 secured by any liens or collateral the board DEPARTMENT

1 considers necessary.

2 SECTION 7. THERE IS A NEW MCA SECTION THAT READS:
 3 Second loan program. (1) The department may, upon
 4 application by a borrower under its loan program and upon
 5 the advice of the council, if in existence, enter into a
 6 second loan agreement with a borrower for an annual payment
 7 equal to not more than 4% of the outstanding balance due
 8 each year for not more than 5 years on a loan agreement
 9 signed under the provisions of [section 6]. The department
 10 may, upon the recommendation of the council, extend the
 11 second loan for another 5 years, but it may not renew the
 12 second loan after this period. Interest on the amount of the
 13 loan shall be at the department's bond rate plus
 14 administrative expenses.

15 (2) The second loan becomes payable:

16 (a) in installments to commence not later than 20
 17 years after the initial purchase of homestead land; or
 18 (b) immediately and in full upon the sale of land on
 19 which it was loaned.

20 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:
 21 Immediate repayment. If an applicant who has secured a
 22 loan from the department under the program created in
 23 [sections 6 and 7] sells the land for which the loan was
 24 made to any person, firm, or corporation other than his
 25 spouse, children, or corporation wholly owned by them, the

1 loan shall be repaid in full.

2 SECTION 9. THERE IS A NEW MCA SECTION THAT READS:

3 Qualifications of applicants. (1) To be eligible for a
4 homestead loan, an applicant must:

5 (a) reside in the state at the time of application;

6 (b) declare his intention to maintain his residence in
7 Montana during the length of the loan; and

8 (c) have been approved by a local committee of the
9 farmers home administration for a loan from the farmers home
10 administration in connection with the same land purchase.

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

16 SECTION 10. THERE IS A NEW MCA SECTION THAT READS:

17 Evaluation of applicants. (1) The department shall by
18 rule establish:

19 (a) rules for soliciting and evaluating applications
20 from qualified Montana citizens; and

21 (b) a point system for evaluating the applicants,
22 considering the following criteria:

23 (i) the applicant's net worth, which may not exceed
24 \$100,000;

25 (ii) the applicant's access to livestock and machinery;

1 (iii) the applicant's inability to secure financing for
2 purchase of agricultural land from other sources;
3 (iv) the applicant's training and experience in
4 agriculture;
5 (v) the applicant's prospects for succeeding in an
6 agricultural operation on the land proposed for purchase;
7 and
8 (vi) any other factors it may prescribe.

9 (2) After consulting with and obtaining the
10 recommendation of the council, the department shall select
11 the best qualified and most deserving applicant from among
12 those applying for loans.

13 (3) The department may seek the advice of the state
14 director of the farmers home administration in Montana and
15 coordinate its loan program through the farmers home
16 administration including assistance in screening applicants
17 and servicing the loan.

18 NEW SECTION Section 11. Issue of general obligation
19 bonds -- credit of the state pledged. (1) When authorized by
20 an affirmative vote of two-thirds of the members of each
21 house of the legislature or of a majority of the electors
22 voting thereon, the board DIRECTOR may issue bonds of the
23 state of Montana in a principal amount it determines
24 necessary to provide sufficient funds for achieving any of
25 the purposes of the Montana homestead LOAN program.

1 including the payment of interest on bonds, establishment of
 2 reserves to secure the bonds, and all other expenditures of
 3 the board DEPARTMENT incident to the program.

4 (2) Each issue of its bonds is an obligation of the
 5 board DEPARTMENT payable in the first instance out of any
 6 revenues, assets, or money generated by the Montana
 7 homestead LOAN program. The board DEPARTMENT shall manage
 8 to the best of its ability, its lease agreements and sales
 9 so that the bonds are repaid by the revenue generated by the
 10 program. However, the legislature pledges one-half the
 11 interest and income produced by the coal tax trust fund
 12 established in section 5, Article IX, of the Montana
 13 constitution to maintain the capital reserve accounts for
 14 bonds issued by the board DEPARTMENT at their minimum
 15 requirements. In addition, the full faith and credit and
 16 taxing powers of the state are pledged for the payment of
 17 bonds issued by the board DEPARTMENT under the provisions of
 18 [sections 2 through 42 30].

19 (3) The bonds must be authorized by resolution of the
 20 board DEPARTMENT and bear a date and mature at times as the
 21 board DEPARTMENT determines. A bond may not mature more than
 22 60 years from the date of its issue. The bonds may be issued
 23 as serial bonds payable in annual installments or as term
 24 bonds or as a combination thereof. The bonds of the board
 25 DEPARTMENT may be sold at public or private sale, at prices

1 determined by the board DEPARTMENT.
 2 (4) The resolution shall specify:
 3 (a) the rate of interest of the bonds;
 4 (b) the denomination of the bonds;
 5 (c) whether the bonds shall be in coupon or registered
 6 form and registration privileges, if any;
 7 (d) the manner and place of execution;
 8 (e) the manner and place and medium of payment; and
 9 (f) the terms of redemption.

10 (5) The total amount of bonds outstanding at any one
 11 time may not exceed \$200 million.

12 NEW SECTION. Section 12. Provisions of bond
 13 resolutions or trust indentures. A resolution or trust
 14 indenture authorizing any bonds or any issue thereof may
 15 contain provisions, which shall be a part of the contract or
 16 contracts with the holders thereof, as to:

17 (1) pledging all or any part of the revenues or the
 18 property of the board DEPARTMENT to secure the payment of
 19 the bonds or any issue thereof, subject to existing
 20 agreements with bondholders;

21 (2) pledging all or any part of the assets of the
 22 board DEPARTMENT, including mortgages and obligations
 23 securing them, to secure the payment of the bonds;

24 (3) pledging the income and interest from the
 25 constitutional coal tax trust fund;

1 (4) pledging the full faith and credit and taxing
 2 powers of the state of Montana to secure the payment of the
 3 bonds;

4 (5) specifying the use and disposition of the gross
 5 income from mortgages owned by the board DEPARTMENT and
 6 payment of principal of mortgages owned by the board
 7 DEPARTMENT;

8 (6) the setting aside of reserves or sinking funds in
 9 the hands of trustees, paying agents, or other depositories
 10 and the regulation and disposition of the reserves;

11 (7) limiting the purpose to which the proceeds of the
 12 sale of the bonds may be applied and the pledge of the
 13 proceeds to secure the payment of the bonds or of any issue
 14 thereof;

15 (8) limiting the issuance of additional bonds, the
 16 terms upon which additional bonds may be issued and secured,
 17 and the refunding of outstanding bonds;

18 (9) specifying the procedure, if any, by which the
 19 terms of any contract with bondholders may be amended or
 20 abrogated, the amount of bonds the holders of which must
 21 consent thereto, and the manner in which such consent may be
 22 given;

23 (10) limiting the amount of money to be expended by the
 24 board DEPARTMENT for its operating expenses;

25 (11) vesting in a trustee property, rights, powers, and

1 duties in trust as the board DEPARTMENT determines;
 2 (12) defining the acts or failures to act which will
 3 constitute a default in the obligations and duties of the
 4 board DEPARTMENT to the holders of the bonds and providing
 5 for the rights and remedies consistent with the laws of the
 6 state and the provisions of [section SECTIONS 2 through 42
 7 30] of the holders of the bonds in the event of such
 8 default, including as a matter of right the appointment of a
 9 receiver; and

10 (13) specifying any other matters of like or different
 11 character which in any way affect the security or protection
 12 of the holders of the bonds.

13 NEW SECTION Section 13. Validity of pledge. A pledge
 14 made by the board DIRECTOR is valid and binding from the
 15 time the pledge is made. The revenues or property pledged
 16 and thereafter received by the board DEPARTMENT are
 17 immediately subject to the lien of the pledge without any
 18 physical delivery thereof or further act, and the lien of
 19 any pledge is valid and binding against all parties having
 20 claims of any kind in tort, contract, or otherwise against
 21 the board DEPARTMENT, irrespective of whether such parties
 22 have notice thereof. Neither the resolution, trust
 23 indenture, nor any other instrument by which a pledge is
 24 created need be recorded.

