

SENATE BILL NO. 425

2/15 Introduced  
2/15 Referred to Taxation  
2/15 Rereferred to Business & Industry  
2/15 Fiscal Note Requested  
2/18 Hearing  
2/23 Fiscal Note Received  
3/14 Committee Report-Bill Do Pass  
3/14 Statement of Intent Attached  
3/16 2nd Reading Pass As Amended  
3/19 3rd Reading Do Not Pass  
    Required 3/4 Vote Not Obtained  
3/19 Bill Killed

1 Senate BILL NO. 425  
 2 INTRODUCED BY Newman  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN  
 5 AGRICULTURAL AUTHORITY INVESTMENT FUND; PROVIDING FOR THE  
 6 INVESTMENT OF 25 PERCENT OF ALL REVENUE DEPOSITED IN THE  
 7 PERMANENT COAL TAX TRUST FUND IN MONTANA AGRICULTURE;  
 8 ESTABLISHING SECURITY OF LOANS OR BONDS BY CREATING A MORAL  
 9 OBLIGATION OF THE STATE TO MAINTAIN A CAPITAL RESERVE  
 10 ACCOUNT; AMENDING SECTIONS 17-6-201, 17-6-307, AND  
 11 80-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 Section 1. Section 80-12-103, MCA, is amended to read:  
 15 "80-12-103. Agricultural loan authority -- general  
 16 powers. The authority may:  
 17 (1) retain professional consultants and advisers;  
 18 (2) adopt rules governing its procedures;  
 19 (3) purchase agricultural loans made by financial  
 20 institutions;  
 21 (4) issue bonds, in accordance with 80-12-301,  
 22 necessary to provide funds for implementing this chapter;  
 23 (5) invest any funds generated by sale of bonds in the  
 24 permissible investments outlined in 17-6-211 until such time  
 25 as the funds are needed for any of the authority's other

1 functions; and  
 2 (6) use the assistance and services of the farmers  
 3 home administration, the production credit association, the  
 4 federal land bank, or private lenders in approving loans for  
 5 issuance of bonds;  
 6 (7) invest any funds not required for immediate use as  
 7 the authority considers appropriate, subject to any  
 8 agreements with its bondholders and noteholders;  
 9 (8) arrange for lines of credit from and enter into  
 10 participation agreements with any financial institution;  
 11 (9) sell, purchase, or insure loans to finance the  
 12 costs of projects;  
 13 (10) accept services, appropriations, gifts, grants,  
 14 bequests, and devise and use or dispose of them in carrying  
 15 out this chapter;  
 16 (11) service, contract, and pay for the servicing of  
 17 loans;  
 18 (12) invest in, purchase or make commitments to  
 19 purchase, and take assignment from financial institutions of  
 20 notes, mortgages, loan agreements, and other securities  
 21 evidencing loans for the purposes of financing agricultural  
 22 projects under this chapter;  
 23 (13) make loans to financial institutions, under terms  
 24 and conditions determined by the authority, requiring the  
 25 proceeds to be used by the financial institution for the



1 purpose of financing agricultural projects under this  
2 chapter."

3 NEW SECTION. Section 2. Agricultural authority  
4 investment fund -- allocation of coal tax trust fund money.  
5 (1) There is an agricultural authority investment fund.  
6 Twenty-five percent of all revenue deposited after June 30,  
7 1985, into the permanent coal tax trust fund established in  
8 17-6-203(5) must be allocated to the agricultural authority  
9 investment fund for investment in Montana agriculture.

10 (2) In determining the rate of return for any  
11 investment of this revenue, as required by 17-6-201(1), the  
12 long-term benefit to the economy of Montana must be  
13 considered.

14 NEW SECTION. Section 3. Direct loans prohibited. No  
15 money from the agricultural authority investment fund may be  
16 used to make direct loans to individual borrowers. Loans or  
17 portions thereof originated by a financial institution that  
18 are sold to the agricultural authority investment fund are  
19 not direct loans.

20 NEW SECTION. Section 4. Limitation on size of  
21 investments. No investment of the agricultural authority  
22 investment fund may be made that will result in any one  
23 agribusiness enterprise or person receiving a benefit from  
24 or incurring a debt to the agricultural authority investment  
25 fund the total current accumulated amount of which exceeds

1 20% of the prior fiscal year's coal severance tax revenue  
2 deposited in the agricultural authority investment fund.

