

Senate Bill 163

In The Senate

January 16, 1981	Introduced and referred to Committee on Taxation. Fiscal note requested.
January 24, 1981	Fiscal note returned.
February 16, 1981	Committee recommend bill do pass as amended.
February 18, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading do pass.
February 20, 1981	Correctly engrossed.
February 21, 1981	Third reading passed.

In The House

February 23, 1981	Introduced and referred to Committee on Taxation.
April 9, 1981	Committee recommend bill concurred as amended.
April 13, 1981	Motion pass consideration.
April 15, 1981	Second reading pass consideration.
April 15, 1981	Second reading not concurred.

In The Senate

April 17, 1981	Returned from House not concurred.
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1 *Senate* BILL NO. *163*
 2 INTRODUCED BY *Dirk Scammon, Ron Swanson, Jimmie Smith, Hagon Dool*
 3 *Robyn Conover, R.L. Anderson*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP BEGINNING
 5 FARMERS GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA
 6 AGRICULTURAL LOAN AUTHORITY FOR THE PURPOSES OF HELPING
 7 BEGINNING FARMERS ACQUIRE LAND; PROVIDING AN INCOME TAX
 8 DEDUCTION FOR CERTAIN LAND SALES TO BEGINNING FARMERS; AND
 9 PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT."

10
 11 WHEREAS, obtaining sufficient financing to begin a farm
 12 or ranch operation in Montana is increasingly difficult; and
 13 WHEREAS, beginning farmers experience great difficulty
 14 in repaying loans under high interest rates and low market
 15 prices for agricultural products; and
 16 WHEREAS, the agricultural loan programs administered by
 17 the Montana department of agriculture are inadequate to the
 18 real needs of the state; and
 19 WHEREAS, the federal farm home administration's farm
 20 ownership loan program is also inadequate to the real needs
 21 of the state; and
 22 WHEREAS, low interest rate financing for beginning
 23 farmers is not available in the private sector; and
 24 WHEREAS, the value of family farms to the economic,
 25 social, and political well-being of the state is worthy of

1 legislative action and support.
 2 THEREFORE, it is the purpose of this bill to assist
 3 beginning farmers with financial support and encouragement
 4 by making low interest rate loans available to eligible
 5 farmers, by establishing a low interest rate second loan
 6 program to insure that beginning farmers can establish their
 7 agricultural operations on solid foundations, and by
 8 providing incentives to retiring farmers who sell their land
 9 to eligible beginning farmers.
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Short title. [Sections 2 through 29] may
 13 be cited as the "Montana Agricultural Loan Authority Act".
 14 Section 2. Definitions. (1) As used in [sections 2
 15 through 29], the following definitions apply:
 16 (a) "Agricultural land" means land actively devoted to
 17 agricultural use as defined in 15-7-202.
 18 (b) "Authority" means the agricultural loan authority
 19 provided for in [section 3].
 20 (c) "Bonds" means bonds or bond anticipation notes
 21 issued by the authority under the provisions of [sections 2
 22 through 29].
 23 (2) References to the authority's property, revenues,
 24 or assets apply only to property, revenues, and assets
 25 generated by the Montana agricultural loan authority

1 program, not those owned or generated by any other program
2 or property over which the authority exercises general
3 authority, direction, and control.

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

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

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

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

18 (4) The authority is allocated to the department of
19 agriculture for administrative purposes only as provided in
20 2-15-121.

21 (5) In compliance with the state pay plan, the
22 department shall provide all staff and services to the
23 authority as are determined by the authority in conjunction
24 with the department to be necessary for the purposes of
25 carrying out the authority's programs. The department shall

1 assess the authority for reasonable costs.

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

7 Section 4. Agricultural loan authority -- general
8 powers. (1) The authority may:

- 9 (a) retain professional consultants and advisors;
10 (b) rely on its staff in its daily functions;
11 (c) adopt rules governing its procedures;
12 (d) issue bonds in accordance with [section 10]
13 necessary to provide funds for implementing [sections 2
14 through 29];

15 (e) accept applications from those wishing to secure
16 agricultural loans and second loans;

17 (f) invest any funds generated by sale of bonds in the
18 permissible investments outlined in 17-6-211 until such time
19 as the funds are needed for any of the authority's other
20 functions; and

21 (g) make loans from the agricultural loan authority
22 account to eligible Montana farmers for the purchase of
23 agricultural land.

24 Section 5. Loan agreements -- general provisions.

25 (1) A loan agreement shall include a payment schedule that

1 may not exceed 60 years.

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

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

6 Section 6. Second loan program. (1) The authority may,
7 upon application by a borrower under its loan program enter
8 into a second loan agreement with a borrower to provide
9 sufficient funds to the borrower to pay a part of the
10 interest or principal or both of the original loan
11 authorized under [section 4]. The second loan shall be
12 available, at the authority's discretion:

13 (a) to assist the borrower during a year resulting in
14 a crop failure or other similar economic diversity; and

15 (b) to help pay not to exceed 1/2 of the annual
16 interest due on the original loan. However, not more than 10
17 such annual loans for interest may be made to a borrower
18 during the duration of the original loan.

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

21 (3) The second loan becomes payable:

22 (a) in installments to commence not later than 20
23 years after the initial purchase of land; or

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

1 Section 7. Immediate repayment. If an applicant who
2 has secured a loan from the authority under the program
3 created in [sections 4 and 6] sells the land for which the
4 loan was made to any person, firm, or corporation other than
5 his spouse, children, or corporation wholly owned by them,
6 the loan shall be repaid in full.