25 NEW SECTION Section 14. Personal liability. The

1 board-members DIRECTOR and employees of the department are
 2 not personally liable for any debt incurred by the board
 3 DEPARTMENT.

4 NEW SECTION. Section 15. Purchase of bonds --
 5 cancellation. The board DEPARTMENT, subject to existing
 6 agreements with bondholders, may out of any funds available
 7 for that purpose purchase bonds of the board DEPARTMENT,
 8 which shall thereupon be cancelled, at a price not
 9 exceeding:

10 (1) the current redemption price plus accrued interest
 11 to the next interest payment thereon if the bonds are then
 12 redeemable; or

13 (2) the redemption price applicable on the first date
 14 after purchase upon which the bonds become subject to
 15 redemption, plus accrued interest to that date if the bonds
 16 are not then redeemable.

17 NEW SECTION. Section 16. Trust indenture. In the
 18 discretion of the board DIRECTOR, the bonds may be secured
 19 by a trust indenture between the board DEPARTMENT and a
 20 corporate trustee, which may be a trust company or bank
 21 having the power of a trust company within or without the
 22 state.

23 NEW SECTION. Section 17. Negotiability of bonds.
 24 Bonds issued by the board DEPARTMENT are negotiable
 25 instruments under the Uniform Commercial Code, subject only

1 to the provisions for registration of bonds.

2 NEW SECTION. Section 18. Continuing validity of board
 3 members'--signatures DIRECTOR'S SIGNATURE. If any--board
 4 member A DIRECTOR whose signature appears on bonds or
 5 coupons ceases to be a member DIRECTOR before the delivery
 6 of the bonds, his signature continues to be valid and
 7 sufficient for all purposes.

8 NEW SECTION. Section 19. Accounts of the board
 9 DEPARTMENT. There is a homestead and LOAN financing account
 10 in the bonds proceeds and insurance clearance fund provided
 11 for in 17-2-102. All funds from the proceeds of bonds
 12 issued under [sections 2 through 42 30], fees and other
 13 money received by the board DEPARTMENT, money appropriated
 14 by the legislature for the use of the board DEPARTMENT in
 15 carrying out [sections 2 through 42 30], and money made
 16 available from any other source for the use of the board
 17 DEPARTMENT must be deposited in the homestead and LOAN
 18 financing account except as otherwise provided by law. All
 19 funds deposited in the homestead and LOAN financing account
 20 are continuously appropriated to and may be expended by the
 21 board DEPARTMENT for the purposes authorized in [sections 2
 22 through 42 30].

23 NEW SECTION. Section 20. Reserve funds and
 24 appropriations. (1) The board DEPARTMENT shall pay into one
 25 or more capital reserve accounts:

1 (a) any money appropriated and made available by the
 2 state for the purpose of the fund;

3 (b) any proceeds of sale of bonds to the extent
 4 provided in the resolutions of the board DEPARTMENT
 5 authorizing their issuance or in any trust indenture
 6 securing their repayment; and

7 (c) any other money which may be available to the
 8 board DEPARTMENT for the purpose of such a fund from any
 9 other source.

10 (2) All amounts held in a capital reserve account must
 11 be used solely for the payment of principal, interest, and a
 12 redemption premium with respect to bonds secured in whole or
 13 in part by the account. Funds in an account may not be
 14 withdrawn at any time in an amount which reduces the amount
 15 of the account to less than the minimum capital reserve
 16 requirement established for the account except for the
 17 purpose of making, with respect to bonds secured in whole or
 18 in part by the account, payment, when due, of principal,
 19 interest, or redemption premiums for the payment of which
 20 other money pledged is not available.

21 NEW SECTION Section 21. Maintenance of capital
 22 reserve account. In order to assure the maintenance of the
 23 capital reserve accounts, the governor shall inform the
 24 director of the department of administration when the
 25 accounts fall below the minimum capital reserve requirement.

1 The director shall transfer the sum necessary to restore
 2 this minimum from an earmarked revenue account containing
 3 income from the constitutional coal tax trust fund.

4 NEW SECTION Section 22. Refunding obligations --
 5 sale. Refunding obligations issued as provided in 90-6-121
 6 may be sold or exchanged for outstanding obligations issued
 7 under [sections 2 through 42 30]. The proceeds may be
 8 applied to the purchase, redemption, or payment of
 9 outstanding obligations. Pending the application of the
 10 proceeds to the payment of outstanding obligations, the
 11 proceeds may be invested as provided in Title 17, chapter 6,
 12 if permitted in the resolution authorizing the issuance of
 13 the refunding obligations or in the trust agreement securing
 14 them.

15 NEW SECTION Section 23. Refunding obligations --
 16 issuance. The board DEPARTMENT may provide for the issuance
 17 of refunding obligations for refunding any obligations then
 18 outstanding which have been issued under [sections 2 through
 19 42 30], including the payment of any redemption premium and
 20 any interest accrued or to accrue to the date of redemption
 21 of the obligations. The issuance of obligations, the
 22 maturities and other details, the rights of the holders, and
 23 the rights, duties, and obligations of the board DEPARTMENT
 24 are governed by the appropriate provisions of [sections 2
 25 through 42 30] which relate to the issuance of obligations.

1 NEW SECTION Section 24. Tax exemption of bonds.
 2 Bonds issued by the board DEPARTMENT under [sections 2
 3 through 42 30] and their transfer and income, including any
 4 profits made on their sale, are exempt from taxation by the
 5 state or any political subdivision or other instrumentality
 6 of the state, except for inheritance, estate, and gift
 7 taxes. The board DEPARTMENT is not required to pay recording
 8 or transfer fees or taxes on instruments recorded by it.

9 NEW SECTION Section 25. Pledge against impairment of
 10 contracts. In accordance with the constitutions of the
 11 United States and the state of Montana, the state pledges
 12 that it will in no way impair the obligations of any
 13 agreement between the board DEPARTMENT and the holders of
 14 notes and bonds issued by the board DEPARTMENT.

15 NEW SECTION Section 26. Annual audit. (1) The
 16 board's DEPARTMENT'S books and records must be audited by an
 17 independent certified public accountant at least once each
 18 fiscal year.

19 (2) The legislative auditor may conduct an audit at
 20 the request of the legislative audit committee.

21 NEW SECTION Section 27. Report. The department shall
 22 transmit to the governor and to each member of the
 23 legislature 30 days before the meeting of the legislature a
 24 report:

25 (1) detailing the operations of the homestead LOAN

1 program since the adjournment of the last legislature; and
 2 (2) containing a financial statement showing the
 3 program's assets and liabilities.

4 NEW SECTION Section 28. Powers to be interpreted
 5 broadly. The powers enumerated in [sections 2 through 42 30]
 6 shall be interpreted broadly to effectuate the purposes of
 7 the board DEPARTMENT and may not be construed as a
 8 limitation of powers.

9 SECTION 29. THERE IS A NEW MCA SECTION THAT READS:
 10 Legislative review required. The homestead loan program
 11 shall be reviewed by the legislature at the third
 12 legislative session following the first sale of bonds under
 13 the provision of [section 11] to determine whether the
 14 program should continue. However, any existing commitments
 15 incurred by the department are not affected by this review.

16 Section 30. Severability. If a portion of this act is
 17 invalid, all valid parts that are severable from the invalid
 18 part remain in effect. If a part of this act is invalid in
 19 one or more of its applications, the part remains in effect
 20 in all valid applications that are severable from the
 21 invalid applications.

-End-

STATEMENT OF INTENT RE: SB 248

4 Section 1: This statement of intent is required by the
5 rulemaking authority granted to the Department of
6 Agriculture in Section 7(2)(c) and Section 11(1).

