

SENATE BILL NO. 316

INTRODUCED BY TOWE, CONOVER, LANE, BOYLAN, BERG,  
STIMATZ, OCHSNER, SEVERSON, ECK, JACOBSEN, MOHAR,  
FULLER, SAUNDERS, CHRISTIAENS, KOEHNKE,  
R. MANNING, HALLIGAN, GRAHAM

IN THE SENATE

January 28, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 31, 1983	Fiscal Note requested.
February 5, 1983	Fiscal Note returned.
February 18, 1983	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 46; Noes, 4. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Select Committee on Economic Development.
March 25, 1983	Committee recommend bill be concurring in as amended. Report adopted.  Statement of Intent rejected.  New Statement of Intent attached.

March 28, 1983

Second reading, concurred in.

Third reading, concurred in.

IN THE SENATE

March 29, 1983

Returned to Senate with  
amendments and new Statement  
of Intent.

April 6, 1983

Second reading, amendments  
and Statement of Intent  
concurred in.

April 7, 1983

Third reading, amendments and  
Statement of Intent concurred  
in. Ayes, 48; Noes, 1.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *316*  
 2 INTRODUCED BY *Sen. CONNOR LANE Bryan Berg*  
 3 *Sen. SAMPSON HANSEN SANDERSON KOCHAK*  
 4 *Sen. ECH MOER FULLER CHRISTENSEN HANSEN HANSEN*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP FARMERS AND  
 6 RANCHERS OBTAIN CREDIT AT LOWER INTEREST RATES FOR  
 7 AGRICULTURAL PURPOSES; TO CREATE THE MONTANA AGRICULTURAL  
 8 LOAN AUTHORITY; TO PROVIDE AN INCOME TAX DEDUCTION FOR  
 9 CERTAIN LAND SALES TO BEGINNING FARMERS; AND TO PROVIDE FOR  
 10 LEGISLATIVE REVIEW."

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 with low  
 15 market prices for agricultural products; and

16 WHEREAS, the agricultural loan programs administered by  
 17 the Montana Department of Agriculture are inadequate to meet  
 18 the real needs of the state; and

19 WHEREAS, the federal Farmers 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 act to assist  
 3 beginning farmers with financial support and encouragement  
 4 by making low interest rate loans available to eligible  
 5 farmers and by providing incentives to retiring farmers who  
 6 sell their land to eligible beginning farmers.

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

9 Section 1. Agricultural loan authority -- allocation  
 10 -- composition -- quasi-judicial status. (1) There is an  
 11 agricultural loan authority.

12 (2) The authority consists of eight members, appointed  
 13 by the governor as provided in 2-15-124. The members shall  
 14 be appointed as follows:

- 15 (a) one officer from a commercial lending institution;
- 16 (b) one fruit farmer or vegetable farmer;
- 17 (c) two livestock farmers;
- 18 (d) two grain farmers;
- 19 (e) one officer from a farm credit association; and
- 20 (f) one public member who is not engaged in farming or
- 21 affiliated with a commercial lending institution or farm
- 22 credit association.

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

25 (4) The authority is allocated to the department of

1 agriculture for administrative purposes only as provided in  
2 2-15-121.

3 (5) In compliance with the state pay plan, the  
4 department shall provide all staff and services to the  
5 authority which the authority in conjunction with the  
6 department determines to be necessary for the purposes of  
7 administering the authority's programs. The department  
8 shall assess the authority for reasonable costs.

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

14 Section 2. Short title. [Sections 2 through 28] may be  
15 cited as the "Montana Agricultural Loan Authority Act".

16 Section 3. Definitions. (1) As used in [sections 2  
17 through 28], the following definitions apply:

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

20 (b) "Authority" means the agricultural loan authority  
21 provided for in [section 1].

22 (c) "Bonds" means bonds or bond anticipation notes  
23 issued by the authority under the provisions of [sections 2  
24 through 28].

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

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

6 Section 4. Agricultural loan authority -- general  
7 powers. The authority may:

8 (1) retain professional consultants and advisers;

9 (2) adopt rules governing its procedures;

10 (3) purchase agricultural loans made by financial  
11 institutions;

12 (4) issue bonds, in accordance with [section 10],  
13 necessary to provide funds for implementing [sections 2  
14 through 28];

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

19 (6) use the assistance and services of the farmers  
20 home administration, the production credit association, the  
21 federal land bank, or private lenders in approving loans for  
22 issuance of bonds.

23 Section 5. Loan agreements -- general provisions.

24 (1) Each loan approved by the authority for issuance of a  
25 bond must include a loan agreement providing a payment

1 schedule that may not exceed 60 years.

2 (2) The agreement must specify a reasonable rate of  
3 interest, which rate may be a variable rate provided the  
4 method of determination is contained in the loan agreement.

5 (3) Loans approved by the authority for issuance of a  
6 bond may be secured by any liens or collateral the financial  
7 institution considers necessary.

8 (4) The money received under a loan agreement may be  
9 used for:

10 (a) acquisition of farm or ranch land;

11 (b) a down payment on the acquisition of farm or ranch  
12 land; or

13 (c) acquisition or construction of depreciable  
14 property used in the operation of a farm or ranch.

15 Section 6. Immediate repayment. If an applicant who  
16 has obtained the approval of the authority for the issuance  
17 of a bond to fund his loan for the acquisition of farm or  
18 ranch land sells the land for which the loan was made to any  
19 person, firm, or corporation other than his spouse,  
20 children, or corporation wholly owned by them, the loan must  
21 be repaid in full.

22 Section 7. Qualifications of applicants. (1) To be  
23 eligible for a loan approved by the authority for issuance  
24 of a bond, an applicant must:

25 (a) declare his intention to maintain his residence in

1 Montana during the length of the loan; and

2 (b) have been approved by a financial institution.

3 (2) Applications for loans to be approved by the  
4 authority for issuance of bonds may be submitted by  
5 individuals, partnerships, associations, or joint ventures.  
6 All persons involved in the application must meet the  
7 requirements of subsection (1). Corporations, as defined in  
8 35-1-102, may not apply.

9 Section 8. Evaluation of applicants. (1) The  
10 authority shall by rule establish:

11 (a) procedures and standards for evaluating  
12 applications for loans to be approved by the authority for  
13 issuance of bonds; and

14 (b) a system for evaluating the applicants,  
15 considering the following criteria:

16 (i) the applicant's net worth, which may not exceed  
17 \$150,000;

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

19 (iii) the applicant's inability to secure adequate  
20 financing for purchase of agricultural land from other  
21 sources at an interest rate that will allow a reasonable  
22 prospect for repayment;

23 (iv) the applicant's training and experience in  
24 agriculture;

25 (v) the applicant's prospects for succeeding in an

1 agricultural operation on the land proposed for purchase;  
2 and

3 (vi) any other factors it may prescribe.

4 (2) The authority shall select the best qualified and  
5 most deserving applicants from among those applying for  
6 approval of loans for issuance of bonds.

7 (3) The authority may seek the advice of such lenders  
8 as the farmers home administration, the production credit  
9 association, the federal land bank, private lenders, or  
10 similar organizations in Montana and coordinate its program  
11 through these organizations.

12 Section 9. Purchase of loans. The authority may  
13 purchase loans and make advance commitments to purchase  
14 loans from a financial institution at prices and upon terms  
15 and conditions established pursuant to [sections 5 through  
16 8] and rules promulgated by the authority.

17 Section 10. Issuance of bonds -- credit of the state  
18 not pledged. (1) The authority may issue bonds of the state  
19 of Montana in a principal amount it determines necessary to  
20 provide sufficient funds for achieving any of the purposes  
21 of the Montana agricultural loan authority program,  
22 including the payment of interest on bonds, establishment of  
23 reserves to secure the bonds, and all other expenditures of  
24 the authority incident to the program.