7 Section 8. Qualifications of applicants. (1) To be
8 eligible for a loan, an applicant must:

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

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

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

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

20 Section 9. Evaluation of applicants. (1) The authority
21 shall by rule establish:

22 (a) rules for soliciting and evaluating applications
23 from qualified Montana citizens; and

24 (b) a point system for evaluating the applicants,
25 considering the following criteria:

1 (i) the applicant's net worth, which may not exceed
2 \$100,000;

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

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

6 (iv) the applicant's training and experience in
7 agriculture;

8 (v) the applicant's prospects for succeeding in an
9 agricultural operation on the land proposed for purchase;
10 and

11 (vi) any other factors it may prescribe.

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

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

20 Section 10. Issue of general obligation bonds --
21 credit of the state pledged. (1) When authorized by an
22 affirmative vote of two-thirds of the members of each house
23 of the legislature or of a majority of the electors voting
24 thereon, the authority may issue bonds of the state of
25 Montana in a principal amount it determines necessary to

1 provide sufficient funds for achieving any of the purposes
2 of the Montana agricultural loan authority program,
3 including the payment of interest on bonds, establishment of
4 reserves to secure the bonds, and all other expenditures of
5 the authority incident to the program.

6 (2) Each issue of its bonds is an obligation of the
7 authority payable in the first instance out of any revenues,
8 assets, or money generated by the Montana agricultural loan
9 authority program. The authority shall manage, to the best
10 of its ability, its lease agreements and sales so that the
11 bonds are repaid by the revenue generated by the program. In
12 addition, the full faith and credit and taxing powers of the
13 state are pledged for the payment of bonds issued by the
14 authority under the provisions of [sections 2 through 29].

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

23 (4) The resolution shall specify:

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

25 (b) the denomination of the bonds;

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

3 (d) the manner and place of execution;

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

5 (f) the terms of redemption.

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

8 Section 11. Provisions of bond resolutions or trust
9 indentures. A resolution or trust indenture authorizing any
10 bonds or any issue thereof may contain provisions, which
11 shall be a part of the contract or contracts with the
12 holders thereof, as to:

13 (1) pledging all or any part of the revenues or the
14 property of the authority to secure the payment of the bonds
15 or any issue thereof, subject to existing agreements with
16 bondholders;

17 (2) pledging all or any part of the assets of the
18 authority, including mortgages and obligations securing
19 them, to secure the payment of the bonds;

20 (3) pledging the full faith and credit and taxing
21 powers of the state of Montana to secure the payment of the
22 bonds;

23 (4) specifying the use and disposition of the gross
24 income from mortgages owned by the authority and payment of
25 principal of mortgages owned by the authority;

1 (5) the setting aside of reserves or sinking funds in
2 the hands of trustees, paying agents, or other depositories
3 and the regulation and disposition of the reserves;

4 (6) limiting the purpose to which the proceeds of the
5 sale of the bonds may be applied and the pledge of the
6 proceeds to secure the payment of the bonds or of any issue
7 thereof;

8 (7) limiting the issuance of additional bonds, the
9 terms upon which additional bonds may be issued and secured,
10 and the refunding of outstanding bonds;

11 (8) specifying the procedure, if any, by which the
12 terms of any contract with bondholders may be amended or
13 abrogated, the amount of bonds the holders of which must
14 consent thereto, and the manner in which such consent may be
15 given;

16 (9) limiting the amount of money to be expended by the
17 authority for its operating expenses;

18 (10) vesting in a trustee property, rights, powers, and
19 duties in trust as the authority determines;

20 (11) defining the acts or failures to act which will
21 constitute a default in the obligations and duties of the
22 authority to the holders of the bonds and providing for the
23 rights and remedies consistent with the laws of the state
24 and the provisions of [sections 2 through 29] of the holders
25 of the bonds in the event of such default, including as a

1 matter of right the appointment of a receiver; and

2 (12) specifying any other matters of like or different
3 character which in any way affect the security or protection
4 of the holders of the bonds.

5 Section 12. Validity of pledge. A pledge made by the
6 authority is valid and binding from the time the pledge is
7 made. The revenues or property pledged and thereafter
8 received by the authority are immediately subject to the
9 lien of the pledge without any physical delivery thereof or
10 further act, and the lien of any pledge is valid and binding
11 against all parties having claims of any kind in tort,
12 contract, or otherwise against the authority, irrespective
13 of whether such parties have notice thereof. Neither the
14 resolution, trust indenture, nor any other instrument by
15 which a pledge is created need be recorded.

16 Section 13. Personal liability. The authority members
17 and employees of the department are not personally liable
18 for any debt incurred by the authority.

19 Section 14. Purchase of bonds -- cancellation. The
20 authority, subject to existing agreements with bondholders,
21 may out of any funds available for that purpose purchase
22 bonds of the authority, which shall thereupon be cancelled,
23 at a price not exceeding:

24 (1) the current redemption price plus accrued interest
25 to the next interest payment thereon if the bonds are then

1 redeemable; or

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

6 Section 15. Trust indenture. In the discretion of the
7 authority, the bonds may be secured by a trust indenture
8 between the authority and a corporate trustee, which may be
9 a trust company or bank having the power of a trust company
10 within or without the state.

