

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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*State* BILL NO. *248*  
*Mr.*

INTRODUCED BY \_\_\_\_\_

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

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

Section 1. Section 77-1-202, MCA, is amended to read:

"77-1-202. Powers and duties of board. (1) The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands and, subject to the investment authority of the board of investments, the funds arising from the leasing lease, use, sale, and ~~or~~ disposition of those lands or otherwise coming under its administration. In the exercise of these powers, the guiding rule and principle is that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state. The board shall administer this trust to secure the largest measure of legitimate and

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reasonable advantage to the state.

~~(2) The board shall also serve as the Montana homestead board, whose powers are enumerated in [section 51.]~~

NEW SECTION. Section 2. [Sections 2 through 42] may be cited as the "Montana Homestead Land Act".

NEW SECTION. Section 3. Legislative findings. The legislature finds that the rapidly increasing cost of agricultural land is preventing many Montanans from becoming farmers and ranchers. In consequence, Montana's farmland is being purchased by corporations and foreign investors and Montana's farmers and ranchers are rapidly becoming hired hands. Recognizing the value of family farms to the economic, social, and political well-being of the state, the legislature hereby establishes a program for the state's acquisition of agricultural land and its lease and eventual sale to eligible Montana citizens. In the belief that increasing the economic opportunities available to Montanans and preserving the family farm are public purposes, the legislature proposes to fund this program by general obligation bonds, backed by income from the constitutional coal tax trust fund.

NEW SECTION. Section 4. Definitions. (1) As used in [sections 2 through 42], the following definitions apply:

(a) "Agricultural land" means land actively devoted to

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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 applica-  
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 act, 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

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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-

1 STATEMENT OF INTENT RE: SB 248

2  
3  
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.

SB248

Approved by Committee  
on Taxation

SENATE BILL NO. 248

INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP YOUNG FARMERS GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA HOMESTEAD LAND LOAN PROGRAM FOR THE PURPOSES OF ~~ACQUIRING~~ HELPING YOUNG FARMERS ACQUIRE LAND THAT ~~MIGHT~~ BE PURCHASED BY FOREIGNERS, ~~OUT-OF-STATE-CORPORATIONS~~ OR ~~OTHER~~ LARGE LANDOWNERS ~~AND OF LEASING AND SELLING THIS LAND FOR MONTANA FAMILY FARMS; PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT;~~ AND AMENDING SECTION ~~77-1-202~~ 80-1-102, MCA."

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

~~Section 17 of Section 77-1-202, MCA, is amended to read:~~

~~"77-1-202. Powers and duties of board. (1) The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands and, subject to the investment authority of the board of investments, the funds arising from the leasing ~~interest~~ use, sale, and ~~disposition~~ of those lands or otherwise coming under its administration, in the exercise of these powers, the guiding rule and principle is that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state. The board shall administer this~~

~~trust to secure the largest measure of legitimate and reasonable advantage to the state.~~

~~(2) The board shall also serve as the Montana homestead boards whose powers are enumerated in Section 51x"~~

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

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

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

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

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

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

(5) cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution and aid in the reduction of waste and expense 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 ~~(14) 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 20] 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 and  
15 being purchased by corporations and foreign investors and  
16 Montana's 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 ~~coal-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 4, of the Montana~~

8 ~~constitution which serves as the Montana homestead board~~

9 ~~for the purposes of [sections 2 through 42].~~

10 (c) (B) "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 (C) "COUNCIL" MEANS THE FAMILY FARM ADVISORY COUNCIL

19 CREATED IN [SECTION 4].

20 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF

21 AGRICULTURE.

22 (e) "Department" means the department of state lands

23 AGRICULTURE.

24 (f) ~~"Homestead land" means land acquired by the board~~

25 ~~under the provisions of [sections 2 through 42].~~

1 (g) ~~"Owner" means any individual, partnership, joint~~

2 ~~venture, association, or corporation owning agricultural~~

3 ~~lands.~~

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 LD&A program, not those

10 owed OWNED 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 (1) retain professional consultants and advisors;

16 (2) rely on the department's staff in its duty

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           (6) accept applications from those wishing to lease  
 2 homestead lands;  
 3           (7) evaluate applicants and award lease agreements to  
 4 qualified leasees;  
 5           (8) set homestead lands as provided in sections 2  
 6 through 42; and  
 7           (9) invest any funds generated by sale of bonds in the  
 8 permissible investments outlined in 17-6-211 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 selling for \$2 million or more. (1)  
 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           (2) 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           (3) The board shall:

23           (a) require such information on the form as it may  
 24 prescribe; and  
 25           (b) provide an adequate supply of these forms to each

1 county clerk and recorder in the state;

2           (4) 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 lands.