3 NEW SECTION. Section 5. Prior commitment of funds.  
4 The authority may authorize the commitment of funds to  
5 financial institutions pursuant to rules it has adopted, but  
6 the determination of credit worthiness of individual  
7 applicants must be made by the financial institution and the  
8 authority.

9 NEW SECTION. Section 6. Use of agricultural authority  
10 investment fund authorized to guarantee loans or bonds.  
11 (1) For the purpose of 80-12-103, the term "investment"  
12 includes the guarantee of loans or bonds in consideration of  
13 a fee in lieu of the actual acquisition of such loans or  
14 bonds.

15 (2) The authority may use the agricultural authority  
16 investment fund to guarantee loans or bonds issued under the  
17 provisions of this chapter. Each guarantee must be given in  
18 consideration of a fee to be paid to the authority and  
19 provide directly or by separate agreement that the authority  
20 is fully subrogated to the rights of the obligee under the  
21 loan or bond. The authority shall by rule establish the  
22 maximum ratio between guarantee funds available and loans or  
23 bonds to be guaranteed and may covenant in bond issues to  
24 maintain such ratio.

25 (3) The authority may make loans from the agricultural

1 authority investment fund to a capital reserve account  
 2 created under 80-12-312 [and the agricultural loan guaranty  
 3 fund created by section 3 of Senate Bill 208] to establish  
 4 balances or restore deficiencies therein and may agree, in  
 5 connection with the issuance of bonds or notes secured by  
 6 such account [or fund], to make such loans. Such loans must  
 7 be on terms and conditions determined by the authority and  
 8 must be repaid from revenues of the authority realized from  
 9 the exercise of its powers under this chapter, subject to  
 10 the prior pledge thereof to the bonds and notes.

11 NEW SECTION. Section 7. Maintenance of capital  
 12 reserve account. (1) In order to assure the maintenance of  
 13 the capital reserve account established in 80-12-312, the  
 14 authority shall, on or before September 1 in each year  
 15 preceding the convening of the legislature, deliver to the  
 16 governor a certificate stating the sum, if any, required to  
 17 restore the capital reserve account to the minimum capital  
 18 reserve requirement. The governor shall include in the  
 19 executive budget submitted to the legislature the sum  
 20 required to restore the capital reserve account to such  
 21 minimum amount. All sums appropriated by the legislature for  
 22 this purpose must be deposited in the capital reserve  
 23 account.

24 (2) All amounts appropriated to the authority under  
 25 this section constitute advances to the authority and,

1 subject to the rights of the holders of any bonds or notes  
 2 of the authority, must be repaid to the state general fund,  
 3 without interest, from available operating revenues of the  
 4 authority in excess of amounts required for the payment of  
 5 bonds, notes, or other obligations of the authority, for  
 6 maintenance of the capital reserve account, and for  
 7 operating expenses.

8 NEW SECTION. Section 8. Service charges. The  
 9 authority shall by rule establish reasonable service fees  
 10 that may be charged on loans made from the agricultural  
 11 authority investment fund. This section does not require  
 12 such fees to be charged on every loan.

13 Section 9. Section 17-6-201, MCA, is amended to read:  
 14 "17-6-201. Unified investment program -- general  
 15 provisions. (1) The uniform investment program directed by  
 16 Article VIII, section 13, of the 1972 Montana constitution  
 17 to be provided for public funds shall be administered by the  
 18 board of investments, and the Montana economic development  
 19 board, and the Montana agricultural loan authority in  
 20 accordance with the rules provided in this chapter [and  
 21 Title 80, chapter 12,] and with that degree of judgment and  
 22 care, under circumstances from time to time prevailing,  
 23 which people of prudence, discretion, and intelligence  
 24 exercise in the management of their own affairs, not for  
 25 speculation but for investment, considering the probable

1 safety of their capital as well as the probable income to be  
 2 derived, and preservation of purchasing power of capital  
 3 during periods of sustained high monetary inflation.  
 4 Investments by the Montana economic development board are  
 5 limited to those made from the Montana in-state investment  
 6 fund and for the purposes set forth in part 3.

7 (2) All state funds shall be invested and reinvested  
 8 in securities enumerated in 17-6-211 to the maximum extent  
 9 consistent with this policy and with the need and timing of  
 10 cash expenditures for particular purposes.