11 Section 16. Negotiability of bonds. Bonds issued by
12 the authority are negotiable instruments under the Uniform
13 Commercial Code, subject only to the provisions for
14 registration of bonds.

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

20 Section 18. Accounts of the authority. There is an
21 agricultural loan authority account in the bonds proceeds
22 and insurance clearance fund provided for in 17-2-102. All
23 funds from the proceeds of bonds issued under [sections 2
24 through 29], fees and other money received by the authority,
25 money appropriated by the legislature for the use of the

1 authority in carrying out [sections 2 through 29], and money
 2 made available from any other source for the use of the
 3 authority must be deposited in the agricultural loan
 4 authority account except as otherwise provided by law. All
 5 funds deposited in the agricultural loan authority account
 6 are continuously appropriated to and may be expended by the
 7 authority for the purposes authorized in [sections 2 through
 8 29].

9 Section 19. Reserve funds and appropriations. (1) The
 10 authority shall pay into one or more capital reserve
 11 accounts:

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

14 (b) any proceeds of sale of bonds to the extent
 15 provided in the resolutions of the authority authorizing
 16 their issuance or in any trust indenture securing their
 17 repayment; and

18 (c) any other money which may be available to the
 19 authority for the purpose of such a fund from any other
 20 source.

21 (2) All amounts held in a capital reserve account must
 22 be used solely for the payment of principal, interest, and a
 23 redemption premium with respect to bonds secured in whole or
 24 in part by the account. Funds in an account may not be
 25 withdrawn at any time in an amount which reduces the amount

1 of the account to less than the minimum capital reserve
 2 requirement established for the account except for the
 3 purpose of making, with respect to bonds secured in whole or
 4 in part by the account, payment, when due, of principal,
 5 interest, or redemption premiums for the payment of which
 6 other money pledged is not available.

7 Section 20. Refunding obligations -- sale. Refunding
 8 obligations issued as provided in 90-6-121 may be sold or
 9 exchanged for outstanding obligations issued under [sections
 10 2 through 29]. The proceeds may be applied to the purchase,
 11 redemption, or payment of outstanding obligations. Pending
 12 the application of the proceeds to the payment of
 13 outstanding obligations, the proceeds may be invested as
 14 provided in Title 17, chapter 6, if permitted in the
 15 resolution authorizing the issuance of the refunding
 16 obligations or in the trust agreement securing them.

17 Section 21. Refunding obligations -- issuance. The
 18 authority may provide for the issuance of refunding
 19 obligations for refunding any obligations then outstanding
 20 which have been issued under [sections 2 through 29],
 21 including the payment of any redemption premium and any
 22 interest accrued or to accrue to the date of redemption of
 23 the obligations. The issuance of obligations, the maturities
 24 and other details, the rights of the holders, and the
 25 rights, duties, and obligations of the authority are

1 governed by the appropriate provisions of [sections 2
2 through 29] which relate to the issuance of obligations.

3 Section 22. Tax exemption of bonds. Bonds issued by
4 the authority under [sections 2 through 29] and their
5 transfer and income, including any profits made on their
6 sale, are exempt from taxation by the state or any political
7 subdivision or other instrumentality of the state, except
8 for inheritance, estate, and gift taxes. The authority is
9 not required to pay recording or transfer fees or taxes on
10 instruments recorded by it.

11 Section 23. Income tax deduction for land sale to
12 beginning farmers. A landowner who sells land consisting of
13 twenty acres or more to a beginning farmer who qualifies
14 under [section 8] is entitled to a reduction in his taxable
15 income in an amount equal to 100% of any income or capital
16 gain, or both, realized and otherwise subject to state
17 income taxes from the sale, up to a maximum of \$50,000.

18 Section 24. Pledge against impairment of contracts. In
19 accordance with the constitutions of the United States and
20 the state of Montana, the state pledges that it will in no
21 way impair the obligations of any agreement between the
22 authority and the holders of notes and bonds issued by the
23 authority.

24 Section 25. Annual audit. (1) The authority's books
25 and records must be audited by an independent certified

1 public accountant at least once each fiscal year.

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

4 Section 26. Report. The department shall transmit to
5 the governor and to each member of the legislature 30 days
6 before the meeting of the legislature a report:

7 (1) detailing the operations of the agricultural loan
8 authority program since the adjournment of the last
9 legislature; and

10 (2) containing a financial statement showing the
11 program's assets and liabilities.

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

17 Section 28. Legislative review required. The
18 agricultural loan authority program shall be reviewed by the
19 legislature at the third legislative session following the
20 first sale of bonds under the provision of [section 10] to
21 determine whether the program should continue. However, any
22 existing commitments incurred by the authority are not
23 affected by this review.

24 Section 29. Severability. If a portion of this act is
25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 134-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for SENATE BILL 163 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to help beginning farmers get started in agriculture; to create the Montana Agricultural Loan Authority for the purpose of helping beginning farmers acquire land; providing an income tax deduction for certain land sales to beginning farmers; and providing for legislative review of the act.

ASSUMPTIONS (As Prepared by the Department of Revenue)

1. There will be 115 beginning farmers meeting the qualifications of Section 8; and all of these persons will purchase agricultural land in parcels of no less than 20 acres, and the net gain resulting from the sale of each parcel will not be less than \$50,000.
2. The average taxable income of each of the land sellers of assumption #1, without the proposed income tax deduction, is \$5,000.
3. The effective tax rate for Montana Taxable Income is 5.65%.