7 Section 2: It is the intent of the legislature that
8 the Department of Agriculture would adopt rules for the
9 orderly handling and processing of applications under the
10 homestead loan program and for the second loan program. The
11 rules under Section 11(1) are intended to be sufficiently
12 specific to allow for an objective determination by the
13 department of which applicant should receive a loan from the
14 homestead loan program. The same criteria should be
15 established by rule for the second loan program with special
16 emphasis on need of the applicant and the applicant's
17 prospects for success.

18 Section 3: It is the specific intent of the
19 legislature that the programs set forth in SB 248 be
20 implemented during the 1979-81 biennium without the sale
21 bonds from whatever appropriation as may be appropriated by
22 the 46th Legislative Assembly.

23 Section 4: It is the specific intent of the
24 legislature that the Department of Agriculture shall
25 coordinate all loans made pursuant to SB 248 for the 1979-81

1 biennium through the Farmers Home Administration. The state
2 director of the Farmers Home Administration has indicated to
3 the Senate Taxation Committee that the FHA could screen
4 worthy applicants, participate with a subordinated loan of
5 its own and fully service the loan. By coordinating the SB
6 248 programs with the Farmers Home Administration the state
7 would assist the FHA in assisting Montana farmers who may
8 not otherwise obtain assistance because of a critical
9 shortage of federal funds.

10 Section 5: Based on the representations of both the
11 Director of the Department of Agriculture and the State
12 Director of the Farmers Home Administration, the legislature
13 specifically intends no more than 1/2 of one FTE to be
14 devoted to this program by the Department of Agriculture for
15 the 1979-81 biennium.

SB 248

1 SENATE BILL NO. 248
2 INTRODUCED BY TOWE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP YOUNG FARMERS
5 GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA HOMESTEAD
6 LAND LOAN PROGRAM FOR THE PURPOSES OF ACQUIRING HELPING
7 YOUNG FARMERS ACQUIRE LAND THAT--MIGHT--BE--PURCHASED--BY
8 FOREIGNERS--BUT--OF--STATE--CORPORATIONS--OR--OTHER--LARGE
9 LANDOWNERS--AND--OF--LEASING--AND--SELLING--THIS--LAND--FOR--MONTANA
10 FAMILY--F FARMS; PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT;
11 AND AMENDING SECTION 77-1-202 80-1-102, MCA."

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

14 Section -t---Section--77-1-202--MCA--is--amended--to--read--

15 "77-1-202--Powers--and--duties--of--board----fit--The--board

16 shall--exercise--general--authority--direction--and--control

17 over--the--care--management--and--disposition--of--state--lands

18 and--subject--to--the--investment--authority--of--the--board--of

19 investments--the--funds--arising--from--the--leasing--lease--use,

20 sale--and--or--disposition--of--those--lands--or--otherwise--coming

21 under--its--administration--In--the--exercise--of--these--powers,

22 the--guiding--rule--and--principle--is--that--these--lands--and--funds

23 are--held--in--trust--for--the--support--of--education--and--for--the

24 attainment--of--other--worthy--objects--helpful--to--the--well--being

25 of--the--people--of--this--state--The--board--shall--administer--this

1 trust-to--secure--the--largest--measure--of--legitimate--and
2 reasonable--advantage--to--the--state--

3 ~~if--the--board--shall--also--serve--as--the--Montana~~
4 ~~homestead--board--whose--powers--are--enumerated--in--function~~

5 ~~23x*~~

6 SECTION 1. SECTION 80-1-102, MCA, IS AMENDED TO READ:

7 "80-1-102. Duties of department. The department shall:

8 (1) encourage and promote the interests of
9 agriculture, including horticulture and apiculture, and all
10 other allied industries;

11 (2) collect and publish statistics relating to the
12 production and marketing of crops and other agricultural
13 products so far as the information may be of value to the
14 agricultural and allied interests of the state;

15 (3) assist, encourage, and promote the organization of
16 farmers' institutes, horticultural and agricultural
17 societies, the holding of fairs, livestock shows, or other
18 exhibits of the products of agriculture;

19 (4) adopt standards for open and closed receptacles
20 for farm products and standards for the grade and other
21 classification of farm products;

22 (5) cooperate with producers and consumers in devising
23 and maintaining economical and efficient systems of
24 distribution and aid in the reduction of waste and expense
25 incidental to marketing;

1 (6) have the authority to maintain a market news
 2 service, including information as to crops, freight rates,
 3 commission rates, and other matters as may be of service to
 4 producers and consumers, and act as a clearinghouse for
 5 information of value to producers and consumers;

6 (7) gather and diffuse information concerning the
 7 supply, demand, prevailing prices, and commercial movement
 8 of farm products;

9 (8) investigate the practices and methods of factors,
 10 commission merchants, and others who receive, solicit, buy,
 11 sell, handle on commission or otherwise, or deal in grains,
 12 vegetables, or other farm products, so that distribution of
 13 the commodities is accomplished efficiently, economically,
 14 and without hardship, waste, or fraud;

15 (9) cooperate with Montana state university, the
 16 agricultural experiment station, and the federal government
 17 for the betterment of the agricultural industries of the
 18 state, the improvement of rural life, and promotion of
 19 equality of opportunity for the farmers of the state;

20 (10) take and hold in the name of the state of Montana
 21 property, real and personal, acquired by gifts,
 22 subscriptions, donations, and bequests;

23 (11) sell and dispose of personal property owned by it
 24 in a manner the department may provide, when in the judgment
 25 of the department the sale or disposal best promotes the

1 purposes for which the department is established;
 2 (12) contract in respect to any matter within the scope
 3 of its authority;
 4 (13) enforce this title and all other laws for the
 5 protection and regulation of agriculture; and
 6 to establish and operate a loan program to enable
 7 eligible Montana farmers to purchase agricultural land."
 8 NEW SECTION Section 2. SHORT TITLE [Sections 2
 9 through 42 30] may be cited as the "Montana Homestead land
 10 LOAN Act".

11 NEW SECTION--Section 3--legislative--findings--the
 12 legislature--finds--that--the--rapidly--increasing--cost--of
 13 agricultural land--is--preventing--many--Montanans--from--becoming
 14 farmers--and--ranchers--in--consequence--Montana's--farm--land--is
 15 being--purchased--by--corporations--and--foreign--investors--and
 16 Montana's--farmers--and--ranchers--are--rapidly--becoming--landed
 17 hands--Recognizing--the--value--of--family--farms--to--the
 18 economic--society--and--political--well-being--of--the--state--the
 19 legislature--hereby--establishes--a--program--for--the--state's
 20 acquisition--of--agricultural--land--and--its--lease--and--eventual
 21 sale--to--eligible--Montana--citizens--in--the--belief--that
 22 increasing--the--economic--opportunities--available--to--Montanans
 23 and--preserving--the--family--farm--are--public--purposes--the
 24 legislature--proposes--to--fund--this--program--by--general
 25 obligation--bonds--backed--by--income--from--the--constitutional

1 cost-tax-trust-funds

2 NEW SECTION. Section 3. Definitions. (1) As used in
3 [sections 2 through 42 30], the following definitions apply:

4 (a) "Agricultural land" means land actively devoted to
5 agricultural use as defined in 15-7-202.

6 (b) "Board" means the board of land commissioners
7 established in Article X, section 47 of the Montana
8 constitution which serves as the Montana homestead board
9 for the purposes of [sections 2 through 42].

10 (c) "Bonds" means bonds or bond anticipation notes
11 issued by the board DEPARTMENT under the provisions of
12 [sections 2 through 42 30].

13 (d) "Conveyance" means an instrument in writing by
14 which any estate or interest in real property is created
15 alienated, mortgaged, or encumbered or by which the title to
16 real property may be affected, except wills and conveyances
17 ordered by the court in constructive or resulting trusts.

18 (e) "COUNCIL" MEANS THE FAMILY FARM ADVISORY COUNCIL
19 CREATED IN [SECTION 4].

20 (f) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
21 AGRICULTURE.

22 (g) "Department" means the department of state lands
23 AGRICULTURE.

24 (h) "Homestead land" means land acquired by the board
25 under the provisions of [sections 2 through 42].