11 (3) The board of investments has the sole authority to  
 12 invest state funds other than the Montana in-state  
 13 investment fund and the agricultural authority investment  
 14 fund. No other agency may invest such state funds. The board  
 15 shall direct the investment of state funds in accordance  
 16 with the laws and constitution of this state. The board has  
 17 the power to veto any investments made under its general  
 18 supervision.

19 (4) The board of investments shall:

20 (a) assist agencies with public money to determine if,  
 21 when, and how much surplus cash is available for investment;

22 (b) determine the amount of surplus treasury cash to  
 23 be invested;

24 (c) determine the type of investment to be made; and

25 (d) prepare the claim to pay for the investment.

1 (5) The board of investments may:

2 (a) execute deeds of conveyance transferring all real  
 3 property obtained through foreclosure of any investments  
 4 purchased under the provisions of 17-6-211 when full payment  
 5 has been received therefor;

6 (b) direct the withdrawal of any funds deposited by or  
 7 for the state treasurer pursuant to 17-6-101 and 17-6-105;

8 (c) direct the sale of any securities in the program  
 9 at their full and true value when found necessary to raise  
 10 money for payments due from the treasury funds for which the  
 11 securities have been purchased.

12 (6) The state treasurer shall keep an account of the  
 13 total of each investment fund and of all the investments  
 14 belonging to such fund and of the participation of each  
 15 treasury fund account therein and shall make from time to  
 16 time such reports with reference thereto as may be directed  
 17 by the board of investments.

18 (7) The cost of administering and accounting for each  
 19 investment fund shall be deducted from the income therefrom,  
 20 except that such costs of the nonexpendable trust funds  
 21 shall be paid from income otherwise receivable from the  
 22 pooled investment fund, and the amounts required for this  
 23 purpose shall be appropriated by the legislature from the  
 24 respective investment funds."

25 Section 10. Section 17-6-307, MCA, is amended to read:

1 "17-6-307. Unified investment program. The Montana  
 2 economic development board, and the board of investments,  
 3 and the Montana agricultural loan authority shall hold joint  
 4 meetings at least twice a year as a unified investment board  
 5 for purposes of coordinating investment strategies,  
 6 policies, and programs as required by Article VIII, section  
 7 13, of the Montana constitution."

8 NEW SECTION. Section 11. Extension of authority. Any  
 9 existing authority of the Montana agricultural loan  
 10 authority to make rules on the subject of the provisions of  
 11 this act is extended to the provisions of this act.

12 NEW SECTION. Section 12. Severability. If a part of  
 13 this act is invalid, all valid parts that are severable from  
 14 the invalid part remain in effect. If a part of this act is  
 15 invalid in one or more of its applications, the part remains  
 16 in effect in all valid applications that are severable from  
 17 the invalid applications.

18 NEW SECTION. Section 13. Codification instruction.  
 19 Sections 2 through 8 are intended to be codified as an  
 20 integral part of Title 80, chapter 12, and the provisions of  
 21 Title 80, chapter 12, apply to sections 2 through 8.

22 NEW SECTION. Section 14. Coordination instruction.  
 23 (1) The bracketed language in section 6(3) referring to a  
 24 guaranty fund created by Senate Bill No. 208 is effective  
 25 only if Senate Bill No. 208 is passed by the 49th

1 legislature and approved.

2 (2) The bracketed language in section 9, referring to  
 3 Title 80, chapter 12, is void if Senate Bill No. 11 is  
 4 passed by the 49th legislature and approved.

5 NEW SECTION. Section 15. Effective date. This act is  
 6 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 452 85

Form BD-15

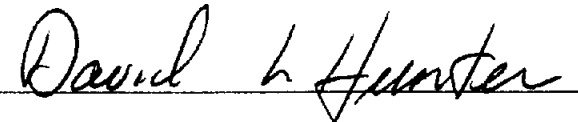
In compliance with a written request received February 15, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 425 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to establish Agricultural Authority Investment Fund; to provide for investment of 25% of all revenue deposited in the Permanent Coal Tax Trust Fund in Montana Agriculture; to establish security of loans or bonds by creating a moral obligation of the State to maintain a Capital Reserve Account, amending Section 17-6-201, 17-6-307, and 80-12-103, MCA; and providing an effective date.