25 (2) Each issue of its bonds is an obligation of the

1 authority, payable out of any revenues, assets, or money  
2 generated by the Montana agricultural loan authority  
3 program. The authority shall manage its loans so that the  
4 bonds are repaid by the revenue generated by the program.  
5 The full faith and credit and taxing powers of the state are  
6 not pledged for the payment of bonds issued by the authority  
7 under the provisions of [sections 2 through 28].

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

16 (4) The resolution shall specify:

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

18 (b) the denomination of the bonds;

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

21 (d) the manner and place of execution;

22 (e) the manner, place, and medium of payment; and

23 (f) the terms of redemption.

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

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

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

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

(3) specifying the use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority;

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

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

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

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

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

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

(10) defining the acts or failures to act that will constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies, consistent with the laws of the state and the provisions of [sections 2 through 28], of the bondholders if a default occurs, including as a matter of right the appointment of a receiver; and

(11) specifying any other matters that in any way affect the security or protection of the bondholders.

Section 12. Validity of pledge. A pledge made by the authority is valid and binding from the time the pledge is made. The revenues or property pledged and thereafter received by the authority is immediately subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge is valid and binding against all parties having claims of any kind in tort,

1 contract, or otherwise against the authority, irrespective  
 2 of whether such parties have notice thereof. The  
 3 resolution, trust indenture, or any other instrument by  
 4 which a pledge is created need not be recorded.

5 Section 13. Personal liability. The authority members  
 6 and department members are not personally liable for any  
 7 debt incurred by the authority.

8 Section 14. Purchase of bonds -- cancellation. The  
 9 authority, subject to existing agreements with bondholders,  
 10 may from any funds available for that purpose purchase bonds  
 11 of the authority, which shall thereupon be canceled, at a  
 12 price not exceeding:

13 (1) the current redemption price plus accrued interest  
 14 to the next interest payment thereon, if the bonds are then  
 15 redeemable; or

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

20 Section 15. Trust indenture. In the discretion of the  
 21 authority, the bonds may be secured by a trust indenture  
 22 between the authority and a corporate trustee, which may be  
 23 a trust company or bank having the power of a trust company  
 24 within or without the state.

25 Section 16. Negotiability of bonds. Bonds issued by

1 the authority are negotiable instruments under the Uniform  
 2 Commercial Code, subject only to the provisions for  
 3 registration of bonds.

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

9 Section 18. Accounts of the authority. There is an  
 10 agricultural loan authority account in the bond proceeds and  
 11 insurance clearance fund provided for in 17-2-102. All  
 12 funds from the proceeds of bonds issued under [sections 2  
 13 through 28], fees and other money received by the authority,  
 14 money appropriated by the legislature for the use of the  
 15 authority in administering [sections 2 through 28], and  
 16 money made available from any other source for the use of  
 17 the authority must be deposited in the agricultural loan  
 18 authority account except as otherwise provided by law. All  
 19 funds deposited in the agricultural loan authority account  
 20 are continuously appropriated to and may be expended by the  
 21 authority for the purposes authorized in [sections 2 through  
 22 28].

23 Section 19. Reserve funds and appropriations. (1) The  
 24 authority shall pay into one or more capital reserve  
 25 accounts any:



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

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

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

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

Section 20. Refunding obligations -- sale. Refunding obligations issued as provided in 90-6-121 may be sold or exchanged for outstanding obligations issued under [sections 2 through 28]. The proceeds may be applied to the purchase, redemption, or payment of outstanding obligations. Pending the application of the proceeds to the payment of

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

Section 21. Refunding obligations -- issuance. The authority may provide for the issuance of refunding obligations to refund any obligations then outstanding that have been issued under [sections 2 through 28], including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the authority are governed by the appropriate provisions of [sections 2 through 28] that relate to the issuance of obligations.

Section 22. Tax exemption of bonds. Bonds issued by the authority under [sections 2 through 28] and their transfer and income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for inheritance, estate, and gift taxes. The authority is not required to pay recording or transfer fees or taxes on instruments recorded by it.

Section 23. Income tax deduction for land sale to beginning farmers. A landowner who sells land consisting of

1 80 acres or more to a beginning farmer at 9% or less  
 2 interest on a long-term contract is entitled to a reduction  
 3 in his taxable income in an amount equal to 100% of any  
 4 income or capital gain, or both, realized and otherwise  
 5 subject to state income taxes from the sale, up to a maximum  
 6 of \$50,000, provided the transaction is first approved by  
 7 the authority for this purpose.

8 Section 24. Pledge against impairment of contracts. In  
 9 accordance with the constitutions of the United States and  
 10 the state of Montana, the state pledges that it will in no  
 11 way impair the obligations of any agreement between the  
 12 authority and the holders of notes and bonds issued by the  
 13 authority.

14 Section 25. Annual audit. The authority's books and  
 15 records must be audited at least once each year by the  
 16 legislative auditor or by a contract auditor as directed by  
 17 the legislative audit committee. The cost of the audit  
 18 shall be paid by the authority.

19 Section 26. Report. The department shall transmit to  
 20 the governor and to each member of the legislature at least  
 21 30 days before each regular legislative session a report:

22 (1) detailing the operations of the agricultural loan  
 23 authority program since the adjournment of the last  
 24 legislature; and

25 (2) containing a financial statement showing the

1 program's assets and liabilities.

2 Section 27. Powers to be interpreted broadly. The  
 3 powers enumerated in [sections 2 through 28] must be  
 4 interpreted broadly to effectuate the purposes of the  
 5 authority and may not be construed as a limitation of  
 6 powers.

7 Section 28. Legislative review required. The  
 8 agricultural loan authority program must be reviewed by the  
 9 legislature at the third regular legislative session  
 10 following the first sale of bonds under the provisions of  
 11 [section 10] to determine whether the program should  
 12 continue. However, this section does not, in itself,  
 13 terminate the program, and any existing commitments incurred  
 14 by the authority are not affected by this review.

15 Section 29. Codification instruction. (1) Section 1  
 16 is intended to be codified as an integral part of Title 2,  
 17 chapter 15, part 30, and the provisions of Title 2, chapter  
 18 15, part 1, apply to section 1.

19 (2) Sections 2 through 28 are intended to be codified  
 20 as an integral part of Title 80, and the provisions of Title  
 21 80 apply to sections 2 through 28.

22 Section 30. Severability. If a portion of this act is  
 23 invalid, all valid parts that are severable from the invalid  
 24 part remain in effect. If a part of this act is invalid in  
 25 one or more of its applications, the part remains in effect

LC 0207/01

- 1 in all valid applications that are severable from the
- 2 invalid applications.

-End-

## STATE OF MONTANA

REQUEST NO. 288-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 316 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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 OF PROPOSED LEGISLATION:

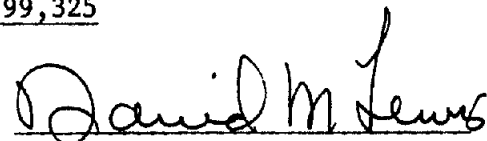
Senate Bill 316 helps farmers and ranchers obtain credit at lower interest rates for agricultural purposes; creates the Montana Agricultural Loan Authority; and provides for legislative review.