FISCAL IMPACT

	FY 82	FY 83
Individual Income Tax Receipts		
Under current law	\$161.556 M	\$167.993 M
Under proposed law	<u>161.523 M</u>	<u>167.960 M</u>
Estimated Decrease	(\$ 0.033 M)	(\$ 0.033 M)
FUND INFORMATION		
General Fund		
Under current law	\$103.396 M	\$107.516 M
Under proposed law	<u>103.375 M</u>	<u>107.494 M</u>
Estimated Decrease	(\$ 0.021 M)	(\$ 0.022 M)
Earmarked Revenue Fund		
Under current law	\$ 40.389 M	\$ 41.998 M
Under proposed law	<u>40.381 M</u>	<u>41.990 M</u>
Estimated Decrease	(\$ 0.008 M)	(\$ 0.008 M)
Sinking Fund *		
Under current law	\$ 17.771 M	\$ 18.479 M
Under proposed law	<u>17.768 M</u>	<u>18.476 M</u>
Estimated Decrease	(\$ 0.003 M)	(\$ 0.003 M)

*A portion of the income may be transferred to the general fund as long-range bond excess.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 134-81

FISCAL NOTE

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ASSUMPTIONS (As prepared by the Department of Agriculture)

1. All expenditures are from earmarked fund sources from interest on bonds.
2. The mechanics of bond issue; sale, operations, loans made and serviced, would have to be contracted out.
3. Agriculture loan authority members consist of 8 persons; would hold a minimum of four meetings annually, average travel distance of 800 miles each meeting for each member.
4. Agriculture loan authority members hold meetings in Helena.
5. One FTE salary, benefits, operational costs, and equipment be required to assist in administration of act as directed by authority.
6. The program would require a loan from general fund FY 1982 until interest is available from the bonds; then the program would be self-supporting.

<u>FISCAL IMPACT</u>	<u>FY 1982</u>	<u>FY 1983</u>
Expenditures under proposed act		
Personal Services	\$17,385	\$17,385
Operations	17,315	27,615
Equipment	<u>2,800</u>	<u>0</u>
Total	\$37,500	\$45,000

COMMENTS

No general fund will be consumed by the operation of this program except as prepaid operational expenses which will be reimbursed from the first issue bond interest.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-81

1 STATEMENT OF INTENT

2 SENATE BILL 163

3 Senate Taxation Committee

4
5 Section 1. This statement of intent is required by the
6 rulemaking authority granted to the Montana Agricultural
7 Loan Authority in section 4(c) and section 9(a).

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

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

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

Approved by Committee
on Taxation

1 SENATE BILL NO. 163

2 INTRODUCED BY TOWE, SEVERSON, BOYLAN, SIVERTSEN,

3 FABREGA, M. ANDERSON, SMITH, HAGER, DOVER,

4 GRAHAM, CONOVER, R. ANDERSON

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP BEGINNING
7 FARMERS GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA
8 AGRICULTURAL LOAN AUTHORITY FOR THE PURPOSES OF HELPING
9 BEGINNING FARMERS ACQUIRE LAND; PROVIDING AN INCOME TAX
10 DEDUCTION FOR CERTAIN LAND SALES TO BEGINNING FARMERS; AND
11 PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT."
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13 WHEREAS, obtaining sufficient financing to begin a farm
14 or ranch operation in Montana is increasingly difficult; and

15 WHEREAS, beginning farmers experience great difficulty
16 in repaying loans under high interest rates and low market
17 prices for agricultural products; and

18 WHEREAS, the agricultural loan programs administered by
19 the Montana department of agriculture are inadequate to the
20 real needs of the state; and

21 WHEREAS, the federal farm home administration's farm
22 ownership loan program is also inadequate to the real needs
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24 WHEREAS, low interest rate financing for beginning
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1 WHEREAS, the value of family farms to the economic,
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3 legislative action and support.

4 THEREFORE, it is the purpose of this bill to assist
5 beginning farmers with financial support and encouragement
6 by making low interest rate loans available to eligible
7 farmers, by establishing a low interest rate second loan
8 program to insure that beginning farmers can establish their
9 agricultural operations on solid foundations, and by
10 providing incentives to retiring farmers who sell their land
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17 through 29], the following definitions apply:

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22 (c) "Bonds" means bonds or bond anticipation notes
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3 program, not those owned or generated by any other program
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11 be appointed as follows:

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- 13 (b) one fruit or vegetable farmer;
- 14 (c) two livestock farmers;
- 15 (d) two grain farmers;
- 16 (e) one officer from a farm credit association; and

17 (f) ~~one member of the legislature~~ ONE MEMBER WHO IS
18 NOT ENGAGED IN FARMING OR AFFILIATED WITH A COMMERCIAL
19 LENDING INSTITUTION OR FARM CREDIT ASSOCIATION.

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

22 (4) The authority is allocated to the department of
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1 department shall provide all staff and services to the
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3 with the department to be necessary for the purposes of
4 carrying out the authority's programs. The department shall
5 assess the authority for reasonable costs.

6 (6) A member of the authority may not be considered to
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8 merely because the member is a stockholder, officer, or
9 employee of a lending institution who may participate in the
10 authority's programs.

