

SENATE BILL NO. 389

Introduced: 02/09/83

Referred to Committee on Judiciary: 02/09/83

Hearing: 2/14/83

Report: 02/14/83, Do Pass

2nd Reading: 2/16/83

3rd Reading: 02/19/83

Transmitted to House: 02/19/83

Referred to Committee on Business & Industry: 02/28/83

Hearing: 3/10/83

Report: 03/11/83, Be Concurred In

2nd Reading: 03/14/83, Be Not Concurred In
Bill Killed.

1 *Goodover* *Don* *STEPHENS* *1/1* *LANE* *E. Smith* *Berg*
 2 INTRODUCED BY *Turnage* *Patagon* *Robert* *Jeff* *Hall*
 3 *Bob Brown* *Therrell* *LANE* *Therrell* *Don*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A PRESUMPTION *Berg*

5 OF ABANDONMENT OF PERSONAL PROPERTY CREDITED OR ISSUED TO
 6 MEMBERS OR PATRONS OF COOPERATIVE ASSOCIATIONS FORMED UNDER
 7 THE PROVISIONS OF TITLE 35, CHAPTER 15, AGRICULTURAL
 8 ASSOCIATIONS FORMED UNDER THE PROVISIONS OF TITLE 35,
 9 CHAPTER 16, COOPERATIVE AGRICULTURAL MARKETING ASSOCIATIONS
 10 FORMED UNDER TITLE 35, CHAPTER 17, OR RURAL COOPERATIVE
 11 UTILITIES FORMED UNDER THE PROVISIONS OF THE RURAL ELECTRIC
 12 AND TELEPHONE COOPERATIVE ACT, TITLE 35, CHAPTER 18;
 13 PROVIDING FOR THE COOPERATIVE TO ACQUIRE OWNERSHIP OF SUCH
 14 PROPERTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Legislative finding. The legislature finds
 18 and determines that it is in the best interests of the state
 19 of Montana and the members and patrons of agricultural
 20 associations, cooperative agricultural marketing
 21 associations, and rural cooperative utilities if a procedure
 22 is established for the purpose of declaring certain personal
 23 property created by the operation of and patronage with such
 24 cooperative associations abandoned and thereby reducing the
 25 administrative costs and expenses to such cooperatives and

1 the members and patrons thereof.

2 Section 2. Abandoned property. The following property
 3 held by or owing and payable to the members and patrons of
 4 agricultural associations, cooperative agricultural
 5 marketing associations, or rural cooperative utilities is
 6 presumed abandoned if the patron or owner has not claimed it
 7 or corresponded with the cooperative concerned within 7
 8 years after the date prescribed for payment or delivery:

9 (1) (a) patronage refunds to members;

10 (b) distributions to patrons in the form of cash;
 11 credits; stock, revolving fund, or other certificates;

12 (c) securities of the associations or of other
 13 associations; or

14 (d) any combination of the above;

15 (2) dividends, other distributions held for or owing
 16 to such owner or patron at the time, or intangible interest
 17 in such cooperative association.

18 Section 3. Procedure -- notice of property presumed
 19 abandoned -- publication -- mail. (1) At any regular or
 20 special meeting of the trustees or directors of a
 21 cooperative association referred to in [this act], the
 22 trustees or directors may determine what property, if any,
 23 may qualify as abandoned property. Within 120 days after
 24 such determination, the trustees or directors shall publish
 25 notice at least once each week for 2 successive weeks in a

1 newspaper of general circulation in the county in which is
2 located the principal office of the cooperative association.

3 (2) The published notice must be entitled "Notice of
4 Names of Persons Appearing to Be Owners of Abandoned
5 Property" and must contain:

6 (a) the names, in alphabetical order, and last-known
7 addresses, if any, of persons entitled to notice in the list
8 of property presumed to be abandoned;

9 (b) a statement that information concerning the amount
10 or description of property may be obtained by persons
11 possessing an interest in the property by addressing an
12 inquiry to the holder; and

13 (c) a statement that if proof of claim is not
14 presented by the owner to the holder and if the owner's
15 right to receive the property is not established to the
16 holder's satisfaction within 65 days from the date of the
17 second published notice, the abandoned property will become
18 the property of the cooperative association.

19 (3) A copy of the published notice must be mailed
20 within 10 days of the last publication of the notice to the
21 owner or claimant of such property at his last address, if
22 any, listed on the records of the cooperative association.

23 (4) Any property determined to be abandoned as
24 provided in [this act] becomes the property of the
25 cooperative association that has caused such determination

1 to be made.