ASSUMPTIONS:

- 1) There will be 115 beginning farmers, each of which will purchase agricultural land in parcels of no less than 80 acres at 9% or less interest on a long-term contract. Each of these transactions will be approved by the Montana Agricultural Loan Authority.
- 2) The average taxable income of each of the land sellers of assumption 1 without the proposed income tax deduction is \$9,000, which is less than or equal to the realized annual gain from the sale of the land.
- 3) The effective tax rate for Montana taxable income of the land sellers is 6.28%.
- 4) The Office of Budget and Program Planning projection of income tax receipts for the 1984-1985 biennium is the basis for comparison.
- 5) Agriculture loan authority members (8 persons) would hold a minimum of 4 meetings annually, with average total distance each meeting of 400 miles per member.
- 6) Agriculture loan authority members hold meetings in Helena.
- 7) Mechanics of bond issue and sale operations be contracted out.
- 8) 2 FTE required to assist in administration of act as directed by "authority".
- 9) Administrative costs based on percent of personal services.
- 10) Act become effective October, 1983.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
<u>Expenditures:</u>		
Personal Services	\$ 53,195	\$ 53,195
Operations	32,994	37,600
Equipment	3,500	250
Administrative Costs	8,280	8,280
	<u>\$ 97,969</u>	<u>\$ 99,325</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-5-83

Revenue:

Individual Income Tax Collections		
Under Proposed Law	\$166.427M	\$175.459M
Under Current Law	166.362M	175.394M
Estimated Decrease	<u>\$ (.065M)</u>	<u>\$ (.065M)</u>
General Fund		
Under Proposed Law	\$106.513M	\$112.294M
Under Current Law	106.471M	112.252M
Estimated Decrease	<u>\$ (.042M)</u>	<u>\$ (.042M)</u>
School Foundation Program		
Under Proposed Law	\$ 41.607M	\$ 43.865M
Under Current Law	41.591M	43.849M
Estimated Decrease	<u>\$ (.016M)</u>	<u>\$ (.016M)</u>
Sinking Fund		
Under Proposed Law	\$ 18.307M	\$ 19.300M
Under Current Law	18.300M	19.293M
Estimated Decrease	<u>\$ (.007M)</u>	<u>\$ (.007M)</u>

COMMENT:

Section 23 of this bill affects the income tax as follows:

"A landowner who sells land consisting of 80 acres or more to a beginning farmer at 9% or less interest on a long-term contract is entitled to a reduction in his taxable income in an amount equal to 100% of any income or capital gain, or both, realized and otherwise subject to state income taxes from the sale, up to a maximum of \$50,000, provided the transaction is first approved by the authority for this purpose."

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 316

3 Senate Agriculture, Livestock and Irrigation Committee

4  
5 Section 1. This statement of intent is required by  
6 the rulemaking authority granted to the Montana Agricultural  
7 Loan Authority in sections 4, 8, and 9.

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 8 are intended to be sufficiently  
14 specific to allow for an objective determination by the  
15 Department of Agriculture of which applicants should receive  
16 a farm acquisition loan from the Authority. The same  
17 criteria should be established by rule for the second loan  
18 program with special emphasis on need of the applicant and  
19 the 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 316  
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, foreclosing on the farmland and  
9 immediately reselling it to apply the proceeds to the  
10 defaulted loan. It is the intent of the Legislature that  
11 this program coordinate with the Farmers Home Administration  
12 or other similar organizations including private lenders to  
13 the 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 Agriculture Livestock  
& Irrigation

SENATE BILL NO. 316

INTRODUCED BY TOWE, CONOVER, LANE, BOYLAN, BERG,

STIMATZ, OCHSNER, SEVERSON, ECK, JACOBSEN, MOHAR,

FULLER, SAUNDERS, CHRISTIAENS, KOEHNKE,

R. MANNING, HALLIGAN, GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP FARMERS AND RANCHERS OBTAIN CREDIT AT LOWER INTEREST RATES FOR AGRICULTURAL PURPOSES; TO CREATE THE MONTANA AGRICULTURAL LOAN AUTHORITY; TO PROVIDE AN INCOME TAX DEDUCTION FOR CERTAIN LAND SALES TO BEGINNING FARMERS; AND TO PROVIDE FOR LEGISLATIVE REVIEW."

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 with low market prices for agricultural products; and

WHEREAS, the agricultural loan programs administered by the Montana Department of Agriculture are inadequate to meet the real needs of the state; and

WHEREAS, the federal Farmers 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 act to assist beginning farmers with financial support and encouragement by making low interest rate loans available to eligible farmers 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. Agricultural loan authority -- allocation -- composition -- quasi-judicial status. (1) There is an agricultural loan authority.

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

(a) one officer from a commercial lending institution;

(b) one fruit farmer or vegetable farmer;

(c) two livestock farmers;

(d) two grain farmers;

(e) one officer from a farm credit association; and

(f) one public member who is not engaged in farming or affiliated with a commercial lending institution or farm credit association.

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

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

(5) In compliance with the state pay plan, the department shall provide all staff and services to the authority which the authority in conjunction with the department determines to be necessary for the purposes of administering the authority's programs. The department shall assess the authority for reasonable costs.

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

Section 2. Short title. [Sections 2 through 28] may be cited as the "Montana Agricultural Loan Authority Act".

Section 3. Definitions. (1) As used in [sections 2 through 28], 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 1].

(c) "Bonds" means bonds or bond anticipation notes

issued by the authority under the provisions of [sections 2 through 28].

(2) References to the authority's property, revenues, or assets apply only to property, revenues, and assets generated by the Montana agricultural loan authority program, not those owned or generated by any other program or property over which the authority exercises general authority, direction, and control.

Section 4. Agricultural loan authority -- general powers. The authority may:

(1) retain professional consultants and advisers;

(2) adopt rules governing its procedures;

(3) purchase agricultural loans made by financial institutions;

(4) issue bonds, in accordance with [section 10], necessary to provide funds for implementing [sections 2 through 28];

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

(6) use the assistance and services of the farmers home administration, the production credit association, the federal land bank, or private lenders in approving loans for issuance of bonds.



Section 5. Loan agreements -- general provisions.

(1) Each loan approved by the authority for issuance of a bond must include a loan agreement providing a payment schedule that may not exceed 60 30 years.

(2) The agreement must specify a reasonable rate of interest, which rate may be a variable rate provided the method of determination is contained in the loan agreement.

(3) Loans approved by the authority for issuance of a bond may be secured by any liens or collateral the financial institution considers necessary.

(4) The money received under a loan agreement may be used for:

(a) acquisition of farm or ranch land;

(b) a down payment on the acquisition of farm or ranch land; or

(c) acquisition or construction of depreciable property used in the operation of a farm or ranch.

Section 6. Immediate repayment. If an applicant who has obtained the approval of the authority for the issuance of a bond to fund his loan for the acquisition of farm or ranch land sells the land for which the loan was made to any person, firm, or corporation other than his spouse, children, or corporation wholly owned by them, the loan must be repaid in full.

Section 7. Qualifications of applicants. (1) To be

eligible for a loan approved by the authority for issuance of a bond, an applicant must:

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

(b) have been approved by a financial institution.

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

Section 8. Evaluation of applicants. (1) The authority shall by rule establish:

(a) procedures and standards for evaluating applications for loans to be approved by the authority for issuance of bonds; and

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

(i) the applicant's net worth, which may not exceed \$150,000 \$250,000;

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

(iii) the applicant's inability to secure adequate financing for purchase of agricultural land from other sources at an interest rate that will allow a reasonable prospect for repayment;

1 (iv) the applicant's training and experience in  
2 agriculture;

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

6 (vi) any other factors it may prescribe.

7 (2) The authority shall select the best qualified and  
8 most deserving applicants from among those applying for  
9 approval of loans for issuance of bonds.

10 (3) The authority may seek the advice of such lenders  
11 as the farmers home administration, the production credit  
12 association, the federal land bank, private lenders, or  
13 similar organizations in Montana and coordinate its program  
14 through these organizations.