ASSUMPTIONS:

1. 25% of all revenue deposited after June 30, 1985 into Permanent Coal Tax Trust Fund be allocated to Agriculture Authority Investment Fund (AAIF) for investment in Montana Agriculture.
2. Funds available for investment will be \$12,983,250 in FY 86 and \$14,004,125 in FY 87.
3. AAIF will be used for guarantee loans or bonds and loan participation.
4. Origination/guarantee fee on percentage of loans from AAIF 1/2 to 1% of loan amount.
5. Anticipate service fee paid to lenders serving participation loans @ \$.325 x \$10,000,000.
6. Operational costs be charged to AAIF.
7. Anticipate 10 year ammortization of bonds sold.
8. The Montana Agricultural Loan Authority Board consists of 9 members.
9. 4 FTE required.
10. Underwriter fee \$40,000 annually.
11. Effective date of Act is July 1, 1985.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 22, 1985

SB 425

FISCAL IMPACT:

	<u>FY 86</u>	<u>FY 87</u>
Revenue		
Coal Tax 25%	\$ 12,983,250	\$ 14,004,125
Origination Fee (Loan Guarantee)	200,000	600,000
Bond/Loan Origination Fee	-0-	75,000
Bond Sales (10 Year)	-0-	10,000,000
	\$ <u>13,183,250</u>	\$ <u>24,679,125</u>
Expenditures Under Proposed Legislation		
Personal Services	\$ 100,849	\$ 100,849
Per Diem (Board)	3,200	2,400
Operations	96,508	136,248
Equipment	10,469	350
Indirect Cost	17,991	17,991
Bond Costs (Legal Fees)	-0-	1,350,000
Loan Payback (General Fund)		115,000
	\$ <u>229,017</u>	\$ <u>1,722,838</u>
Expenditures Under Current Law	\$ -0-	\$ -0-

NOTE:

Section 2 of Senate Bill 425 requires the Authority to consider the long term benefit to the Montana economy when calculating the rate of return for any investment from the fund. If this means that loans are made at less than market rate, then interest earnings will be reduced.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. SB 425 does not address the source of revenue for payment of operating costs for the Agricultural Authority Investment Fund Program.
2. SB 425 may need to contain a provision similar to SB 41 which clarifies the allocation of interest earnings that are reinvested in the permanent coal tax trust fund.



RE-REFERRED ANI

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

STATEMENT OF INTENT

SENATE BILL 425

Senate Business and Industry Committee

A statement of intent is required for this bill because rulemaking authority is granted to the Montana agricultural loan authority (MALA) in sections 5, 6, 8, and 10.

It is the intent of the legislature that MALA adopt rules for the orderly handling and processing of investments made with the coal tax trust money deposited in the agricultural authority investment fund. MALA should operate in a similar fashion as the Montana economic development board. However, the investments must be in agriculture, and the concern must be for economic stabilization as well as economic stimulation. The investments are intended to increase the amount of available capital for farm operations by providing a new source of investment capital.

It is the intent of the legislature that MALA should establish rules for the investment of money in banks, with the agreement that the banks will in turn loan an equal amount of money to farmers at the banks' risk. The investment of money in the banks should provide the liquidity necessary for the banks to make these loans.

It is the intent of the legislature that the state is morally obligated to back the sale of bonds, as set forth in

section 7.

It is the intent of the legislature that MALA establish separate standards for determining eligibility for those persons receiving loans with money backed by the agricultural authority investment fund. However, in no event should the standards be less than those required for loans guaranteed under Senate Bill No. 208. The legislature recognizes the overly restrictive regulations placed upon applicants for loans financed by bonds sold by MALA. Therefore, the standards placed upon applicants for loans backed by the investment fund are not limited by federal regulations but by statutory limits enacted by the Montana legislature and interpreted liberally.