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- 13 (a) retain professional consultants and advisors;
- 14 (b) rely on its staff in its daily functions;
- 15 (c) adopt rules governing its procedures;
- 16 (d) issue bonds in accordance with [section 10]
- 17 necessary to provide funds for implementing [sections 2
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19 (e) accept applications from those wishing to secure
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22 permissible investments outlined in 17-6-211 until such time
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24 functions; and

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1 account to eligible Montana farmers for the purchase of
2 agricultural land; AND

3 {H} UTILIZE THE ASSISTANCE AND SERVICES OF THE
4 FARMERS' HOME ADMINISTRATION, THE PRODUCTION CREDIT
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9 which it was loaned.

10 Section 7. Immediate repayment. If an applicant who
11 has secured a loan from the authority under the program
12 created in [sections 4 and 6] sells the land for which the
13 loan was made to any person, firm, or corporation other than
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18 sources AT AN INTEREST RATE THAT WILL ALLOW A REASONABLE
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9 ~~administration~~ SUCH ORGANIZATIONS including assistance in
10 screening applicants and servicing the loan.

11 Section 10. Issue of ~~general--obligation~~ bonds --
12 credit of the state NOT pledged. (1) ~~When authorized--by--an~~
13 ~~affirmative--vote-of-two-thirds-of-the-members-of-each-house~~
14 ~~of-the-legislature-or-of-a-majority-of-the--electors--voting~~
15 ~~thereon--the~~ THE authority may issue bonds of the state of
16 Montana in a principal amount it determines necessary to
17 provide sufficient funds for achieving any of the purposes
18 of the Montana agricultural loan authority program,
19 including the payment of interest on bonds, establishment of
20 reserves to secure the bonds, and all other expenditures of
21 the authority incident to the program.

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

1 of its ability, its ~~lease-agreements-and-notes~~ LOANS so that
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 3 program. ~~In-addition, the~~ IHE full faith and credit and
 4 taxing powers of the state are NOT pledged for the payment
 5 of bonds issued by the authority under the provisions of
 6 [sections 2 through 29].

7 (3) The bonds must be authorized by resolution of the
 8 authority and bear a date and mature at times as the
 9 authority determines. A bond may not mature more than 60
 10 years from the date of its issue. The bonds may be issued as
 11 serial bonds payable in annual installments or as term bonds
 12 or as a combination thereof. The bonds of the authority may
 13 be sold at public or private sale, at prices determined by
 14 the authority.

15 (4) The resolution shall specify:

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

17 (b) the denomination of the bonds;

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

20 (d) the manner and place of execution;

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

22 (f) the terms of redemption.

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

25 Section 11. Provisions of bond resolutions or trust

1 indentures. A resolution or trust indenture authorizing any
 2 bonds or any issue thereof may contain provisions, which
 3 shall be a part of the contract or contracts with the
 4 holders thereof, as to:

5 (1) pledging all or any part of the revenues or the
 6 property of the authority to secure the payment of the bonds
 7 or any issue thereof, subject to existing agreements with
 8 bondholders;

9 (2) pledging all or any part of the assets of the
 10 authority, including mortgages and obligations securing
 11 them, to secure the payment of the bonds;

12 ~~(3) pledging the full faith and credit and taxing~~
 13 ~~powers of the state of Montana to secure the payment of the~~
 14 ~~bonds;~~

15 ~~(4)~~ (3) specifying the use and disposition of the gross
 16 income from mortgages owned by the authority and payment of
 17 principal of mortgages owned by the authority;

18 ~~(5)~~ (4) the setting aside of reserves or sinking funds
 19 in the hands of trustees, paying agents, or other
 20 depositories and the regulation and disposition of the
 21 reserves;

22 ~~(6)~~ (5) limiting the purpose to which the proceeds of
 23 the sale of the bonds may be applied and the pledge of the
 24 proceeds to secure the payment of the bonds or of any issue
 25 thereof;

1 ~~(7)~~(6) limiting the issuance of additional bonds, the
2 terms upon which additional bonds may be issued and secured,
3 and the refunding of outstanding bonds;

4 ~~(8)~~(7) specifying the procedure, if any, by which the
5 terms of any contract with bondholders may be amended or
6 abrogated, the amount of bonds the holders of which must
7 consent thereto, and the manner in which such consent may be
8 given;

9 ~~(9)~~(8) limiting the amount of money to be expended by
10 the authority for its operating expenses;

11 ~~(10)~~(9) vesting in a trustee property, rights, powers,
12 and duties in trust as the authority determines;

13 ~~(11)~~(10) defining the acts or failures to act which
14 will constitute a default in the obligations and duties of
15 the authority to the holders of the bonds and providing for
16 the rights and remedies consistent with the laws of the
17 state and the provisions of [sections 2 through 29] of the
18 holders of the bonds in the event of such default, including
19 as a matter of right the appointment of a receiver; and

20 ~~(12)~~(11) specifying any other matters of like or
21 different character which in any way affect the security or
22 protection of the holders of the bonds.

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

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

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

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

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

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

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

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

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

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

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

1 29].

2 Section 19. Reserve funds and appropriations. (1) The
3 authority shall pay into one or more capital reserve
4 accounts:

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

7 (b) any proceeds of sale of bonds to the extent
8 provided in the resolutions of the authority authorizing
9 their issuance or in any trust indenture securing their
10 repayment; and

11 (c) any other money which may be available to the
12 authority for the purpose of such a fund from any other
13 source.