6           (5) 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 lands. (1) 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           (a) The land has been appraised by the department;

15           (b) The land constitutes an agricultural unit or can  
 16 be divided into agricultural units capable of supporting an  
 17 individual or family;

18           (c) The board determines that any selling 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           (d) In the board's estimation, sufficient applicants  
 23 exist to lease the land within 1 year;

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

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 XV, section 4 of the Montana  
8 constitution which serves as the Montana homestead board  
9 for the purposes of [sections 2 through 42].

10 (c) (B) "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 (C) "COUNCIL" MEANS THE FAMILY FARM ADVISORY COUNCIL  
19 CREATED IN [SECTION 4].

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

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

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

1 (g) "Owner" means any individual, partnership, joint  
2 venture, association, or corporation owning agricultural  
3 lands

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 OWNED 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 (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 (6)--accept--applications--from--those--wishing--to--lease  
2 homestead--lands  
3 (7)--evaluate--applicants--and--award--lease--agreements--to  
4 qualified--lessees  
5 (8)--set--homestead--lands--as--provided--in--(sections--2  
6 through--42)--and  
7 (9)--invest--any--funds--generated--by--sale--of--bonds--in--the  
8 permissible--investments--outlined--in--17-6-211--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--selling--for--\$2--million--or--more--(1)  
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 (2)--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 (3)--The--board--shall  
23 (a)--require--such--information--on--the--form--as--it--may  
24 prescribe--and  
25 (b)--provide--an--adequate--supply--of--these--forms--to--each

1 county--clerk--and--recorder--in--the--state  
2 (4)--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 (5)--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 lands--(1)--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 (a)--The--land--has--been--appraised--by--the--department  
15 (b)--The--land--constitutes--an--agricultural--unit--or--can  
16 be--divided--into--agricultural--units--capable--of--supporting--an  
17 individual--or--family  
18 (c)--The--board--determines--that--any--selling--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 (d)--In--the--board's--estimation--sufficient--applicants  
23 exist--to--lease--the--land--within--1--year  
24 (e)--Purchase--of--the--lands--will--not--increase--the  
25 board's--indebtedness--beyond--\$200--million

1 (2)--Nothing-in-this-section-requires-the-board-to  
2 purchase-any-agricultural-lands

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 7-have-been-satisfied

8 ~~NEW-SECTION~~--Section-9--Purchase-of-land-and-related  
9 property--(1)--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 (2)--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 (a)--periodic-payments-of-cash
- 17 (b)--assignments-of-bonds-or-securities-issued-by-the  
18 board-or
- 19 (c)--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-lands

5 ~~NEW-SECTION~~--Section-11--Determining-the-lessee--(1)  
6 The-board-shall-offer-homestead-land-for-lease-to-qualified  
7 Montana-citizens

8 (2)--The-board-shall-by-rule-establish-a-procedure-for  
9 soliciting-and-evaluating-applications-from-qualified  
10 Montana-citizens-to-lease-the-lands

11 (3)--in-evaluating-the-applications--the-board-shall  
12 consider

- 13 (a)--the-applicant's-training-and-experience-in  
14 agriculture
- 15 (b)--the-applicant's-prospects-for-succeeding-in-an  
16 agricultural-operation-on-the-homestead-land-to-be-leased
- 17 (c)--the-applicant's-attempts-to-secure-or-prospects-of  
18 securing-other-types-of-financing
- 19 (d)--the-applicant's-net-worth-and-prior-year's-income  
20 and
- 21 (e)--any-other-factors-it-may-prescribe

22 (4)--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 -- lessee  
 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 -- Lease ----- 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       (a) -- the lessee 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 lessee agrees to pay a higher lease payment -- in  
 21       later years to compensate for the loss

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

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

1       (d) -- the lessee 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       local taxing jurisdictions