1 (i) "Owner" means any individual, partnership, joint
2 venture, association, or corporation owning agricultural
3 land.

4 (2) References throughout [sections 2 through 42] to
5 the board apply only to the board of land commissioners
6 acting in its capacity as the Montana homestead board.
7 References to the board's DEPARTMENT'S property, revenues,
8 or assets apply only to property, revenues, and assets
9 generated by the Montana homestead LQAN program, not those
10 owed OWNER or generated by any other program or property
11 over which the board of land commissioners DEPARTMENT
12 exercises general authority, directions, and control.

13 NEW SECTION. Section 5. Homestead board general
14 powers. The board may:

15 (1) retain professional consultants and advisors;
16 (2) rely on the department's staff in its daily
17 functions;

18 (3) adopt rules governing its procedures;
19 (4) purchase agricultural land and related real and
20 personal property under the provisions of [section 9];
21 (5) upon authorization of an affirmative vote of
22 two-thirds of the members of each house of the legislature
23 or of a majority of the electors voting thereon, issue bonds
24 necessary to provide funds for implementing [sections 2
25 through 42].

1 t67--accept--applications--from--those-wishing-to-lease
 2 homestead-lands
 3 t77--evaluate-applicants-and-award-lease-agreements--to
 4 qualified-lessees
 5 t87--sell--homestead--lands--as--provided-in-[sections-2
 6 through-42]; and
 7 t97--invest-any-funds-generated-by-sale-of-bonds-in-the
 8 permissible-investments-outlined-in-t7-6-24--until--such-time
 9 as-the-funds-are-needed-for-land-acquisition-or-any--of--the
 10 board's-other-functions
 11 **NEW SECTION**--Section-6--Offer--of--sale--to--board
 12 required-for-land-setting--for--\$2--million--or--more--t77
 13 before--conveying--in-any-single-conveyance-any-agricultural
 14 land--in--Montana--including--related--real--or--personal
 15 property--offered--for--\$2--million--or--more--the-owner-shall
 16 offer-the-land-to-the-board--for-the-same-price-at-which--the
 17 owner-has-signed-a-contract-for-sale
 18 t27--Whenever--the--owner--of--record--signs--a--contract--to
 19 sell-agricultural-lands--including--related--real--or--personal
 20 property--offered--for--\$2--million--or--more--he--shall--file--a
 21 homestead-land-form--with--the--board
 22 t37--The--board--shall
 23 t47--require--such--information--on--the--form--as--it--may
 24 present--and
 25 t57--provide--an--adequate--supply--of--these--forms--to--each

1 county-clerk-and-recorder-in-the-states
 2 t47--No-conveyance-involving-agricultural-land--subject
 3 to-[sections-2-through-42]-is--effective-until-60-days-after
 4 the-board's--receipt--of--the--homestead-land-form--offering--the
 5 land
 6 t57--Separate--conveyances--designed--to--evade--the
 7 provisions--of--this--section--are--ineffective--unless--the--board
 8 has--been--offered--an--opportunity--to--purchase--the--land
 9 **NEW SECTION**--Section-7--Criteria--for--purchase--of
 10 land--t77--Upon--receipt--of--a--homestead-land-form--the--board
 11 may--within--60--days--purchase--the--land--at--the--same--price--at
 12 which--the--owner--is--prepared--to--sign--a--contract--provided--the
 13 following--conditions--are--satisfied
 14 t87--The--land--has--been--appraised--by--the--department
 15 t97--The--land--constitutes--an--agricultural-unit--or--can
 16 be--divided--into--agricultural-units--capable--of--supporting--an
 17 individual--or--family
 18 tct7--The--board--determines--that--any--setting--price--higher
 19 than--the--appraised--value--as--determined--by--the--department--is
 20 based--on--a--bona-fide--offer--from--a--third--party--and--the--offer
 21 represents--true--market--value
 22 tdt7--In--the--board's--estimation--sufficient--applicants
 23 exist--to--lease--the--land--within--2--years
 24 tct7--Purchase--of--the--lands--will--not--increase--the
 25 board's--indebtedness--beyond--\$200--million

1 t2>--Nothing-in-this--section--requires--the--board--to
 2 purchase-any-agricultural-land
 3 **NEW-SECTION**--Section-8--Voluntary--states--Any-owner
 4 of-agricultural-land-may-offer-his-land-to-the-board--before
 5 another--private--offer--has--been--received--The-board-may
 6 purchase-the-land--provided-the-criteria-listed--in--[section
 7 7]--have-been-satisfied
 8 **NEW-SECTION**--Section-9--Purchase--of-land-and-related
 9 property----t3)--Whenever--the--board--decides--to--purchase
 10 offered--land--and--related--improvements--it-shall--adopt-a
 11 resolution-containing-a-legal-description-of-the-land-to-be
 12 purchased--the-sales-price--and-the-terms-of-the-sales
 13 t2)--The--board--may--at-the-option-of-the-setter--give
 14 consideration-to-the-setter-for-the-purchase-price-in-any-of
 15 the-following-way:
 16 t3)--periodic-payments-of-cash
 17 t4)--assignments-of-bonds-or-securities-issued--by--the
 18 board--or
 19 t5)--cash--payments--of-the-full-amount-of-the-purchase
 20 price.
 21 **NEW-SECTION**--Section-10--Preparing-homestead-land-for
 22 leasing--The-board--shall--lease--all--homestead--lands--in
 23 agricultural--units--capable--of-supporting-an-individual-or
 24 family--in-determining-whether-individual--purchases--should
 25 be--divided--to--secure--such--units--the-board-may-request

1 advice-from--the--department--or--other--state--and--federal
 2 agencies--The-board-shall-assist-the-lessee-in-constructing
 3 any-capital-improvements--necessary--or--desirable--for--the
 4 efficient-development-or-use-of-homestead-land
 5 **NEW-SECTION**--Section-11--Determining-the-lessee----t3
 6 The--board-shall-offer-homestead-land-for-lease-to-qualified
 7 Montana-citizens--
 8 t2)--The-board-shall-by-rule-establish-a-procedure--for
 9 setting--and--evaluating--applications--from--qualified
 10 Montana-citizens-to-lease-the-land
 11 t3)--in-evaluating-the-applications--the--board--shall
 12 consider
 13 t4)--the---applicant's---training---and--experience--in
 14 agriculture
 15 t5)--the-applicant's--prospects--for--succeeding--in--an
 16 agriculture--operation--on-the-homestead-land-to-be-leased
 17 t6)--the-applicant's--attempts--to-secure--or--prospects--of
 18 securing-other-types-of-financing
 19 t7)--the-applicant's--net-worth--and--prior-year's--income
 20 and
 21 t8)--any-other-factors-it-may-prescribe
 22 t4)--The-board-shall-select-the-best-qualified-and-most
 23 deserving-applicant--from--among-those-applying-for-each-unit--
 24 However--the-board-is-not-required-to-lease-the-land-to--any
 25 applicant--and--may--solicit--further--applications--

1 **NEW SECTION**--Section-12--Qualifications--of--teesee
 2 (1)--To-be-eligible-to-lease--homestead--land--an--applicant
 3 must--reside--in--the--state--at-the-time-of-application-and
 4 declare-his-intention-to-maintain-his-residence--in--Montana
 5 during-the-lease
 6 (2)--Applications--may--be--submitted--by--individuals
 7 partnerships--associations--or--joint-ventures--All--persons
 8 involved--in--the--application-must-meet-the-requirements-of
 9 subsection-(1)--Corporations--as-defined--in--35-1-102--may
 10 not-apply

11 **NEW SECTION**--Section-13--teease-----terms-----
 12 conditions--(1)--The--board--shall--enter--into--a--lease
 13 agreement--with--the--best--qualified--and--most--deserving
 14 applicant--for-a-period-not-to-exceed-7-years--