2 Section 4. Exemption from property reverting to state.
3 The provisions of Title 70, chapter 9, parts 1 through 3, do
4 not apply to:

5 (1) cooperative associations formed under the
6 provisions of Title 35, chapter 15;

7 (2) agricultural associations formed under the
8 provisions of Title 35, chapter 16;

9 (3) cooperative agricultural marketing associations
10 formed under Title 35, chapter 17; or

11 (4) rural cooperative utilities formed under the
12 provisions of the Rural Electric and Telephone Cooperative
13 Act, Title 35, chapter 18.

14 Section 5. Effective date. This act is effective on
15 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 370-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 389 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 389 creates a presumption of abandonment of personal property credited or issued to members or patrons of cooperative associations formed under the provisions of Title 35, Chapter 15, agricultural associations formed under the provisions of Title 35, Chapter 16, cooperative agricultural marketing associations formed under Title 35, Chapter 17, or rural cooperative utilities formed under the provisions of the Rural Electric and Telephone Cooperative Act, Title 35, Chapter 18; provides for the cooperative to acquire ownership of such property; and provides an immediate effective date.

FISCAL IMPACT:

It is not possible to provide a reliable estimate of the fiscal impact of SB389.

COMMENTS:

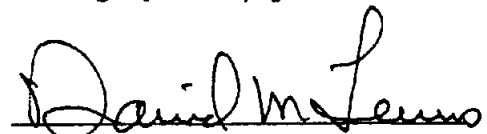
Because of the variability of property abandonment from year to year, it is not possible to predict receipts that will be attributable to abandoned property during the 84-85 biennium. Some information is available, however, regarding past collections which may be helpful in comparing this proposal with current law.

For instance, if SB389 had applied to data for FY81 and FY82 the impact would be as follows:

	<u>FY81</u>	<u>FY82</u>
Abandoned Property Collections		
Under Current Law	\$345,800	\$393,500
Under Proposed Law	<u>323,600</u>	<u>371,100</u>
Estimated Decrease	<u>(22,200)</u>	<u>(22,400)</u>

Receipts from abandoned property are deposited in the trust and legacy fund, public school account of the state.

(Continued)



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-14-83

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. The bill sets no minimum limitations for which abandoned property is to be advertised. Standard practices of the state currently require the state to advertise abandoned property exceeding \$50. This bill apparently leaves such limitations to the discretion of cooperative associations.
2. The bill does not provide police requirements to insure boards of directors of cooperative associations carry out the procedures of the bill, i.e., advertising and determination of what constitutes abandoned property.

FISCAL NOTE 12/DD/2

SB389

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2 located the principal office of the cooperative association.

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SENATE BILL NO. 389

INTRODUCED BY

Bob Brown, Maguirk, LANE, Kelly, Smith, Berg

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A PRESUMPTION OF ABANDONMENT OF PERSONAL PROPERTY CREDITED OR ISSUED TO MEMBERS OR PATRONS OF COOPERATIVE ASSOCIATIONS FORMED UNDER THE PROVISIONS OF TITLE 35, CHAPTER 15, AGRICULTURAL ASSOCIATIONS FORMED UNDER THE PROVISIONS OF TITLE 35, CHAPTER 16, COOPERATIVE AGRICULTURAL MARKETING ASSOCIATIONS FORMED UNDER TITLE 35, CHAPTER 17, OR RURAL COOPERATIVE UTILITIES FORMED UNDER THE PROVISIONS OF THE RURAL ELECTRIC AND TELEPHONE COOPERATIVE ACT, TITLE 35, CHAPTER 18; PROVIDING FOR THE COOPERATIVE TO ACQUIRE OWNERSHIP OF SUCH PROPERTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Legislative finding. The legislature finds and determines that it is in the best interests of the state of Montana and the members and patrons of agricultural associations, cooperative agricultural marketing associations, and rural cooperative utilities if a procedure is established for the purpose of declaring certain personal property created by the operation of and patronage with such cooperative associations abandoned and thereby reducing the administrative costs and expenses to such cooperatives and

the members and patrons thereof.

Section 2. Abandoned property. The following property held by or owing and payable to the members and patrons of agricultural associations, cooperative agricultural marketing associations, or rural cooperative utilities is presumed abandoned if the patron or owner has not claimed it or corresponded with the cooperative concerned within 7 years after the date prescribed for payment or delivery:

(1) (a) patronage refunds to members;

(b) distributions to patrons in the form of cash; credits; stock, revolving fund, or other certificates;

(c) securities of the associations or of other associations; or

(d) any combination of the above;

(2) dividends, other distributions held for or owing to such owner or patron at the time, or intangible interest in such cooperative association.

Section 3. Procedure -- notice of property presumed abandoned -- publication -- mail. (1) At any regular or special meeting of the trustees or directors of a cooperative association referred to in [this act], the trustees or directors may determine what property, if any, may qualify as abandoned property. Within 120 days after such determination, the trustees or directors shall publish notice at least once each week for 2 successive weeks in a

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