15 Section 9. Purchase of loans. The authority may  
16 purchase loans and make advance commitments to purchase  
17 loans from a financial institution at prices and upon terms  
18 and conditions established pursuant to [sections 5 through  
19 8] and rules promulgated by the authority.

20 Section 10. Issuance of bonds -- credit of the state  
21 not pledged. (1) The authority may issue bonds of the state  
22 of Montana in a principal amount it determines necessary to  
23 provide sufficient funds for achieving any of the purposes  
24 of the Montana agricultural loan authority program,  
25 including the payment of interest on bonds, establishment of

1 reserves to secure the bonds, and all other expenditures of  
2 the authority incident to the program.

3 (2) Each issue of its bonds is an obligation of the  
4 authority, payable out of any revenues, assets, or money  
5 generated by the Montana agricultural loan authority  
6 program. The authority shall manage its loans so that the  
7 bonds are repaid by the revenue generated by the program.  
8 The full faith and credit and taxing powers of the state are  
9 not pledged for the payment of bonds issued by the authority  
10 under the provisions of [sections 2 through 28].

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

19 (4) The resolution shall specify:

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

21 (b) the denomination of the bonds;

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

24 (d) the manner and place of execution;

25 (e) the manner, place, and medium of payment; and

(f) the terms of redemption.

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

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

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

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

(3) specifying the use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority;

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

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

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

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

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

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

(10) defining the acts or failures to act that will constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies, consistent with the laws of the state and the provisions of [sections 2 through 28], of the bondholders if a default occurs, including as a matter of right the appointment of a receiver; and

(11) specifying any other matters that in any way affect the security or protection of the bondholders.

Section 12. Validity of pledge. A pledge made by the authority is valid and binding from the time the pledge is made. The revenues or property pledged and thereafter received by the authority is immediately subject to the lien

1 of the pledge without any physical delivery thereof or  
2 further act, and the lien of any pledge is valid and binding  
3 against all parties having claims of any kind in tort,  
4 contract, or otherwise against the authority, irrespective  
5 of whether such parties have notice thereof. The  
6 resolution, trust indenture, or any other instrument by  
7 which a pledge is created need not be recorded.

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

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

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

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

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25 between the authority and a corporate trustee, which may be

1 a trust company or bank having the power of a trust company  
2 within or without the state.

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

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

12 Section 18. Accounts of the authority. There is an  
13 agricultural loan authority account in the bond proceeds and  
14 insurance clearance fund provided for in 17-2-102. All  
15 funds from the proceeds of bonds issued under [sections 2  
16 through 28], fees and other money received by the authority,  
17 money appropriated by the legislature for the use of the  
18 authority in administering [sections 2 through 28], and  
19 money made available from any other source for the use of  
20 the authority must be deposited in the agricultural loan  
21 authority account except as otherwise provided by law. All  
22 funds deposited in the agricultural loan authority account  
23 are continuously appropriated to and may be expended by the  
24 authority for the purposes authorized in [sections 2 through  
25 28].

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

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

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

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

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

23 Section 20. Refunding obligations -- sale. Refunding  
24 obligations issued as provided in 90-6-121 may be sold or  
25 exchanged for outstanding obligations issued under [sections

1 2 through 28]. The proceeds may be applied to the purchase,  
2 redemption, or payment of outstanding obligations. Pending  
3 the application of the proceeds to the payment of  
4 outstanding obligations, the proceeds may be invested as  
5 provided in Title 17, chapter 6, if permitted in the  
6 resolution authorizing the issuance of the refunding  
7 obligations or in the trust agreement securing them.

8 Section 21. Refunding obligations -- issuance. The  
9 authority may provide for the issuance of refunding  
10 obligations to refund any obligations then outstanding that  
11 have been issued under [sections 2 through 28], including  
12 the payment of any redemption premium and any interest  
13 accrued or to accrue to the date of redemption of the  
14 obligations. The issuance of obligations, the maturities  
15 and other details, the rights of the holders, and the  
16 rights, duties, and obligations of the authority are  
17 governed by the appropriate provisions of [sections 2  
18 through 28] that relate to the issuance of obligations.

19 Section 22. Tax exemption of bonds. Bonds issued by  
20 the authority under [sections 2 through 28] and their  
21 transfer and income, including any profits made on their  
22 sale, are exempt from taxation by the state or any political  
23 subdivision or other instrumentality of the state, except  
24 for inheritance, estate, and gift taxes. The authority is  
25 not required to pay recording or transfer fees or taxes on

1 instruments recorded by it.

2 Section 23. Income tax deduction for land sale to  
3 beginning farmers. A landowner who sells land consisting of  
4 80 acres or more to a beginning farmer at 9% or less  
5 interest on a long-term contract is entitled to a reduction  
6 in his taxable income in an amount equal to 100% of any  
7 income or capital gain, or both, realized and otherwise  
8 subject to state income taxes from the sale, up to a maximum  
9 of \$50,000, provided the transaction is first approved by  
10 the authority for this purpose.

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

17 Section 25. Annual audit. The authority's books and  
18 records must be audited at least once each year by the  
19 legislative auditor or by a contract auditor as directed by  
20 the legislative audit committee. The cost of the audit  
21 shall be paid by the authority.

22 Section 26. Report. The department shall transmit to  
23 the governor and to each member of the legislature at least  
24 30 days before each regular legislative session a report:

25 (1) detailing the operations of the agricultural loan

1 authority program since the adjournment of the last  
2 legislature; and

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

5 Section 27. Powers to be interpreted broadly. The  
6 powers enumerated in [sections 2 through 28] must be  
7 interpreted broadly to effectuate the purposes of the  
8 authority and may not be construed as a limitation of  
9 powers.

10 Section 28. Legislative review required. The  
11 agricultural loan authority program must be reviewed by the  
12 legislature at the third regular legislative session  
13 following the first sale of bonds under the provisions of  
14 [section 10] to determine whether the program should  
15 continue. However, this section does not, in itself,  
16 terminate the program, and any existing commitments incurred  
17 by the authority are not affected by this review.

18 Section 29. Codification instruction. (1) Section 1  
19 is intended to be codified as an integral part of Title 2,  
20 chapter 15, part 30, and the provisions of Title 2, chapter  
21 15, part 1, apply to section 1.

22 (2) Sections 2 through 28 are intended to be codified  
23 as an integral part of Title 80, and the provisions of Title  
24 80 apply to sections 2 through 28.

25 Section 30. Severability. If a portion of this act is

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

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 316

3 Senate Agriculture, Livestock and Irrigation Committee

4  
5 Section 1. This statement of intent is required by  
6 the rulemaking authority granted to the Montana Agricultural  
7 Loan Authority in sections 4, 8, and 9.

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 8 are intended to be sufficiently  
14 specific to allow for an objective determination by the  
15 Department of Agriculture of which applicants should receive  
16 a farm acquisition loan from the Authority. The same  
17 criteria should be established by rule for the second loan  
18 program with special emphasis on need of the applicant and  
19 the 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 316  
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, foreclosing on the farmland and  
9 immediately reselling it to apply the proceeds to the  
10 defaulted loan. It is the intent of the Legislature that  
11 this program coordinate with the Farmers Home Administration  
12 or other similar organizations including private lenders to  
13 the 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. 316

INTRODUCED BY TOWE, CONOVER, LANE, BOYLAN, BERG,  
STIMATZ, OCHSNER, SEVERSON, ECK, JACOBSEN, MOHAR,  
FULLER, SAUNDERS, CHRISTIAENS, KOEHNKE,  
R. MANNING, HALLIGAN, GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP FARMERS AND  
RANCHERS OBTAIN CREDIT AT LOWER INTEREST RATES FOR  
AGRICULTURAL PURPOSES; TO CREATE THE MONTANA AGRICULTURAL  
LOAN AUTHORITY; TO PROVIDE AN INCOME TAX DEDUCTION FOR  
CERTAIN LAND SALES TO BEGINNING FARMERS; AND TO PROVIDE FOR  
LEGISLATIVE REVIEW."