SENATE BILL NO. 425

INTRODUCED BY NEUMAN, TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN AGRICULTURAL AUTHORITY INVESTMENT FUND; PROVIDING FOR THE INVESTMENT OF 25 PERCENT OF ALL REVENUE DEPOSITED IN THE PERMANENT COAL TAX TRUST FUND IN MONTANA AGRICULTURE; ESTABLISHING SECURITY OF LOANS OR BONDS BY CREATING A MORAL OBLIGATION OF THE STATE TO MAINTAIN A CAPITAL RESERVE ACCOUNT; AMENDING SECTIONS 17-6-201, 17-6-307, AND 80-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 80-12-103, MCA, is amended to read:

"80-12-103. 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 80-12-301, necessary to provide funds for implementing this chapter;
(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;

(7) invest any funds not required for immediate use as the authority considers appropriate, subject to any agreements with its bondholders and noteholders;

(8) arrange for lines of credit from and enter into participation agreements with any financial institution;

(9) sell, purchase, or insure loans to finance the costs of projects;

(10) accept services, appropriations, gifts, grants, bequests, and devise and use or dispose of them in carrying out this chapter;

(11) service, contract, and pay for the servicing of loans;

(12) invest in, purchase or make commitments to purchase, and take assignment from financial institutions of notes, mortgages, loan agreements, and other securities evidencing loans for the purposes of financing agricultural projects under this chapter;

(13) make loans to financial institutions, under terms and conditions determined by the authority, requiring the proceeds to be used by the financial institution for the



1 purpose of financing agricultural projects under this  
2 chapter."

3 NEW SECTION. Section 2. Agricultural authority  
4 investment fund -- allocation of coal tax trust fund money.  
5 (1) There is an agricultural authority investment fund.  
6 Twenty-five percent of all revenue deposited after June 30,  
7 1985, into the permanent coal tax trust fund established in  
8 17-6-203(5) must be allocated to the agricultural authority  
9 investment fund for investment in Montana agriculture.

10 (2) In determining the rate of return for any  
11 investment of this revenue, as required by 17-6-201(1), the  
12 long-term benefit to the economy of Montana must be  
13 considered.

14 NEW SECTION. Section 3. Direct loans prohibited. No  
15 money from the agricultural authority investment fund may be  
16 used to make direct loans to individual borrowers. Loans or  
17 portions thereof originated by a financial institution that  
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20 NEW SECTION. Section 4. Limitation on size of  
21 investments. No investment of the agricultural authority  
22 investment fund may be made that will result in any one  
23 agribusiness enterprise or person receiving a benefit from  
24 or incurring a debt to the agricultural authority investment  
25 fund the total current accumulated amount of which exceeds

1 20% of the prior fiscal year's coal severance tax revenue  
2 deposited in the agricultural authority investment fund.

3 NEW SECTION. Section 5. Prior commitment of funds.  
4 The authority may authorize the commitment of funds to  
5 financial institutions pursuant to rules it has adopted, but  
6 the determination of credit worthiness of individual  
7 applicants must be made by the financial institution and the  
8 authority.

9 NEW SECTION. Section 6. Use of agricultural authority  
10 investment fund authorized to guarantee loans or bonds.  
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12 includes the guarantee of loans or bonds in consideration of  
13 a fee in lieu of the actual acquisition of such loans or  
14 bonds.

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16 investment fund to guarantee loans or bonds issued under the  
17 provisions of this chapter. Each guarantee must be given in  
18 consideration of a fee to be paid to the authority and  
19 provide directly or by separate agreement that the authority  
20 is fully subrogated to the rights of the obligee under the  
21 loan or bond. The authority shall by rule establish the  
22 maximum ratio between guarantee funds available and loans or  
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24 maintain such ratio.

25 (3) The authority may make loans from the agricultural

1 authority investment fund to a capital reserve account  
 2 created under 80-12-312 [and the agricultural loan guaranty  
 3 fund created by section 3 of Senate Bill 208] to establish  
 4 balances or restore deficiencies therein and may agree, in  
 5 connection with the issuance of bonds or notes secured by  
 6 such account [or fund], to make such loans. Such loans must  
 7 be on terms and conditions determined by the authority and  
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 9 the exercise of its powers under this chapter, subject to  
 10 the prior pledge thereof to the bonds and notes.

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 12 reserve account. (1) In order to assure the maintenance of  
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 14 authority shall, on or before September 1 in each year  
 15 preceding the convening of the legislature, deliver to the  
 16 governor a certificate stating the sum, if any, required to  
 17 restore the capital reserve account to the minimum capital  
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 19 executive budget submitted to the legislature the sum  
 20 required to restore the capital reserve account to such  
 21 minimum amount. All sums appropriated by the legislature for  
 22 this purpose must be deposited in the capital reserve  
 23 account.