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

25 Section 20. Refunding obligations -- sale. Refunding

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

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

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

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

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

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

20 Section 25. Annual audit. (1) The authority's books
 21 and records must be audited by ~~an independent certified~~
 22 ~~public accountant at least once each fiscal year.~~

23 ~~(2) The legislative auditor may conduct an audit at~~
 24 ~~the request of the legislative audit committee.~~ AT LEAST
 25 ONCE EACH YEAR BY THE LEGISLATIVE AUDITOR OR BY A CONTRACT

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

3 Section 26. Report. The department shall transmit to
 4 the governor and to each member of the legislature 30 days
 5 before the meeting of the legislature a report:

6 (1) detailing the operations of the agricultural loan
 7 authority program since the adjournment of the last
 8 legislature; and

9 (2) containing a financial statement showing the
 10 program's assets and liabilities.

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

16 Section 28. Legislative review required. The
 17 agricultural loan authority program shall be reviewed by the
 18 legislature at the third legislative session following the
 19 first sale of bonds under the provision of [section 10] to
 20 determine whether the program should continue. However, any
 21 existing commitments incurred by the authority are not
 22 affected by this review.

23 Section 29. Severability. If a portion of this act is
 24 invalid, all valid parts that are severable from the invalid
 25 part remain in effect. If a part of this act is invalid in

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

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 163

3 Senate Taxation Committee
4

5 Section 1. This statement of intent is required by the
6 rulemaking authority granted to the Montana Agricultural
7 Loan Authority in section 4(c) and section 9(a).

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

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

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

SENATE BILL NO. 163

INTRODUCED BY TOWE, SEVERSON, BOYLAN, SIVERTSEN,

FABREJA, M. ANDERSON, SMITH, HAGER, DOVER,

GRAHAM, CONOVER, R. ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP BEGINNING FARMERS GET STARTED IN AGRICULTURE; TO CREATE THE MONTANA AGRICULTURAL LOAN AUTHORITY FOR THE PURPOSES OF HELPING BEGINNING FARMERS ACQUIRE LAND; PROVIDING AN INCOME TAX DEDUCTION FOR CERTAIN LAND SALES TO BEGINNING FARMERS; AND PROVIDING FOR LEGISLATIVE REVIEW OF THE ACT."

WHEREAS, obtaining sufficient financing to begin a farm or ranch operation in Montana is increasingly difficult; and

WHEREAS, beginning farmers experience great difficulty in repaying loans under high interest rates and low market prices for agricultural products; and

WHEREAS, the agricultural loan programs administered by the Montana department of agriculture are inadequate to the real needs of the state; and

WHEREAS, the federal farm home administration's farm ownership loan program is also inadequate to the real needs of the state; and

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

WHEREAS, the value of family farms to the economic, social, and political well-being of the state is worthy of legislative action and support.

THEREFORE, it is the purpose of this bill to assist beginning farmers with financial support and encouragement by making low interest rate loans available to eligible farmers, by establishing a low interest rate second loan program to insure that beginning farmers can establish their agricultural operations on solid foundations, and by providing incentives to retiring farmers who sell their land to eligible beginning farmers.

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

Section 1. Short title. [Sections 2 through 29] may be cited as the "Montana Agricultural Loan Authority Act".

Section 2. Definitions. (1) As used in [sections 2 through 29], the following definitions apply:

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

(b) "Authority" means the agricultural loan authority provided for in [section 3].

(c) "Bonds" means bonds or bond anticipation notes issued by the authority under the provisions of [sections 2 through 29].

(2) References to the authority's property, revenues,

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

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

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

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

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

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

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

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

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

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

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

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 20 agricultural loans and second loans;

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

25 (g) make loans from the agricultural loan authority

1 account to eligible Montana farmers for the purchase of
2 agricultural land; AND

3 (H) UTILIZE THE ASSISTANCE AND SERVICES OF THE
4 FARMERS' HOME ADMINISTRATION, THE PRODUCTION CREDIT
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21 available, at the authority's discretion:

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23 a crop failure or other similar economic diversity; and

24 (b) to help pay not to exceed 1/2 of the annual
25 interest due on the original loan. However, not more than 10

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

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4 at the authority's bond rate plus administrative expenses.

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9 which it was loaned.

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11 has secured a loan from the authority under the program
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13 loan was made to any person, firm, or corporation other than
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15 the loan shall be repaid in full.

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19 ~~(b)(A) declare his intention to maintain his residence~~
20 ~~in Montana during the length of the loan; and~~

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22 ~~SUCH AS BUT NOT LIMITED TO a local committee of the farmers~~
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1 PRIVATE LENDERS, OR OTHER SIMILAR ORGANIZATIONS.

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17 financing for purchase of agricultural land from other
18 sources AT AN INTEREST RATE THAT WILL ALLOW A REASONABLE
19 PROSPECT FOR REPAYMENT;

20 (iv) the applicant's training and experience in
21 agriculture;

22 (v) the applicant's prospects for succeeding in an
23 agricultural operation on the land proposed for purchase;
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3 loans.

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17 provide sufficient funds for achieving any of the purposes
18 of the Montana agricultural loan authority program,
19 including the payment of interest on bonds, establishment of
20 reserves to secure the bonds, and all other expenditures of
21 the authority incident to the program.

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

1 of its ability, its ~~lease-agreements-and-sales~~ LOANS so that
 2 the bonds are repaid by the revenue generated by the
 3 program. ~~In-addition, the~~ THE full faith and credit and
 4 taxing powers of the state are NOT pledged for the payment
 5 of bonds issued by the authority under the provisions of
 6 [sections 2 through 29].