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 with low  
market prices for agricultural products; and

WHEREAS, the agricultural loan programs administered by  
the Montana Department of Agriculture are inadequate to meet  
the real needs of the state; and

WHEREAS, the federal Farmers 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 act to assist  
beginning farmers with financial support and encouragement  
by making low interest rate loans available to eligible  
farmers 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. Agricultural loan authority -- allocation  
-- composition -- quasi-judicial status. (1) There is an  
agricultural loan authority.

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

- (a) one officer from a commercial lending institution;
- (b) one fruit farmer or vegetable farmer;
- (c) two livestock farmers;
- (d) two grain farmers;
- (e) one officer from a farm credit association; and
- (f) one public member who is not engaged in farming or  
affiliated with a commercial lending institution or farm  
credit association.

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

3 (4) The authority is allocated to the department of  
4 agriculture for administrative purposes only as provided in  
5 2-15-121.

6 (5) In compliance with the state pay plan, the  
7 department shall provide all staff and services to the  
8 authority which the authority in conjunction with the  
9 department determines to be necessary for the purposes of  
10 administering the authority's programs. The department  
11 shall assess the authority for reasonable costs.

12 (6) A member of the authority may not be considered to  
13 have a conflict of interest under the provisions of 2-2-201  
14 merely because the member is a stockholder, officer, or  
15 employee of a lending institution that may participate in  
16 the authority's programs.

17 Section 2. Short title. [Sections 2 through 28] may be  
18 cited as the "Montana Agricultural Loan Authority Act".

19 Section 3. Definitions. (1) As used in [sections 2  
20 through 28], the following definitions apply:

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

23 (b) "Authority" means the agricultural loan authority  
24 provided for in [section 1].

25 (c) "Bonds" means bonds or bond anticipation notes

1 issued by the authority under the provisions of [sections 2  
2 through 28].

3 (2) References to the authority's property, revenues,  
4 or assets apply only to property, revenues, and assets  
5 generated by the Montana agricultural loan authority  
6 program, not those owned or generated by any other program  
7 or property over which the authority exercises general  
8 authority, direction, and control.

9 Section 4. Agricultural loan authority -- general  
10 powers. The authority may:

11 (1) retain professional consultants and advisers;

12 (2) adopt rules governing its procedures;

13 (3) purchase agricultural loans made by financial  
14 institutions;

15 (4) issue bonds, in accordance with [section 10],  
16 necessary to provide funds for implementing [sections 2  
17 through 28];

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

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23 home administration, the production credit association, the  
24 federal land bank, or private lenders in approving loans for  
25 issuance of bonds.

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(4) The money received under a loan agreement may be used for:

(a) acquisition of farm or ranch land;

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(iii) the applicant's inability to secure adequate financing for purchase of agricultural land from other sources at an interest rate that will allow a reasonable prospect for repayment;

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(2) The authority shall select the best qualified and most deserving applicants from among those applying for approval of loans for issuance of bonds.

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reserves to secure the bonds, and all other expenditures of the authority incident to the program.

(2) Each issue of its bonds is an obligation of the authority, payable out of any revenues, assets, or money generated by the Montana agricultural loan authority program. The authority shall manage its loans so that the bonds are repaid by the revenue generated by the program. The full faith and credit and taxing powers of the state are not pledged for the payment of bonds issued by the authority under the provisions of [sections 2 through 28].

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

(4) The resolution shall specify:

(a) the rate of interest of the bonds;

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16 through 28], fees and other money received by the authority,  
17 money appropriated by the legislature for the use of the  
18 authority in administering [sections 2 through 28], and  
19 money made available from any other source for the use of  
20 the authority must be deposited in the agricultural loan  
21 authority account except as otherwise provided by law. All  
22 funds deposited in the agricultural loan authority account  
23 are continuously appropriated to and may be expended by the  
24 authority for the purposes authorized in [sections 2 through  
25 28].

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

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

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

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

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

23       Section 20. Refunding obligations -- sale. Refunding  
24 obligations issued as provided in 90-6-121 may be sold or  
25 exchanged for outstanding obligations issued under [sections

1 2 through 28]. The proceeds may be applied to the purchase,  
2 redemption, or payment of outstanding obligations. Pending  
3 the application of the proceeds to the payment of  
4 outstanding obligations, the proceeds may be invested as  
5 provided in Title 17, chapter 6, if permitted in the  
6 resolution authorizing the issuance of the refunding  
7 obligations or in the trust agreement securing them.

8       Section 21. Refunding obligations -- issuance. The  
9 authority may provide for the issuance of refunding  
10 obligations to refund any obligations then outstanding that  
11 have been issued under [sections 2 through 28], including  
12 the payment of any redemption premium and any interest  
13 accrued or to accrue to the date of redemption of the  
14 obligations. The issuance of obligations, the maturities  
15 and other details, the rights of the holders, and the  
16 rights, duties, and obligations of the authority are  
17 governed by the appropriate provisions of [sections 2  
18 through 28] that relate to the issuance of obligations.

19       Section 22. Tax exemption of bonds. Bonds issued by  
20 the authority under [sections 2 through 28] and their  
21 transfer and income, including any profits made on their  
22 sale, are exempt from taxation by the state or any political  
23 subdivision or other instrumentality of the state, except  
24 for inheritance, estate, and gift taxes. The authority is  
25 not required to pay recording or transfer fees or taxes on

1 instruments recorded by it.

2 Section 23. Income tax deduction for land sale to  
3 beginning farmers. A landowner who sells land consisting of  
4 80 acres or more to a beginning farmer at 9% or less  
5 interest on a long-term contract is entitled to a reduction  
6 in his taxable income in an amount equal to 100% of any  
7 income or capital gain, or both, realized and otherwise  
8 subject to state income taxes from the sale, up to a maximum  
9 of \$50,000, provided the transaction is first approved by  
10 the authority for this purpose.

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

17 Section 25. Annual audit. The authority's books and  
18 records must be audited at least once each year by the  
19 legislative auditor or by a contract auditor as directed by  
20 the legislative audit committee. The cost of the audit  
21 shall be paid by the authority.

22 Section 26. Report. The department shall transmit to  
23 the governor and to each member of the legislature at least  
24 30 days before each regular legislative session a report:

25 (1) detailing the operations of the agricultural loan

1 authority program since the adjournment of the last  
2 legislature; and

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

5 Section 27. Powers to be interpreted broadly. The  
6 powers enumerated in [sections 2 through 28] must be  
7 interpreted broadly to effectuate the purposes of the  
8 authority and may not be construed as a limitation of  
9 powers.

10 Section 28. Legislative review required. The  
11 agricultural loan authority program must be reviewed by the  
12 legislature at the third regular legislative session  
13 following the first sale of bonds under the provisions of  
14 [section 10] to determine whether the program should  
15 continue. However, this section does not, in itself,  
16 terminate the program, and any existing commitments incurred  
17 by the authority are not affected by this review.

18 Section 29. Codification instruction. (1) Section 1  
19 is intended to be codified as an integral part of Title 2,  
20 chapter 15, part 30, and the provisions of Title 2, Chapter  
21 15, part 1, apply to section 1.