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 25 this section constitute advances to the authority and,

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 2 of the authority, must be repaid to the state general fund,  
 3 without interest, from available operating revenues of the  
 4 authority in excess of amounts required for the payment of  
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 6 maintenance of the capital reserve account, and for  
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 9 authority shall by rule establish reasonable service fees  
 10 that may be charged on loans made from the agricultural  
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 15 provisions. (1) The uniform investment program directed by  
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 17 to be provided for public funds shall be administered by the  
 18 board of investments, ~~and~~ the Montana economic development  
 19 board, and the Montana agricultural loan authority in  
 20 accordance with the rules provided in this chapter [and  
 21 Title 80, chapter 12,] and with that degree of judgment and  
 22 care, under circumstances from time to time prevailing,  
 23 which people of prudence, discretion, and intelligence  
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1 safety of their capital as well as the probable income to be  
 2 derived, and preservation of purchasing power of capital  
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 5 limited to those made from the Montana in-state investment  
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 8 in securities enumerated in 17-6-211 to the maximum extent  
 9 consistent with this policy and with the need and timing of  
 10 cash expenditures for particular purposes.

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 12 invest state funds other than the Montana in-state  
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 7 for the state treasurer pursuant to 17-6-101 and 17-6-105;

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 13 total of each investment fund and of all the investments  
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 20 except that such costs of the nonexpendable trust funds  
 21 shall be paid from income otherwise receivable from the  
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 24 respective investment funds."

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 10 authority to make rules on the subject of the provisions of  
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 13 this act is invalid, all valid parts that are severable from  
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 15 invalid in one or more of its applications, the part remains  
 16 in effect in all valid applications that are severable from  
 17 the invalid applications.

18 NEW SECTION. Section 13. Codification instruction.  
 19 Sections 2 through 8 are intended to be codified as an  
 20 integral part of Title 80, chapter 12, and the provisions of  
 21 Title 80, chapter 12, apply to sections 2 through 8.

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 3 Title 80, chapter 12, is void if Senate Bill No. 11 is  
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5 NEW SECTION. Section 15. Effective date. This act is  
 6 effective July 1, 1985.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 425

3 Senate Business and Industry Committee

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5 A statement of intent is required for this bill because  
6 rulemaking authority is granted to the Montana agricultural  
7 loan authority (MALA) in sections 5, 6, 8, and 10.

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17 by providing a new source of investment capital.

18 It is the intent of the legislature that MALA should  
19 establish rules for the investment of money in banks, with  
20 the agreement that the banks will in turn loan an equal  
21 amount of money to farmers at the banks' risk. The  
22 investment of money in the banks should provide the  
23 liquidity necessary for the banks to make these loans.

24 It is the intent of the legislature that the state is  
25 morally obligated to back the sale of bonds, as set forth in

1 section 7.

2 It is the intent of the legislature that MALA establish  
3 separate standards for determining eligibility for those  
4 persons receiving loans with money backed by the  
5 agricultural authority investment fund. However, in no event  
6 should the standards be less than those required for loans  
7 guaranteed under Senate Bill No. 208. The legislature  
8 recognizes the overly restrictive regulations placed upon  
9 applicants for loans financed by bonds sold by MALA.  
10 Therefore, the standards placed upon applicants for loans  
11 backed by the investment fund are not limited by federal  
12 regulations but by statutory limits enacted by the Montana  
13 legislature and interpreted liberally.

## 1 SENATE BILL NO. 425

2 INTRODUCED BY NEUMAN, TOWE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN  
5 AGRICULTURAL AUTHORITY INVESTMENT FUND; PROVIDING FOR THE  
6 INVESTMENT OF 25 PERCENT OF ALL REVENUE DEPOSITED IN THE  
7 PERMANENT COAL TAX TRUST FUND IN MONTANA AGRICULTURE;  
8 ESTABLISHING SECURITY OF LOANS OR BONDS BY CREATING A MORAL  
9 OBLIGATION OF THE STATE TO MAINTAIN A CAPITAL RESERVE  
10 ACCOUNT; AMENDING SECTIONS 17-6-201, 17-6-307, AND  
11 80-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A  
12 TERMINATION DATE."