7       ~~NEW-SECTION~~ Section 14 -- Payment -- of -- sum -- equal -- to  
 8       taxes -- Each lessee 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 lessee -- if for any reason -- a parcel  
 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 lessee may -- subject to the  
 17       approval of the board -- make improvements on leased homestead  
 18       land -- the -- improvements shall be financed by the lessee and  
 19       shall be his property -- if the lease terminates -- without -- the  
 20       lessee -- purchasing -- the -- homestead -- land -- the -- board -- shall  
 21       reimburse -- the -- lessee -- 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 lessee  
 25       (a) -- is in default on lease payments

1 (b)--has failed to pay a local taxing district the sum  
 2 due under [section 14];  
 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 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--(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 (2)--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 lands--(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,  
 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 lands;  
 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 lessee or, if the lessee is deceased,  
2 from his estate; the balance, if any, shall be paid to the  
3 lessee or his estate.

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

9 ~~NEW SECTION~~ Section 20v-- Lease to relatives-- If a  
10 lessee has expressed an intention in writing before death

11 (1) 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 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 12] 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 12].

24 ~~NEW SECTION~~ Section 21v-- Termination of leases  
25 whenever the board receives written notice from a lessee

1 indicating his intention of terminating the lease, it shall  
2 send written notice by certified mail to the lessee 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 22v-- Renewal of lease--  
6 prohibitions-- (1) If at the end of a 7-year lease the lessee  
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 lessee 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 lessee 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 nonlessees, 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 23v-- Sale of leased land-- (1) A  
20 lessee 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 lessee  
23 who has proven his ability to use the agricultural land  
24 productively and wisely.

25 (3) Any conveyance of homestead land shall contain

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 {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--boards

8 {5}--Lease--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--boards

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--lands

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 sale of general  
22 obligation bonds, to enable lessees APPLICANTS to purchase  
23 homestead AGRICULTURAL land.

- 24 (2) TO ADMINISTER THIS PROGRAM, THE DEPARTMENT MAY:  
25 (A) 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}{3} 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}{4} The board DEPARTMENT shall specify in the~~  
 22        agreement the reasonable rate of interest it considers  
 23        necessary.  
 24        ~~{4}{5} 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 10].

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 20] 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 fund 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 fund LOAN  
 18 financing account except as otherwise provided by law. All  
 19 funds deposited in the homestead fund 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-

1 STATEMENT OF INTENT RE: SB 248

2  
3  
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.

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 FARMS; PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT;  
11 AND AMENDING SECTION 77-1-202, MCA."

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

14 Section 1. Section 77-1-202, MCA, is amended to read:

15 "77-1-202. Powers and duties of board. (1) 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, use,  
20 sale, and 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 (2) The board shall also serve as the Montana  
4 homestead board, whose powers are enumerated in section  
5 51x."

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 grain,  
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 ~~(14) 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 ~~20~~] 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 and  
15 being purchased by corporations and foreign investors and  
16 Montana's farmers and ranchers are rapidly becoming hired  
17 hands. Recognizing the value of family farms to the  
18 economic, social, 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 4v of the Montana

8 constitution which serves as the Montana homestead board

9 for the purposes of [sections 2 through 42].

10 (c) (B) "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 (C) "COUNCIL" MEANS THE FAMILY FARM ADVISORY COUNCIL

19 CREATED IN [SECTION 4].

20 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF

21 AGRICULTURE.

22 (e) "Department" means the department of state lands

23 AGRICULTURE.

24 (f) "Homestead land" means land acquired by the board

25 under the provisions of [sections 2 through 42].

1 (g) "Owner" means any individual, partnership, joint

2 venture, association, or corporation owning agricultural

3 lands.

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 LOAN program, not those

10 owed OWNED 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 (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 (6) accept applications from those wishing to lease  
 2 homestead lands;  
 3 (7) evaluate applicants and award lease agreements to  
 4 qualified lessees;  
 5 (8) sell homestead lands as provided in [sections 2  
 6 through 42] and  
 7 (9) invest any funds generated by sale of bonds in the  
 8 permissible investments outlined in 17-6-211 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 4. Offer of sale to board  
 12 required for land selling for \$2 million or more. (1)  
 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 (2) 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 (3) The board shall  
 23 (a) require such information on the form as it may  
 24 prescribe and  
 25 (b) provide an adequate supply of these forms to each

1 county clerk and recorder in the state;

2 (4) 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 (5) 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 lands. (1) 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 (a) The land has been appraised by the department;

15 (b) The land constitutes an agricultural unit or can  
 16 be divided into agricultural units capable of supporting an  
 17 individual or family;

18 (c) The board determines that any selling 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 (d) In the board's estimation, sufficient applicants  
 23 exist to lease the land within 1 year;

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

1 (c) Nothing in this section requires the board to  
2 purchase any agricultural lands.