15 (2)--The--lease-agreement--shall--provide--that--
 16 for--the--teesee--will--make--semiannual--lease--payments--in
 17 an--amount--sufficient--to--pay--the--costs--of--the--debt--incurred
 18 by--the--state--in--acquiring--the--homestead--land--The--board--may
 19 reduce--the--lease--payment--in--cases--of--financial--hardship--
 20 provided--the--teesee--agrees--to--pay--a--higher--lease--payment--in
 21 later--years--to--compensate--for--the--loss--

22 (3)--no--teesee--may--sublet--or--assign--the--lease--without
 23 obtaining--the--written--consent--of--the--board--

24 (4)--a--teesee--may--not--encumber--homestead--land--in--any
 25 way--during--the--period--of--a--lease--

1 (d)--the--teesee--must--devote--the--majority--of--his--time--to
 2 the--active--management--of--homestead--land--and--agree--to--use--the
 3 land--for--agricultural--purposes--as--defined--in--15-7-202--and
 4 (e)--the--board--has--a--lien--on--all--unharvested--crops--on
 5 the--leased--land--as--security--for--lease--payments--and--money--due
 6 to--the--taxing--jurisdictions--

7 **NEW SECTION**--Section-14--Payment--of--sum--equat--to
 8 taxes--Each--teesee--shall--pay--to--the--local--taxing--districts
 9 in--which--the--leased--homestead--land--is--located--an--amount
 10 equat--to--the--sum--of--all--real--property--taxes--and--other--taxes
 11 and--assessments--that--would--have--been--levied--on--the--property
 12 if--it--were--owned--by--the--teesee--If--for--any--reason--a--percent
 13 of--land--is--not--subject--to--a--lease--agreement--the--board--shall
 14 pay--the--required--sum--to--the--local--taxing--districts--

15 **NEW SECTION**--Section-15--Improvements--on--leased--land--
 16 During--the--term--of--the--lease--the--teesee--may--subject--to--the
 17 approval--of--the--board--make--improvements--on--leased--homestead
 18 land--The--improvements--shall--be--financed--by--the--teesee--and
 19 shall--be--his--property--if--the--lease--terminates--without--the
 20 teegee--purchasing--the--homestead--land--The--board--shall
 21 reimburse--the--teesee--for--the--appraised--value--of--the
 22 improvements--as--determined--by--three--independent--appraisers--

23 **NEW SECTION**--Section-16--Cancellation--of--lease--(1)
 24 The--board--may--cancel--a--lease--at--any--time--if--the--teesee--
 25 (a)--is--in--default--on--lease--payments--

1 fbt--has-failed-to-pay-a-tax-to-a-taxing-district-the--sum
 2 due-under-[section-14]t
 3 tct--has-not-maintained-his-residence-in-the-state
 4 fdt--has---used---any---portion---of---the---land---for
 5 nonagricultural-purposes-without-written-permission-from-the
 6 boardt
 7 fat--has-failed-to-cultivate--the--land--in--accordance
 8 with--generally-accepted-agriculture-practices-in-that-area
 9 or-a-practice-developed-for-that-area-under--supervision--of
 10 any-governmental-agricultural-service-agencyt-or
 11 fft--has--otherwise--violated--or-failed-to--perform-the
 12 terms-of-the-lease-agreement
 13 ft2--If-the-lessee-refuses-to-vacate-the-land-within-60
 14 days-after-the-lease-has-been--cancelled--the--board--shall
 15 apply--for-relief-to-the-district-court-in-which-the-land-is
 16 situated
 17 NEW-SECTION--Section-17--Procedure--for--cancellation
 18 of--leases--ft1--If-the-board-proposes-to-conceal-a-lessee--it
 19 shall
 20 fat--send-written--notice--by--certified--mail--to--the
 21 lessee--that--the--lessee-will-terminate-on-a-specified-date
 22 not-less-than-30-days-after-the-date-on-which-the-notice--is
 23 sent--unless--the-lessee-complies-with-subsection-ft1t--of
 24 this-section
 25 fbt--set-out-in-writing-the-reasons--for--the--proposed

1 cancellation--of--the--lease--and-the-provision-of-law-under
 2 which-the-termination-is-authorizedt
 3 fc1--set-out-in-the-notice-the-steps-that-may-be--taken
 4 by--the--lessee--to--remedy-the-situation-giving-rise-to-the
 5 possible-termination-of-the-lease
 6 ft2--If-the-lessee--fails--to--comply--with--subsection
 7 ft1t--within-30-days-after-receipt-of-notice-or-such-period
 8 as--the--board--prescribes--the-board--shall--send-the-lessee
 9 written-notification-by-certified-mail-of--the--cancellation
 10 of-the-lease
 11 NEW-SECTION--Section-18--Application--for-court-order
 12 to-preserve-or-protect-land--ft1--The-board--may-authorize--a
 13 person--under--authority-of-an-order-of-the-district-court
 14 to-enter-upon-the-land-and-perform-such-acts-as-are-set--out
 15 in-the-order-if
 16 fat--the-lessee-has-abandoned-the-land--or
 17 fbt--the--lessee-dies-and--in-the-opinion-of-the-board--
 18 adequate--arrangements--have--not--been--made--for--actions
 19 consistent--with-normal-agriculture-practices-necessary-to
 20 preserve-or-protect-the-crops-growing-upon-the-land
 21 ft2--The-court-order-may-authorize-the--board--to--sell
 22 any--crop-grown-or-harvested-under-this-section-to-reimburse
 23 itself--for--any--debt--due--the--board--by--the--lessee--and
 24 authorize--any--costs--incurred--by--the--board--in-growing--
 25 harvesting--or--getting-the-crops-to-be-recovered-as--a--debt

1 due-the-board-from-the-teehee-or-if-the-teehee-is-deceased
 2 from--his-estate--The-balance--if-any--shall-be-paid-to-the
 3 teehee-or-his-estate

4 **NEW SECTION**--Section-19--Death-of--teehee---A-lease
 5 terminates--30--days--after--the--death-of-a-teehee--if--death
 6 occurs-during-the-month-of-January--February--or--December--or
 7 on-December-31-of-the-year-of--the--teehee's--death--if--the
 8 event-occurs-on-or-after-March-1-but-before-December-1

9 **NEW SECTION**--Section-20--lease--to--relative---if--a
 10 teehee-has-expressed-an-intention-in-writing--before--death
 11 (i)--that--the--spouse--continue--farming-the-land--the
 12 board-shall--upon-application--enter--into--an--agreement--to
 13 lease--the--land--to--the--spouse--for--the--duration--of--the--lease
 14 period--or

15 (2)--that-a-lineal-descendent--or--the--spouse--of-a-lineal
 16 descendant--continue--farming--the--land--the--board--shall--upon
 17 application--enter--into--an--agreement--to--lease--the--land--to
 18 such--person--if--the--person--meets--the--requirements--of--[section
 19 t27]--or

20 (3)--that--the--land--be--leased--to--a--specified--person--the
 21 board--shall--give--such--person--priority--to--enter--into--a--lease
 22 agreement--for--the--land--if--the--applicant--meets--the
 23 requirements--of--[section-t27]

24 **NEW SECTION**--Section-21--Termination---of----lease
 25 whenever--the--board--receives--written--notice--from--a--teehee

1 indicating-his-intention-of-terminating-the-lease--it--shall
 2 send-written--notice--by--certified-mail--to--the--teehee--that--the
 3 lease--will--terminate--on--a--specified--date--not--less--than--30
 4 days--after--the--date--on--which--the--notice--is--sent

5 **NEW SECTION**--Section-22--Renewal---of----lease----
 6 prohibitions--(i)--if--at--the--end--of--a--7--year--lease--the--teehee
 7 has--not--entered--into--an--agreement--with--the--board--to--purchase
 8 the--land--the--board--may--not--renew--the--lease--but--shall--take
 9 applications--for--a--new--teehee--for--the--property