22 (2) Sections 2 through 28 are intended to be codified  
23 as an integral part of Title 80, and the provisions of Title  
24 80 apply to sections 2 through 28.

25 Section 30. Severability. If a portion of this act is



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

-End-

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

Amendments to Senate Bill 316,  
third reading copy (blue)  
March 24, 1983

Page 1 of 2

Strike: Senate Statement of Intent in its entirety  
Insert:

"STATEMENT OF INTENT

Section 1. It is the specific intent of the legislature that the Montana Agricultural Loan Authority should operate in the same manner that the Iowa Loan Authority has operated for the last 13 months in the state of Iowa. Each loan is processed individually by a bank or other financial institution. The loans can be for farmland acquisition or for purchase or construction of depreciable property (farm equipment or farm buildings). The bank or other financial institution initially approves the loan and agrees to accept the credit risk. It then sends an application to the Montana Agricultural Loan Authority in the exact amount and the money is made available to fund the loan.

Thus, the entire transaction is treated identical with any other bank loan to a farmer except that the bank or other financial institution is able to obtain municipal bond tax exemption for the interest income. The bank or other financial institution loan is, in effect, converted to a municipal bond and held in the bank's municipal bond tax-exempt portfolio.

Section 2. It is the intent of the legislature that the Montana Agricultural Loan Authority created by this bill will not make direct loans. They will acquire existing loans already made and approved by a local financial institution only. It is also the specific intent of the legislature that the state of Montana would have no financial risk on any of these loans. Whoever purchases the bonds will take the full risk that the loan that secures payment of each bond will be repaid.

Section 3. It is the specific intent of the legislature that the Montana Agricultural Loan Authority would charge a one time fee for issuing the bonds which fee shall not exceed the maximum amount authorized by the federal internal revenue code with regard to tax-exempt bond issues. It is the intent of the legislature that the fee would be sufficient to pay the cost of bond counsel to review and approve each bond issue and all other administrative costs of the Montana Agricultural Loan Authority.

Section 4. This Statement of Intent is required by the rulemaking authority granted to the Montana Agricultural Loan Authority in Section 4 and Section 3. Further, rules are contemplated for determining the procedure for granting approval by the Montana Agricultural Loan Authority and the procedure for verification by the Department of Revenue under Section 23.

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

Amendments to Senate Bill 316,  
third reading copy (blue)  
March 24, 1983

Page 2 of 2

Section 5. It is the intent of the legislature that the Montana Agricultural Loan Authority adopt rules for the orderly handling and processing of applications under the authority granted in this Act to issue bonds secured by farm loans. The rules under Section 8 are intended to be sufficiently specific to allow for an objective determination by the Montana Agricultural Loan Authority of which applicants should receive approval of farm acquisition bonds from the authority. The same criteria should be established by rule for depreciable property loans with special emphasis on the need of the applicant and the applicant's possible prospects for success.

Section 6. The criteria for determining a bonafide beginning farmer in connection with the approval of the tax credit application by retiring farmers as provided in Section 23 shall be established by rule. The same requirements for establishing eligibility under Section 8 should be used under Section 23."

AND AS AMENDED  
BE CONCURRED IN

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

AMENDMENTS TO SENATE BILL 316  
THIRD READING COPY (BLUE)

March 24, 1983

- (1) Page 2, line 15  
Following: "of"  
Strike: "eight"  
Insert: "nine"
- (2) Page 2, line 22  
Following: "association;"  
Strike: "and"
- (3) Page 2, line 23  
Following: line 22  
Insert: "(f) the director of the department of agriculture;  
and"  
Renumber: subsequent section

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

AMENDMENTS TO SENATE BILL 316  
THIRD READING COPY (BLUE)

March 24, 1983

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Insert: "nine"
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Following: "association;"  
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- (3) Page 2, line 23  
Following: line 22  
Insert: "(f) the director of the department of agriculture;  
and"  
Renumber: subsequent subsection

## STATEMENT OF INTENT

## SENATE BILL 316

Senate Agriculture, Livestock and Irrigation Committee

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

Section--1v--This statement of intent--is--required--by the rulemaking authority granted to the Montana Agricultural Loan Authority in sections 4v-8v and 9v.

Section--2v--It--is--the intent of the legislature that the Montana Agricultural Loan Authority adopt rules for--the orderly--handling--and--processing of applications under the authority granted in this act--to--grant--farm--acquisition loans and to grant loans under the second loan program--The rules--under--section--8--are--intended--to--be sufficiently specific--to--allow for--an--objective--determination--by--the Department of Agriculture of which applicants should receive a--farm--acquisition--loan--from--the--authority--The--same criteria should be established by rule for the--second--loan program--with--special emphasis on need of the applicant and the applicant's possible prospects for success.

Section--3v--It--is--the--specific--intent--of--the legislature--that--the--Montana--Agricultural--Loan--Authority shall coordinate all loans made pursuant to Senate Bill--316 through--the--Farmers--Home--Administration--the--Production Credit Association--the--Federal--Land--Bank--and--private

tenders--or--some--other--state--organization--or organization--the--state--director--of--the--Farmers--Home Administration--has--indicated--to--the--Senate--Taxation Committee--that--the--FHA--could--screen--worthy--applicants participate with a subordinated loan of its own--participate with a guaranteed loan--and fully service the loan--This would include taking care of any defaults in the event there are defaults by either paying off the state--in--full--or working--with--the--state--for--closing--on--the--farm--and immediately reselling it--to--apply--the--proceeds--to--the defaulted loans--It--is--the intent of the legislature that this program coordinate with the Farmers Home Administration or other similar organizations including private lenders--to the maximum extent possible so that the Montana Agricultural Authority--will--not--itself--need--to--service--the--loan--or--take care of any defaults.

SECTION 1. IT IS THE SPECIFIC INTENT OF THE LEGISLATURE THAT THE MONTANA AGRICULTURAL LOAN AUTHORITY SHOULD OPERATE IN THE SAME MANNER THAT THE IOWA LOAN AUTHORITY HAS OPERATED FOR THE LAST 13 MONTHS IN THE STATE OF IOWA. EACH LOAN IS PROCESSED INDIVIDUALLY BY A BANK OR OTHER FINANCIAL INSTITUTION. THE LOANS CAN BE FOR FARMLAND ACQUISITION OR FOR PURCHASE OR CONSTRUCTION OF DEPRECIABLE PROPERTY (FARM EQUIPMENT OR FARM BUILDINGS). THE BANK OR OTHER FINANCIAL INSTITUTION INITIALLY APPROVES THE LOAN AND

1 AGREES TO ACCEPT THE CREDIT RISK. IT THEN SENDS AN  
2 APPLICATION TO THE MONTANA AGRICULTURAL LOAN AUTHORITY IN  
3 THE EXACT AMOUNT AND THE MONEY IS MADE AVAILABLE TO FUND THE  
4 LOAN.

5 THUS, THE ENTIRE TRANSACTION IS TREATED IDENTICALLY  
6 WITH ANY OTHER BANK LOAN TO A FARMER EXCEPT THAT THE BANK OR  
7 OTHER FINANCIAL INSTITUTION IS ABLE TO OBTAIN MUNICIPAL BOND  
8 TAX EXEMPTION FOR THE INTEREST INCOME. THE BANK OR OTHER  
9 FINANCIAL INSTITUTION LOAN IS, IN EFFECT, CONVERTED TO A  
10 MUNICIPAL BOND AND HELD IN THE BANK'S MUNICIPAL BOND  
11 TAX-EXEMPT PORTFOLIO.