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 7] have been satisfied.

8 ~~NEW SECTION~~ Section 9. Purchase of land and related  
9 property. (1) 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 (2) 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 (a) periodic payments of cash;

17 (b) assignments of bonds or securities issued by the  
18 board or

19 (c) 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. (1)  
6 The board shall offer homestead land for lease to qualified  
7 Montana citizens.

8 (2) The board shall by rule establish a procedure for  
9 soliciting and evaluating applications from qualified  
10 Montana citizens to lease the land.

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

13 (a) the applicant's training and experience in  
14 agriculture;

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

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

19 (d) the applicant's net worth and prior year's income;  
20 and

21 (e) any other factors it may prescribe.

22 (4) 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-SECTIONs**--Section-12--Qualifications--of--lessees  
 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-SECTIONs**--Section-13--Lease-----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 (a)--the--lessee--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--lessee--agrees--to--pay--a--higher--lease--payment--in  
 21 later--years--to--compensate--for--the--loss

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

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

1 (d)--the--lessee--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 local--taxing--jurisdictions

7 **NEW-SECTIONs**--Section-14--Payment--of--sum--equal--to  
 8 taxes--Each--lessee--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--lessee--if--for--any--reason--a--parcel  
 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-SECTIONs**--Section-15--improvements--on--leased--land  
 16 During--the--term--of--the--lease--the--lessee--may--subject--to--the  
 17 approval--of--the--board--make--improvements--on--leased--homestead  
 18 land--The--improvements--shall--be--financed--by--the--lessee--and  
 19 shall--be--his--property--if--the--lease--terminates--without--the  
 20 lessee--purchasing--the--homestead--land--the--board--shall  
 21 reimburse--the--lessee--for--the--appraised--value--of--the  
 22 improvements--as--determined--by--three--independent--appraisers

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



1        {b}--has-failed-to-pay-a-local-taxing-district-the-sum  
2 due-under-~~{section-14}~~†

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-agreements

13        {2}--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†--(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        {2}--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-lands--(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†  
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-lands†

21        {2}--The-court-order-may-authorize-the-board--to--set†  
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 lessee or, if the lessee is deceased,  
 2 from his estate. The balance, if any, shall be paid to the  
 3 lessee or his estate.

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

9 **NEW SECTION** Section 20. Lease to relatives. If a  
 10 lessee has expressed an intention in writing before death

11 (1) 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 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 12] 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 12].

24 **NEW SECTION** Section 21. Termination of lease.  
 25 Whenever the board receives written notice from a lessee

1 indicating his intention of terminating the lease, it shall  
 2 send written notice by certified mail to the lessee 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. The  
 6 prohibitions (1) if at the end of a 7-year lease the lessee  
 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 lessee 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 lessee 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 nonlessees. 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 land. (1) A  
 20 lessee 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 lessee  
 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--agricultural--purposes--as--defined--in  
3 15-7-202v

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--boardv

8 {5}--Lease--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--boardv

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--agreementv

15 {7}--Lessees--may--apply--to--the--board--for--a--loan--to  
16 finance--the--purchase--of--the--landv

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 sale of general  
22 obligation bonds to enable lessees APPLICANTS to purchase  
23 homestead AGRICULTURAL land.

24 (2) TO ADMINISTER THIS PROGRAM, THE DEPARTMENT MAY:

- 25 (A) 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 3D];

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 ~~(3)(3) 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)(4) The board DEPARTMENT shall specify in the~~  
22 ~~agreement the reasonable rate of interest it considers~~  
23 ~~necessary.~~

24 ~~(3)(5) 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 fund 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 fund LOAN  
 18 financing account except as otherwise provided by law. All  
 19 funds deposited in the homestead fund 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)

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)

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  
Renummer: 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