10 (2)--Homestead-land--may--not--be--leased--for--more--than--15
 11 years--after--its--initial--purchase--under-[section-9]--if--at
 12 the--end--of--this--period--a--teehee--of--the--land--has--not--entered
 13 into--an--agreement--to--purchase--the--land--the--board--shall
 14 offer--it--for--sale--to--anyone--wishing--to--purchase--in--sales--to
 15 non-teehees--the--board--may--negotiate--a--sales--price--reflecting
 16 the--value--of--the--land--as--productive--agricultural--land--only
 17 but--sufficient--to--repay--the--debt--the--board--incurred--in
 18 purchasing--the--land

19 **NEW SECTION**--Section-23--Sale--of--leased--lands--(i)--
 20 teehee--may--apply--to--purchase--homestead--land--after--he--has
 21 leased--the--land--for--2--or--more--years

22 (2)--The--board--shall--sell--homestead--land--to--any--teehee
 23 who--has--proven--his--ability--to--use--the--agricultural--land
 24 productively--and--wisely

25 (3)--Any--conveyance--of--homestead--land--shall--contain--a

1 covenant--running--with--the--land--that--the--land--shall--be
 2 forever--used--for--agriculture--purposes--as--defined--in
 3 25-7-202*

4 +4)--leased--land--shall--be--sold--at--the--price--at--which
 5 the--board--originally--purchased--the--land--under--the--provisions
 6 of--[section--9]--plus--any--additional--costs--of--financing
 7 incurred--by--the--board*

8 +5)--lessee--payments--in--excess--of--the--amount--needed--to
 9 pay--the--interest--on--the--indebtedness--incurred--in--purchasing
 10 the--land--must--be--credited--toward--the--sales--price--of--the--land
 11 if--the--lessee--purchases--the--land--from--the--board*

12 +6)--The--purchase--agreement--must--require--the--purchaser
 13 to--pay--the--entire--purchase--price--for--the--land--to--the--board
 14 within--6--months--after--signing--the--agreement*

15 +7)--Lessees--may--apply--to--the--board--for--a--loan--to
 16 finance--the--purchase--of--the--land*

17 SECTION 4a. THERE IS A NEW MCA SECTION THAT READS:
 18 Family farm advisory council created. (1) If the funds
 19 available for the Montana homestead loan program exceeds
 20 \$5,000,000 for any biennium, there shall be created a family
 21 farm advisory council.

22 (2) The council shall consist of seven members
 23 appointed by the department, as follows:

24 (a) one officer from a commercial lending institution;
 25 (b) one fruit or vegetable farmer;

1 (c) two livestock farmers;
 2 (d) two grain farmers; and
 3 (e) one officer from a farm credit association.
 4 (3) Each member must be a resident of the state.
 5 (4) Each member shall serve for a term of 6 years. The
 6 department shall appoint members to fill any vacancy that
 7 may occur.

8 (5) One member of the council shall be a legislator.
 9 (6) The council is allocated to the department of
 10 agriculture for administrative purposes only as prescribed
 11 in 2-15-121.

12 SECTION 5a. THERE IS A NEW MCA SECTION THAT READS:
 13 Duties of family farm advisory council. The council
 14 shall:

15 (1) consider applications for homestead loans and make
 16 recommendations to the department; and
 17 (2) advise and assist the department on other matters
 18 as the department may request.

19 NEW SECTION: Section 6. Loan program ==
 20 ADMINISTRATION. (1) The board--may DEPARTMENT SHALL establish
 21 a HOMESTEAD loan program, funded--by--the--sales--of--general
 22 oblique--bonds, to enable lessees APPLICANTS to purchase
 23 homestead AGRICULTURAL land.

24 121. TO ADMINISTER THIS PROGRAM, THE DEPARTMENT MAY:
 25 1A1. RETAIN PROFESSIONAL CONSULTANTS AND ADVISORS:

1 (b) RELY ON ITS STAFF IN ITS DAILY FUNCTIONS;
 2 (c) ADOPT RULES GOVERNING ITS PROCEDURES;
 3 (d) UPON AUTHORIZATION OF AN AFFIRMATIVE VOTE OF
 4 TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE
 5 OR OF A MAJORITY OF THE ELECTORS VOTING THEREON, ISSUE BONDS
 6 NECESSARY TO PROVIDE FUNDS FOR IMPLEMENTING [SECTIONS 2
 7 THROUGH 30];

8 (e) ACCEPT APPLICATIONS FROM THOSE WISHING TO SECURE
 9 HOMESTEAD LOANS;

10 (f) INVEST ANY FUNDS GENERATED BY SALE OF BONDS IN THE
 11 PERMISSIBLE INVESTMENTS OUTLINED IN 17-6-211 UNTIL SUCH TIME
 12 AS THE FUNDS ARE NEEDED FOR ANY OF THE DEPARTMENT'S OTHER
 13 FUNCTIONS; AND

14 (g) MAKE LOANS FROM THE HOMESTEAD LOAN ACCOUNT TO
 15 ELIGIBLE MONTANA FARMERS FOR THE PURCHASE OF AGRICULTURAL
 16 LAND.

17 (2) A loan agreement must provide for full payment
 18 of principal and interest on the homestead land loan--within
 19 SHALL INCLUDE A PAYMENT SCHEDULE THAT MAY NOT EXCEED 60
 20 years.

21 (3) The board DEPARTMENT shall specify in the
 22 agreement the reasonable rate of interest it considers
 23 necessary.

24 (4) Loans made by the board DEPARTMENT must be
 25 secured by any liens or collateral the board DEPARTMENT

1 considers necessary.

2 SECTION 7. THERE IS A NEW MCA SECTION THAT READS:
 3 Second loan program. (1) The department may, upon
 4 application by a borrower under its loan program and upon
 5 the advice of the council, if in existence, enter into a
 6 second loan agreement with a borrower for an annual payment
 7 equal to not more than 4% of the outstanding balance due
 8 each year for not more than 5 years on a loan agreement
 9 signed under the provisions of [section 6]. The department
 10 may, upon the recommendation of the council, extend the
 11 second loan for another 5 years, but it may not renew the
 12 second loan after this period. Interest on the amount of the
 13 loan shall be at the department's bond rate plus
 14 administrative expenses.

15 (2) The second loan becomes payable:
 16 (a) in installments to commence not later than 20
 17 years after the initial purchase of homestead land; or
 18 (b) immediately and in full upon the sale of land on
 19 which it was loaned.

20 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:
 21 Immediate repayment. If an applicant who has secured a
 22 loan from the department under the program created in
 23 [sections 6 and 7] sells the land for which the loan was
 24 made to any person, firm, or corporation other than his
 25 spouse, children, or corporation wholly owned by them, the

1 loan shall be repaid in full.

2 SECTION 9. THERE IS A NEW MCA SECTION THAT READS:

3 Qualifications of applicants. (1) To be eligible for a
4 homestead loan, an applicant must:

5 (a) reside in the state at the time of application;

6 (b) declare his intention to maintain his residence in
7 Montana during the length of the loan; and

8 (c) have been approved by a local committee of the
9 farmers home administration for a loan from the farmers home
10 administration in connection with the same land purchase.

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

16 SECTION 10. THERE IS A NEW MCA SECTION THAT READS:

17 Evaluation of applicants. (1) The department shall by
18 rule establish:

19 (a) rules for soliciting and evaluating applications
20 from qualified Montana citizens; and

21 (b) a point system for evaluating the applicants,
22 considering the following criteria:

23 (i) the applicant's net worth, which may not exceed
24 \$100,000;

25 (ii) the applicant's access to livestock and machinery;

1 (iii) the applicant's inability to secure financing for
2 purchase of agricultural land from other sources;

3 (iv) the applicant's training and experience in
4 agriculture;

5 (v) the applicant's prospects for succeeding in an
6 agricultural operation on the land proposed for purchase;
7 and

8 (vi) any other factors it may prescribe.

9 (2) After consulting with and obtaining the
10 recommendation of the council, the department shall select
11 the best qualified and most deserving applicant from among
12 those applying for loans.

13 (3) The department may seek the advice of the state
14 director of the farmers home administration in Montana and
15 coordinate its loan program through the farmers home
16 administration including assistance in screening applicants
17 and servicing the loan.