12 SECTION 2. IT IS THE INTENT OF THE LEGISLATURE THAT  
13 THE MONTANA AGRICULTURAL LOAN AUTHORITY CREATED BY THIS BILL  
14 WILL NOT MAKE DIRECT LOANS. IT WILL ACQUIRE EXISTING LOANS  
15 ALREADY MADE AND APPROVED BY A LOCAL FINANCIAL INSTITUTION  
16 ONLY. IT IS ALSO THE SPECIFIC INTENT OF THE LEGISLATURE THAT  
17 THE STATE OF MONTANA WOULD HAVE NO FINANCIAL RISK ON ANY OF  
18 THESE LOANS. WHOEVER PURCHASES THE BONDS WILL TAKE THE FULL  
19 RISK THAT THE LOAN THAT SECURES PAYMENT OF EACH BOND WILL BE  
20 REPAYED.

21 SECTION 3. IT IS THE SPECIFIC INTENT OF THE  
22 LEGISLATURE THAT THE MONTANA AGRICULTURAL LOAN AUTHORITY  
23 WOULD CHARGE A ONE-TIME FEE FOR ISSUING THE BONDS WHICH FEE  
24 SHALL NOT EXCEED THE MAXIMUM AMOUNT AUTHORIZED BY THE  
25 FEDERAL INTERNAL REVENUE CODE WITH REGARD TO TAX-EXEMPT BOND

1 ISSUES. IT IS THE INTENT OF THE LEGISLATURE THAT THE FEE  
2 WOULD BE SUFFICIENT TO PAY THE COST OF BOND COUNSEL TO  
3 REVIEW AND APPROVE EACH BOND ISSUE AND ALL OTHER  
4 ADMINISTRATIVE COSTS OF THE MONTANA AGRICULTURAL LOAN  
5 AUTHORITY.

6 SECTION 4. THIS STATEMENT OF INTENT IS REQUIRED BY THE  
7 RULEMAKING AUTHORITY GRANTED TO THE MONTANA AGRICULTURAL  
8 LOAN AUTHORITY IN SECTION 4 AND SECTION 8. FURTHER RULES  
9 ARE CONTEMPLATED FOR DETERMINING THE PROCEDURE FOR GRANTING  
10 APPROVAL BY THE MONTANA AGRICULTURAL LOAN AUTHORITY AND THE  
11 PROCEDURE FOR VERIFICATION BY THE DEPARTMENT OF REVENUE  
12 UNDER SECTION 23.

13 SECTION 5. IT IS THE INTENT OF THE LEGISLATURE THAT  
14 THE MONTANA AGRICULTURAL LOAN AUTHORITY ADOPT RULES FOR THE  
15 ORDERLY HANDLING AND PROCESSING OF APPLICATIONS UNDER THE  
16 AUTHORITY GRANTED IN THIS ACT TO ISSUE BONDS SECURED BY FARM  
17 LOANS. THE RULES UNDER SECTION 8 ARE INTENDED TO BE  
18 SUFFICIENTLY SPECIFIC TO ALLOW FOR AN OBJECTIVE  
19 DETERMINATION BY THE MONTANA AGRICULTURAL LOAN AUTHORITY OF  
20 WHICH APPLICANTS SHOULD RECEIVE APPROVAL OF FARM ACQUISITION  
21 BONDS FROM THE AUTHORITY. THE SAME CRITERIA SHOULD BE  
22 ESTABLISHED BY RULE FOR DEPRECIABLE PROPERTY LOANS WITH  
23 SPECIAL EMPHASIS ON THE NEED OF THE APPLICANT AND THE  
24 APPLICANT'S POSSIBLE PROSPECTS FOR SUCCESS.

25 SECTION 6. THE CRITERIA FOR DETERMINING A BONA FIDE

1 BEGINNING FARMER IN CONNECTION WITH THE APPROVAL OF THE TAX  
2 CREDIT APPLICATION BY RETIRING FARMERS AS PROVIDED IN  
3 SECTION 23 SHALL BE ESTABLISHED BY RULE. THE SAME  
4 REQUIREMENTS FOR ESTABLISHING ELIGIBILITY UNDER SECTION 8  
5 SHOULD BE USED UNDER SECTION 23.

## SENATE BILL NO. 316

INTRODUCED BY TOWE, CONOVER, LANE, BOYLAN, BERG,  
STIMATZ, OCHSNER, SEVERSON, ECK, JACOBSEN, MOHAR,  
FULLER, SAUNDERS, CHRISTIAENS, KOEHNKE,  
R. MANNING, HALLIGAN, GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO HELP FARMERS AND  
RANCHERS OBTAIN CREDIT AT LOWER INTEREST RATES FOR  
AGRICULTURAL PURPOSES; TO CREATE THE MONTANA AGRICULTURAL  
LOAN AUTHORITY; TO PROVIDE AN INCOME TAX DEDUCTION FOR  
CERTAIN LAND SALES TO BEGINNING FARMERS; AND TO PROVIDE FOR  
LEGISLATIVE REVIEW."

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 with low  
market prices for agricultural products; and

WHEREAS, the agricultural loan programs administered by  
the Montana Department of Agriculture are inadequate to meet  
the real needs of the state; and

WHEREAS, the federal Farmers 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 act to assist  
beginning farmers with financial support and encouragement  
by making low interest rate loans available to eligible  
farmers 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. Agricultural loan authority -- allocation  
-- composition -- quasi-judicial status. (1) There is an  
agricultural loan authority.

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

(a) one officer from a commercial lending institution;

(b) one fruit farmer or vegetable farmer;

(c) two livestock farmers;

(d) two grain farmers;

(e) one officer from a farm credit association; and

~~(f) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AND~~

~~ff)(g)~~ one public member who is not engaged in farming  
or affiliated with a commercial lending institution or farm

credit association.

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

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

(5) In compliance with the state pay plan, the department shall provide all staff and services to the authority which the authority in conjunction with the department determines to be necessary for the purposes of administering the authority's programs. The department shall assess the authority for reasonable costs.

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

Section 2. Short title. [Sections 2 through 28] may be cited as the "Montana Agricultural Loan Authority Act".

Section 3. Definitions. (1) As used in [sections 2 through 28], 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 1].

(c) "Bonds" means bonds or bond anticipation notes issued by the authority under the provisions of [sections 2 through 28].

(2) References to the authority's property, revenues, or assets apply only to property, revenues, and assets generated by the Montana agricultural loan authority program, not those owned or generated by any other program or property over which the authority exercises general authority, direction, and control.

Section 4. Agricultural loan authority -- general powers. The authority may:

(1) retain professional consultants and advisers;

(2) adopt rules governing its procedures;

(3) purchase agricultural loans made by financial institutions;

(4) issue bonds, in accordance with [section 10], necessary to provide funds for implementing [sections 2 through 28];

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

(6) use the assistance and services of the farmers home administration, the production credit association, the federal land banks, or private lenders in approving loans for



1 issuance of bonds.

2 Section 5. Loan agreements -- general provisions.

3 (1) Each loan approved by the authority for issuance of a  
4 bond must include a loan agreement providing a payment  
5 schedule that may not exceed ~~60~~ 30 years.

6 (2) The agreement must specify a reasonable rate of  
7 interest, which rate may be a variable rate provided the  
8 method of determination is contained in the loan agreement.

9 (3) Loans approved by the authority for issuance of a  
10 bond may be secured by any liens or collateral the financial  
11 institution considers necessary.

12 (4) The money received under a loan agreement may be  
13 used for:

14 (a) acquisition of farm or ranch land;

15 (b) a down payment on the acquisition of farm or ranch  
16 land; or

17 (c) acquisition or construction of depreciable  
18 property used in the operation of a farm or ranch.