7 (3) The bonds must be authorized by resolution of the
 8 authority and bear a date and mature at times as the
 9 authority determines. A bond may not mature more than 60
 10 years from the date of its issue. The bonds may be issued as
 11 serial bonds payable in annual installments or as term bonds
 12 or as a combination thereof. The bonds of the authority may
 13 be sold at public or private sale, at prices determined by
 14 the authority.

15 (4) The resolution shall specify:

- 16 (a) the rate of interest of the bonds;
 17 (b) the denomination of the bonds;
 18 (c) whether the bonds shall be in coupon or registered
 19 form and registration privileges, if any;
 20 (d) the manner and place of execution;
 21 (e) the manner and place and medium of payment; and
 22 (f) the terms of redemption.

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

25 Section 11. Provisions of bond resolutions or trust

1 indentures. A resolution or trust indenture authorizing any
 2 bonds or any issue thereof may contain provisions, which
 3 shall be a part of the contract or contracts with the
 4 holders thereof, as to:

5 (1) pledging all or any part of the revenues or the
 6 property of the authority to secure the payment of the bonds
 7 or any issue thereof, subject to existing agreements with
 8 bondholders;

9 (2) pledging all or any part of the assets of the
 10 authority, including mortgages and obligations securing
 11 them, to secure the payment of the bonds;

12 ~~(3) pledging the full faith and credit and taxing~~
 13 ~~powers of the state of Montana to secure the payment of the~~
 14 ~~bonds;~~

15 ~~(4) (3)~~ specifying the use and disposition of the gross
 16 income from mortgages owned by the authority and payment of
 17 principal of mortgages owned by the authority;

18 ~~(5) (4)~~ the setting aside of reserves or sinking funds
 19 in the hands of trustees, paying agents, or other
 20 depositories and the regulation and disposition of the
 21 reserves;

22 ~~(6) (5)~~ limiting the purpose to which the proceeds of
 23 the sale of the bonds may be applied and the pledge of the
 24 proceeds to secure the payment of the bonds or of any issue
 25 thereof;

1 ~~(7)~~(6) limiting the issuance of additional bonds, the
2 terms upon which additional bonds may be issued and secured,
3 and the refunding of outstanding bonds;

4 ~~(8)~~(7) specifying the procedure, if any, by which the
5 terms of any contract with bondholders may be amended or
6 abrogated, the amount of bonds the holders of which must
7 consent thereto, and the manner in which such consent may be
8 given;

9 ~~(9)~~(8) limiting the amount of money to be expended by
10 the authority for its operating expenses;

11 ~~(10)~~(9) vesting in a trustee property, rights, powers,
12 and duties in trust as the authority determines;

13 ~~(11)~~(10) defining the acts or failures to act which
14 will constitute a default in the obligations and duties of
15 the authority to the holders of the bonds and providing for
16 the rights and remedies consistent with the laws of the
17 state and the provisions of [sections 2 through 29] of the
18 holders of the bonds in the event of such default, including
19 as a matter of right the appointment of a receiver; and

20 ~~(12)~~(11) specifying any other matters of like or
21 different character which in any way affect the security or
22 protection of the holders of the bonds.

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

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

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

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

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

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

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

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

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

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

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

1 29].

2 Section 19. Reserve funds and appropriations. (1) The
3 authority shall pay into one or more capital reserve
4 accounts:

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

7 (b) any proceeds of sale of bonds to the extent
8 provided in the resolutions of the authority authorizing
9 their issuance or in any trust indenture securing their
10 repayment; and

11 (c) any other money which may be available to the
12 authority for the purpose of such a fund from any other
13 source.

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

25 Section 20. Refunding obligations -- sale. Refunding

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

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

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

20 Section 25. Annual audit. (1) The authority's books
 21 and records must be audited by ~~an independent certified~~
 22 ~~public accountant at least once each fiscal year.~~

23 ~~(2) The legislative auditor may conduct an audit at~~
 24 ~~the request of the legislative audit committee.~~ AT LEAST
 25 ONCE EACH YEAR BY THE LEGISLATIVE AUDITOR OR BY A CONTRACT

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

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

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

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

3 Section 26. Report. The department shall transmit to
4 the governor and to each member of the legislature 30 days
5 before the meeting of the legislature a report:

6 (1) detailing the operations of the agricultural loan
7 authority program since the adjournment of the last
8 legislature; and

9 (2) containing a financial statement showing the
10 program's assets and liabilities.

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

16 Section 28. Legislative review required. The
17 agricultural loan authority program shall be reviewed by the
18 legislature at the third legislative session following the
19 first sale of bonds under the provision of [section 10] to
20 determine whether the program should continue. However, any
21 existing commitments incurred by the authority are not
22 affected by this review.