18 NEW SECTION: Section 11. Issue of general obligation
19 bonds -- credit of the state pledged. (1) When authorized by
20 an affirmative vote of two-thirds of the members of each
21 house of the legislature or of a majority of the electors
22 voting thereon, the board DIRECTOR may issue bonds of the
23 state of Montana in a principal amount it determines
24 necessary to provide sufficient funds for achieving any of
25 the purposes of the Montana homestead LOAN program.

1 including the payment of interest on bonds, establishment of
 2 reserves to secure the bonds, and all other expenditures of
 3 the board DEPARTMENT incident to the program.

4 (2) Each issue of its bonds is an obligation of the
 5 board DEPARTMENT payable in the first instance out of any
 6 revenues, assets, or money generated by the Montana
 7 homestead LOAN program. The board DEPARTMENT shall manage,
 8 to the best of its ability, its lease agreements and sales
 9 so that the bonds are repaid by the revenue generated by the
 10 program. However, the legislature pledges one-half the
 11 interest and income produced by the coal tax trust fund
 12 established in section 5, Article IX, of the Montana
 13 constitution to maintain the capital reserve accounts for
 14 bonds issued by the board DEPARTMENT at their minimum
 15 requirements. In addition, the full faith and credit and
 16 taxing powers of the state are pledged for the payment of
 17 bonds issued by the board DEPARTMENT under the provisions of
 18 [sections 2 through 42 30].

19 (3) The bonds must be authorized by resolution of the
 20 board DEPARTMENT and bear a date and mature at times as the
 21 board DEPARTMENT determines. A bond may not mature more than
 22 60 years from the date of its issue. The bonds may be issued
 23 as serial bonds payable in annual installments or as term
 24 bonds or as a combination thereof. The bonds of the board
 25 DEPARTMENT may be sold at public or private sale, at prices

1 determined by the board DEPARTMENT.

2 (4) The resolution shall specify:
 3 (a) the rate of interest of the bonds;
 4 (b) the denomination of the bonds;
 5 (c) whether the bonds shall be in coupon or registered
 6 form and registration privileges, if any;
 7 (d) the manner and place of execution;
 8 (e) the manner and place and medium of payment; and
 9 (f) the terms of redemption.

10 (5) The total amount of bonds outstanding at any one
 11 time may not exceed \$200 million.

12 NEW SECTION Section 12. Provisions of bond
 13 resolutions or trust indentures. A resolution or trust
 14 indenture authorizing any bonds or any issue thereof may
 15 contain provisions, which shall be a part of the contract or
 16 contracts with the holders thereof, as to:

17 (1) pledging all or any part of the revenues or the
 18 property of the board DEPARTMENT to secure the payment of
 19 the bonds or any issue thereof, subject to existing
 20 agreements with bondholders;

21 (2) pledging all or any part of the assets of the
 22 board DEPARTMENT, including mortgages and obligations
 23 securing them, to secure the payment of the bonds;

24 (3) pledging the income and interest from the
 25 constitutional coal tax trust fund;

1 (4) pledging the full faith and credit and taxing
 2 powers of the state of Montana to secure the payment of the
 3 bonds;

4 (5) specifying the use and disposition of the gross
 5 income from mortgages owned by the board DEPARTMENT and
 6 payment of principal of mortgages owned by the board
 7 DEPARTMENT;

8 (6) the setting aside of reserves or sinking funds in
 9 the hands of trustees, paying agents, or other depositories
 10 and the regulation and disposition of the reserves;

11 (7) limiting the purpose to which the proceeds of the
 12 sale of the bonds may be applied and the pledge of the
 13 proceeds to secure the payment of the bonds or of any issue
 14 thereof;

15 (8) limiting the issuance of additional bonds, the
 16 terms upon which additional bonds may be issued and secured,
 17 and the refunding of outstanding bonds;

18 (9) specifying the procedure, if any, by which the
 19 terms of any contract with bondholders may be amended or
 20 abrogated, the amount of bonds the holders of which must
 21 consent thereto, and the manner in which such consent may be
 22 given;

23 (10) limiting the amount of money to be expended by the
 24 board DEPARTMENT for its operating expenses;

25 (11) vesting in a trustee property, rights, powers, and

1 duties in trust as the board DEPARTMENT determines;
 2 (12) defining the acts or failures to act which will
 3 constitute a default in the obligations and duties of the
 4 board DEPARTMENT to the holders of the bonds and providing
 5 for the rights and remedies consistent with the laws of the
 6 state and the provisions of [section SECTIONS 2 through 42
 7 30] of the holders of the bonds in the event of such
 8 default, including as a matter of right the appointment of a
 9 receiver; and

10 (13) specifying any other matters of like or different
 11 character which in any way affect the security or protection
 12 of the holders of the bonds.

13 NEW SECTION Section 13. Validity of pledge. A pledge
 14 made by the board DIRECTOR is valid and binding from the
 15 time the pledge is made. The revenues or property pledged
 16 and thereafter received by the board DEPARTMENT are
 17 immediately subject to the lien of the pledge without any
 18 physical delivery thereof or further act, and the lien of
 19 any pledge is valid and binding against all parties having
 20 claims of any kind in tort, contract, or otherwise against
 21 the board DEPARTMENT, irrespective of whether such parties
 22 have notice thereof. Neither the resolution, trust
 23 indenture, nor any other instrument by which a pledge is
 24 created need be recorded.

25 NEW SECTION Section 14. Personal liability. The

1 board-members DIRECTOR and employees of the department are
 2 not personally liable for any debt incurred by the board
 3 DEPARTMENT.

4 NEW SECTION Section 15. Purchase of bonds --
 5 cancellation. The board DEPARTMENT, subject to existing
 6 agreements with bondholders, may out of any funds available
 7 for that purpose purchase bonds of the board DEPARTMENT,
 8 which shall thereupon be cancelled, at a price not
 9 exceeding:

10 (1) the current redemption price plus accrued interest
 11 to the next interest payment thereon if the bonds are then
 12 redeemable; or

13 (2) the redemption price applicable on the first date
 14 after purchase upon which the bonds become subject to
 15 redemption, plus accrued interest to that date if the bonds
 16 are not then redeemable.

17 NEW SECTION Section 16. Trust indenture. In the
 18 discretion of the board DIRECTOR, the bonds may be secured
 19 by a trust indenture between the board DEPARTMENT and a
 20 corporate trustee, which may be a trust company or bank
 21 having the power of a trust company within or without the
 22 state.

23 NEW SECTION Section 17. Negotiability of bonds.
 24 Bonds issued by the board DEPARTMENT are negotiable
 25 instruments under the Uniform Commercial Code, subject only

1 to the provisions for registration of bonds.

2 NEW SECTION Section 18. Continuing validity of board
 3 members' signatures DIRECTOR'S SIGNATURE. If any board
 4 member A DIRECTOR whose signature appears on bonds or
 5 coupons ceases to be a member DIRECTOR before the delivery
 6 of the bonds, his signature continues to be valid and
 7 sufficient for all purposes.

8 NEW SECTION Section 19. Accounts of the board
 9 DEPARTMENT. There is a homestead and LOAN financing account
 10 in the bonds proceeds and insurance clearance fund provided
 11 for in 17-2-102. All funds from the proceeds of bonds
 12 issued under [sections 2 through 42 30], fees and other
 13 money received by the board DEPARTMENT, money appropriated
 14 by the legislature for the use of the board DEPARTMENT in
 15 carrying out [sections 2 through 42 30], and money made
 16 available from any other source for the use of the board
 17 DEPARTMENT must be deposited in the homestead and LOAN
 18 financing account except as otherwise provided by law. All
 19 funds deposited in the homestead and LOAN financing account
 20 are continuously appropriated to and may be expended by the
 21 board DEPARTMENT for the purposes authorized in [sections 2
 22 through 42 30].