19 Section 6. Immediate repayment. If an applicant who  
20 has obtained the approval of the authority for the issuance  
21 of a bond to fund his loan for the acquisition of farm or  
22 ranch land sells the land for which the loan was made to any  
23 person, firm, or corporation other than his spouse,  
24 children, or corporation wholly owned by them, the loan must  
25 be repaid in full.

1 Section 7. Qualifications of applicants. (1) To be  
2 eligible for a loan approved by the authority for issuance  
3 of a bond, an applicant must:

4 (a) declare his intention to maintain his residence in  
5 Montana during the length of the loan; and

6 (b) have been approved by a financial institution.

7 (2) Applications for loans to be approved by the  
8 authority for issuance of bonds may be submitted by  
9 individuals, partnerships, associations, or joint ventures.  
10 All persons involved in the application must meet the  
11 requirements of subsection (1). Corporations, as defined in  
12 35-1-102, may not apply.

13 Section 8. Evaluation of applicants. (1) The  
14 authority shall by rule establish:

15 (a) procedures and standards for evaluating  
16 applications for loans to be approved by the authority for  
17 issuance of bonds; and

18 (b) a system for evaluating the applicants,  
19 considering the following criteria:

20 (i) the applicant's net worth, which may not exceed  
21 ~~\$150,000~~ \$250,000;

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

23 (iii) the applicant's inability to secure adequate  
24 financing for purchase of agricultural land from other  
25 sources at an interest rate that will allow a reasonable

1 prospect for repayment;

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

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

7 (vi) any other factors it may prescribe.

8 (2) The authority shall select the best qualified and  
9 most deserving applicants from among those applying for  
10 approval of loans for issuance of bonds.

11 (3) The authority may seek the advice of such lenders  
12 as the farmers home administration, the production credit  
13 association, the federal land bank, private lenders, or  
14 similar organizations in Montana and coordinate its program  
15 through these organizations.

16 Section 9. Purchase of loans. The authority may  
17 purchase loans and make advance commitments to purchase  
18 loans from a financial institution at prices and upon terms  
19 and conditions established pursuant to [sections 5 through  
20 8] and rules promulgated by the authority.

21 Section 10. Issuance of bonds -- credit of the state  
22 not pledged. (1) The authority may issue bonds of the state  
23 of Montana in a principal amount it determines necessary to  
24 provide sufficient funds for achieving any of the purposes  
25 of the Montana agricultural loan authority program,

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

4 (2) Each issue of its bonds is an obligation of the  
5 authority, payable out of any revenues, assets, or money  
6 generated by the Montana agricultural loan authority  
7 program. The authority shall manage its loans so that the  
8 bonds are repaid by the revenue generated by the program.  
9 The full faith and credit and taxing powers of the state are  
10 not pledged for the payment of bonds issued by the authority  
11 under the provisions of [sections 2 through 28].

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

20 (4) The resolution shall specify:

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

22 (b) the denomination of the bonds;

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

25 (d) the manner and place of execution;

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

(f) the terms of redemption.

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

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

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

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

(3) specifying the use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority;

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

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

thereof;

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

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

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

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

(10) defining the acts or failures to act that will constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies, consistent with the laws of the state and the provisions of [sections 2 through 28], of the bondholders if a default occurs, including as a matter of right the appointment of a receiver; and

(11) specifying any other matters that in any way affect the security or protection of the bondholders.

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

received by the authority is immediately subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. The resolution, trust indenture, or any other instrument by which a pledge is created need not be recorded.

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

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

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

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

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

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

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

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

Section 18. Accounts of the authority. There is an agricultural loan authority account in the bond proceeds and insurance clearance fund provided for in 17-2-102. All funds from the proceeds of bonds issued under [sections 2 through 28], fees and other money received by the authority, money appropriated by the legislature for the use of the authority in administering [sections 2 through 28], and money made available from any other source for the use of the authority must be deposited in the agricultural loan authority account except as otherwise provided by law. All funds deposited in the agricultural loan authority account are continuously appropriated to and may be expended by the authority for the purposes authorized in [sections 2 through

1 28].

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

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

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

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

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

24 Section 20. Refunding obligations -- sale. Refunding  
25 obligations issued as provided in 90-6-121 may be sold or

1 exchanged for outstanding obligations issued under [sections  
2 2 through 28]. The proceeds may be applied to the purchase,  
3 redemption, or payment of outstanding obligations. Pending  
4 the application of the proceeds to the payment of  
5 outstanding obligations, the proceeds may be invested as  
6 provided in Title 17, chapter 6, if permitted in the  
7 resolution authorizing the issuance of the refunding  
8 obligations or in the trust agreement securing them.

9 Section 21. Refunding obligations -- issuance. The  
10 authority may provide for the issuance of refunding  
11 obligations to refund any obligations then outstanding that  
12 have been issued under [sections 2 through 28], including  
13 the payment of any redemption premium and any interest  
14 accrued or to accrue to the date of redemption of the  
15 obligations. The issuance of obligations, the maturities  
16 and other details, the rights of the holders, and the  
17 rights, duties, and obligations of the authority are  
18 governed by the appropriate provisions of [sections 2  
19 through 28] that relate to the issuance of obligations.

20 Section 22. Tax exemption of bonds. Bonds issued by  
21 the authority under [sections 2 through 28] and their  
22 transfer and income, including any profits made on their  
23 sale, are exempt from taxation by the state or any political  
24 subdivision or other instrumentality of the state, except  
25 for inheritance, estate, and gift taxes. The authority is

1 not required to pay recording or transfer fees or taxes on  
2 instruments recorded by it.

3 Section 23. Income tax deduction for land sale to  
4 beginning farmers. A landowner who sells land consisting of  
5 80 acres or more to a beginning farmer at 9% or less  
6 interest on a long-term contract is entitled to a reduction  
7 in his taxable income in an amount equal to 100% of any  
8 income or capital gain, or both, realized and otherwise  
9 subject to state income taxes from the sale, up to a maximum  
10 of \$50,000, provided the transaction is first approved by  
11 the authority for this purpose.

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

18 Section 25. Annual audit. The authority's books and  
19 records must be audited at least once each year by the  
20 legislative auditor or by a contract auditor as directed by  
21 the legislative audit committee. The cost of the audit  
22 shall be paid by the authority.

23 Section 26. Report. The department shall transmit to  
24 the governor and to each member of the legislature at least  
25 30 days before each regular legislative session a report:

1 (1) detailing the operations of the agricultural loan  
2 authority program since the adjournment of the last  
3 legislature; and

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

6 Section 27. Powers to be interpreted broadly. The  
7 powers enumerated in [sections 2 through 28] must be  
8 interpreted broadly to effectuate the purposes of the  
9 authority and may not be construed as a limitation of  
10 powers.

11 Section 28. Legislative review required. The  
12 agricultural loan authority program must be reviewed by the  
13 legislature at the third regular legislative session  
14 following the first sale of bonds under the provisions of  
15 [section 10] to determine whether the program should  
16 continue. However, this section does not, in itself,  
17 terminate the program, and any existing commitments incurred  
18 by the authority are not affected by this review.

19 Section 29. Codification instruction. (1) Section 1  
20 is intended to be codified as an integral part of Title 2,  
21 chapter 15, part 30, and the provisions of Title 2, chapter  
22 15, part 1, apply to section 1.

23 (2) Sections 2 through 28 are intended to be codified  
24 as an integral part of Title 80, and the provisions of Title  
25 80 apply to sections 2 through 28.

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1       Section 30. Severability. If a portion of this act is  
2       invalid, all valid parts that are severable from the invalid  
3       part remain in effect. If a part of this act is invalid in  
4       one or more of its applications, the part remains in effect  
5       in all valid applications that are severable from the  
6       invalid applications.

-End-