23 Section 29. Severability. If a portion of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

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

-End-

April 9, 1981

HOUSE COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

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

Following: "and section"

Strike: "9"

Insert: "10"

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

Following: "section"

Strike: "9"

Insert: "10"

3. Title, line 10.

Following: "FARMERS;"

Strike: "AND"

4. Title, line 11.

Following: "ACT"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

5. Page 2, line 14.
Following: "through"
Strike: "29"
Insert: "33"

6. Page 2, line 17.
Following: "through"
Strike: "29"
Insert: "33"

7. Page 2, line 24.
Following: "through"
Strike: "29"
Insert: "33"

8. Page 4, line 16.
Following: "section"
Strike: "10"
Insert: "11"

9. Page 4, line 18.
Following: "through"
Strike: "29"
Insert: "6 and 8 through 33"

10. Page 5.
Following: line 7
Insert: "Section 5. Financing programs of the authority. The authority may:

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

(2) invest in, purchase or make commitments to purchase, and take assignments from lending institutions of notes, mortgages, and other securities for the acquisition, construction, rehabilitation, or purchase of agricultural land and improvements in this state, under terms and conditions adopted by the authority;

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

Renumber: subsequent sections

11. Page 5, line 23.
Following: "economic"
Strike: "diversity"
Insert: "adversity"

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

12. Page 6, line 12.

Following: "and"

Strike: "6"

Insert: "7"

13. Page 7.

Following: line 13

Strike: "\$100,000"

Insert: "\$200,000"

14. Page 9, line 6.

Following: "through"

Strike: "29"

Insert: "33"

15. Page 11, line 17.

Following: "through"

Strike: "29"

Insert: "33"

16. Page 13, line 17.

Following: "through"

Strike: "29"

Insert: "33"

17. Page 13, line 19.

Following: "through"

Strike: "29"

Insert: "33"

18. Page 14, line 1.

Following: page 13, line 25

Strike: "29"

Insert: "33"

19. Page 15, line 3.

Following: "through"

Strike: "29"

Insert: "33"

20. Page 15, line 13.

Following: "through"

Strike: "29"

Insert: "33"

21. Page 15, line 20.

Following: "through"

Strike: "29"

Insert: "33"

22. Page 15, line 22.

Following: "through"

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

Strike: "29"

Insert: "33"

23. Page 17, line 3.

Following: line 2

Insert: "Section 27. Beginning farmer guaranty fund. (1) The authority shall create a beginning farmer guaranty fund. The fund shall be held by a trustee or other fiduciary designated by the authority. There shall be deposited into the fund the proceeds of the sale of bonds authorized by [section 30] and such other revenues and assets as the authority shall consider necessary to comply with any contract or agreement entered into by the authority under the provisions of [sections 2 through 33].

(2) The money in the fund shall be used to satisfy any claim resulting from a defaulted loan. The money in the fund may also be used for any other purpose determined by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to the provisions of [sections 2 through 33], including without limitation, the protection of the interest of the authority in the acquisition of a farm or ranch during periods of loan delinquency or upon loan defaults.

Section 28. Loan guaranty program. (1) The authority may guarantee and make commitments to guarantee payment required by a loan for any acquisition of a farm or ranch upon such terms and conditions as the authority may prescribe in accordance with the provisions of [sections 2 through 33]. In administering the guaranty program, the authority may require the payment of a fee or premium, establish application fees, and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(2) A loan guaranteed by the authority under the provisions of [sections 2 through 33] shall:

- (a) be made for the acquisition of a farm or ranch;
- (b) be financed initially from the proceeds of notes or bonds issued pursuant to [section 30];
- (c) be made to a borrower approved by the authority or lending institution as responsible;
- (d) contain complete amortization provisions satisfactory to the authority; and
- (e) be in such principal amount, be in such form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, and default remedies.

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

.....
Man

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

default obligations, procedures and obligations, and obligations with respect to guaranty contracts made under the provisions of [sections 2 through 33].

(4) Any contract of guaranty made by the authority under the authorization of the provisions of [sections 2 through 33] shall provide that claims payable thereunder shall be paid from any amounts available in the economic development guaranty fund and from any amounts available under the terms of any applicable contract or agreement with the financial institution which originated the guarantee loan. The obligation of the authority to make payments under any such contract shall be limited solely to such sources, and shall not constitute a debt or liability of the authority or the state. Any guaranty contract and any rule, regulation, or guideline of the authority implementing the guaranty program may contain such other terms, provisions or conditions as the authority considers necessary or appropriate, including without limitation those relating to the payment of guaranty premiums, the giving of notice, claim procedure, the sources of payment for claims, the priority of competing claims for payment, the release or termination of loan security and borrower liability, the timing of payment, the maintenance and disposition of projects and the use of amounts received during periods of loan delinquency or upon default, and any other provision concerning the rights of insured parties or conditions to the payment of guaranty claims. Any premiums for the guaranty of loan payments under the provisions of [sections 2 through 33] may be determined on such basis, be payable by such person, and be payable in such amounts and at such times as the authority shall determine, and the amount of the premium need not be uniform among the various loans guaranteed.

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

Section 29. Authority to request additional funds. (1) In order to assure the maintenance of the beginning farmer guaranty fund, the chairman of the authority shall on or before September 1 in the year preceding the convening of a regular legislative session deliver to the governor a certificate stating the sum, if any, required to restore the beginning farmer guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the beginning farmer guaranty fund to the minimum capital reserve requirement. The legislature may appropriate all or any portion of the sum so required from the income from the coal tax constitutional trust fund.

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

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 163:

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

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

Renumber: subsequent sections

24. Page 17, line 12.

Following: "through"

Strike: "29"

Insert: "33"

25. Page 17, line 19.

Following: "section"

Strike: "10"

Insert: "11"

26. Page 18.

Following: line 3

Insert: "Section 35. Applicability date. The provisions of section 24 apply to taxable years beginning after December 31, 1980."

AND AS AMENDED
BE CONCURRED IN