23 NEW SECTION Section 20. Reserve funds and
 24 appropriations. (1) The board DEPARTMENT shall pay into one
 25 or more capital reserve accounts:

1 (a) any money appropriated and made available by the
 2 state for the purpose of the fund;

3 (b) any proceeds of sale of bonds to the extent
 4 provided in the resolutions of the board DEPARTMENT
 5 authorizing their issuance or in any trust indenture
 6 securing their repayment; and

7 (c) any other money which may be available to the
 8 board DEPARTMENT for the purpose of such a fund from any
 9 other source.

10 (2) All amounts held in a capital reserve account must
 11 be used solely for the payment of principal, interest, and a
 12 redemption premium with respect to bonds secured in whole or
 13 in part by the account. Funds in an account may not be
 14 withdrawn at any time in an amount which reduces the amount
 15 of the account to less than the minimum capital reserve
 16 requirement established for the account except for the
 17 purpose of making, with respect to bonds secured in whole or
 18 in part by the account, payment, when due, of principal,
 19 interest, or redemption premiums for the payment of which
 20 other money pledged is not available.

21 NEW SECTION. Section 21. Maintenance of capital
 22 reserve account. In order to assure the maintenance of the
 23 capital reserve accounts, the governor shall inform the
 24 director of the department of administration when the
 25 accounts fall below the minimum capital reserve requirement.

1 The director shall transfer the sum necessary to restore
 2 this minimum from an earmarked revenue account containing
 3 income from the constitutional coal tax trust fund.

4 NEW SECTION. Section 22. Refunding obligations --
 5 sale. Refunding obligations issued as provided in 90-6-121
 6 may be sold or exchanged for outstanding obligations issued
 7 under [sections 2 through 42 30]. The proceeds may be
 8 applied to the purchase, redemption, or payment of
 9 outstanding obligations. Pending the application of the
 10 proceeds to the payment of outstanding obligations, the
 11 proceeds may be invested as provided in Title 17, chapter 6,
 12 if permitted in the resolution authorizing the issuance of
 13 the refunding obligations or in the trust agreement securing
 14 them.

15 NEW SECTION. Section 23. Refunding obligations --
 16 issuance. The board DEPARTMENT may provide for the issuance
 17 of refunding obligations for refunding any obligations then
 18 outstanding which have been issued under [sections 2 through
 19 42 30], including the payment of any redemption premium and
 20 any interest accrued or to accrue to the date of redemption
 21 of the obligations. The issuance of obligations, the
 22 maturities and other details, the rights of the holders, and
 23 the rights, duties, and obligations of the board DEPARTMENT
 24 are governed by the appropriate provisions of [sections 2
 25 through 42 30] which relate to the issuance of obligations.

1 NEW SECTION Section 24. Tax exemption of bonds.
 2 Bonds issued by the board DEPARTMENT under [sections 2
 3 through 42 30] and their transfer and income, including any
 4 profits made on their sale, are exempt from taxation by the
 5 state or any political subdivision or other instrumentality
 6 of the state, except for inheritance, estate, and gift
 7 taxes. The board DEPARTMENT is not required to pay recording
 8 or transfer fees or taxes on instruments recorded by it.

9 NEW SECTION Section 25. Pledge against impairment of
 10 contracts. In accordance with the constitutions of the
 11 United States and the state of Montana, the state pledges
 12 that it will in no way impair the obligations of any
 13 agreement between the board DEPARTMENT and the holders of
 14 notes and bonds issued by the board DEPARTMENT.

15 NEW SECTION Section 26. Annual audit. (1) The
 16 board's DEPARTMENT's books and records must be audited by an
 17 independent certified public accountant at least once each
 18 fiscal year.

19 (2) The legislative auditor may conduct an audit at
 20 the request of the legislative audit committee.

21 NEW SECTION Section 27. Report. The department shall
 22 transmit to the governor and to each member of the
 23 legislature 30 days before the meeting of the legislature a
 24 report:

25 (1) detailing the operations of the homestead LOAN

1 program since the adjournment of the last legislature; and
 2 (2) containing a financial statement showing the
 3 program's assets and liabilities.

4 NEW SECTION Section 28. Powers to be interpreted
 5 broadly. The powers enumerated in [sections 2 through 42 30]
 6 shall be interpreted broadly to effectuate the purposes of
 7 the board DEPARTMENT and may not be construed as a
 8 limitation of powers.

9 SECTION 29. THERE IS A NEW MCA SECTION THAT READS:
 10 Legislative review required. The homestead loan program
 11 shall be reviewed by the legislature at the third
 12 legislative session following the first sale of bonds under
 13 the provision of [section 11] to determine whether the
 14 program should continue. However, any existing commitments
 15 incurred by the department are not affected by this review.

16 Section 30. Severability. If a portion of this act is
 17 invalid, all valid parts that are severable from the invalid
 18 part remain in effect. If a part of this act is invalid in
 19 one or more of its applications, the part remains in effect
 20 in all valid applications that are severable from the
 21 invalid applications.

-End-

HOUSE OF REPRESENTATIVES
APRIL 13, 1979

Committee on Taxation amendments to Senate Bill No. 248, third reading copy, as follows:

1. Title.

Following: line 10.

Insert: "APPROPRIATING MONEY TO FUND THE LOAN PROGRAM FOR THE 1979-1981 BIENNIUM;"

2. Page 4, line 9.

Following: "42"

Strike: "30"

Insert: "29"

3. Page 5, line 3.

Following: "42"

Strike: "30"

Insert: "29"

4. Page 5, line 12.

Following: "42"

~~XXXXXX~~ Strike: "30"

Insert: "29"

(Continued)

April 13, 1979

SENATE BILL NO. 248
Page 2

5. Page 18.

Following: line 3

Insert: "(6) No more than four members may be of the same political party."

Renumber: subsequent subsection

6. Page 19, line 7.

Following: "THROUGH"

Strike: "30"

Insert: "29"

7. Page 19, line 19.

Following: "EXCEED"

Strike: "60"

Insert: "40"

8. Page 22, line 10.

Following: "council,"

Insert: "if in existence,"

9. Page 22, line 13.

Following: "department"

Strike: "may"

Insert: "shall"

10. Page 23, line 8.

Following: "ability, its"

Strike: "lease agreements and sales"

Insert: "loans"

11. Page 23, line 18.

Following: "42"

Strike: "30"

Insert: "29"

12. Page 26.

Following: line 6

Strike: "30"

Insert: "29"

13. Page 28, line 12.

Following: "42"

Strike: "30"

Insert: "29"

14. Page 28, line 15.

Following: "42"

Strike: "30"

Insert: "29"

(Continued)

.....April 13,.....19.....79.....

SENATE BILL NO. 148
Page 3

15. Page 28, line 22.

Following: "42"

Strike: "30"

Insert: "29"

16. Page 30, line 7.

Following: "42"

Strike: "30"

Insert: "29"

17. Page 30, line 19.

Following: "42"

Strike: "30"

Insert: "29"

18. Page 30, line 25.

Following: "42"

Strike: "30"

Insert: "29"

19. Page 31, lines 1 through 8.

Following: line 25 on page 30

Strike: section 24 in its entirety

Renumber: subsequent sections

20. Page 32, line 5.

Following: "42"

Strike: "30"

Insert: "29"

21. Page 32.

Following: line 21

Insert: "Section 30. Appropriation. (1) There is appropriated \$1,000,000 to the earmarked revenue fund to the credit of the Montana homestead loan account for each year of the biennium ending June 30, 1981, from the interest and income received from the coal severance tax trust fund created in section 5, Article IX of the Montana constitution.

(2) The money appropriated to the homestead loan account must be used to make homestead loans to eligible applicants and for the expenses of the department of agriculture in administering the Montana homestead loan program."

(Continued)

APRIL 13 1979

AMEND STATEMENT OF INTENT

1. Page 1, line 6.

Following: "in"

Strike: "Section 7(2)(c) and Section 11(1)"

Insert: "Section 6 (2)(c) and Section 10(1)"

2. Page 1, line 11.

Following: "Section"

Strike: "11(1)"

Insert: "10(1)"

AND AS AMENDED
BE CONCURRED IN