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

15 Section 1. Section 80-12-103, MCA, is amended to read:

16 "80-12-103. Agricultural loan authority -- general  
17 powers. The authority may:

- 18 (1) retain professional consultants and advisers;  
19 (2) adopt rules governing its procedures;  
20 (3) purchase agricultural loans made by financial  
21 institutions;  
22 (4) issue bonds, in accordance with 80-12-301,  
23 necessary to provide funds for implementing this chapter;  
24 (5) invest any funds generated by sale of bonds in the  
25 permissible investments outlined in 17-6-211 until such time

1 as the funds are needed for any of the authority's other  
2 functions; and

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

7 (7) invest any funds not required for immediate use as  
8 the authority considers appropriate, subject to any  
9 agreements with its bondholders and noteholders;

10 (8) arrange for lines of credit from and enter into  
11 participation agreements with any financial institution;

12 (9) sell, purchase, or insure loans to finance the  
13 costs of projects;

14 (10) accept services, appropriations, gifts, grants,  
15 bequests, and devise and use or dispose of them in carrying  
16 out this chapter;

17 (11) service, contract, and pay for the servicing of  
18 loans;

19 (12) invest in, purchase or make commitments to  
20 purchase, and take assignment from financial institutions of  
21 notes, mortgages, loan agreements, and other securities  
22 evidencing loans for the purposes of financing agricultural  
23 projects under this chapter;

24 (13) make loans to financial institutions, under terms  
25 and conditions determined by the authority, requiring the



1 proceeds to be used by the financial institution for the  
 2 purpose of financing agricultural projects under this  
 3 chapter."

4 NEW SECTION. Section 2. Agricultural authority  
 5 investment fund -- allocation of coal tax trust fund money.  
 6 (1) There is an agricultural authority investment fund.  
 7 Twenty-five percent of all revenue deposited after June 30,  
 8 1985, into the permanent coal tax trust fund established in  
 9 17-6-203(5) must be allocated to the agricultural authority  
 10 investment fund for investment in Montana agriculture.

11 (2) In determining the rate of return for any  
 12 investment of this revenue, as required by 17-6-201(1), the  
 13 long-term benefit to the economy of Montana must be  
 14 considered.

15 NEW SECTION. Section 3. Direct loans prohibited. No  
 16 money from the agricultural authority investment fund may be  
 17 used to make direct loans to individual borrowers. Loans or  
 18 portions thereof originated by a financial institution that  
 19 are sold to the agricultural authority investment fund are  
 20 not direct loans.

21 NEW SECTION. Section 4. Limitation on size of  
 22 investments. No investment of the agricultural authority  
 23 investment fund may be made that will result in any one  
 24 agribusiness enterprise or person receiving a benefit from  
 25 or incurring a debt to the agricultural authority investment

1 fund the total current accumulated amount of which exceeds  
 2 20% of the prior fiscal year's coal severance tax revenue  
 3 deposited in the agricultural authority investment fund.

4 NEW SECTION. Section 5. Prior commitment of funds.  
 5 The authority may authorize the commitment of funds to  
 6 financial institutions pursuant to rules it has adopted, but  
 7 the determination of credit worthiness of individual  
 8 applicants must be made by the financial institution and the  
 9 authority.

10 NEW SECTION. Section 6. Use of agricultural authority  
 11 investment fund authorized to guarantee loans or bonds.  
 12 (1) For the purpose of 80-12-103, the term "investment"  
 13 includes the guarantee of loans or bonds in consideration of  
 14 a fee in lieu of the actual acquisition of such loans or  
 15 bonds.

16 (2) The authority may use the agricultural authority  
 17 investment fund to guarantee loans or bonds issued under the  
 18 provisions of this chapter. Each guarantee must be given in  
 19 consideration of a fee to be paid to the authority and  
 20 provide directly or by separate agreement that the authority  
 21 is fully subrogated to the rights of the obligee under the  
 22 loan or bond. The authority shall by rule establish the  
 23 maximum ratio between guarantee funds available and loans or  
 24 bonds to be guaranteed and may covenant in bond issues to  
 25 maintain such ratio.

1 (3) The authority may make loans from the agricultural  
 2 authority investment fund to a capital reserve account  
 3 created under 80-12-312 [and the agricultural loan guaranty  
 4 fund created by section 3 of Senate Bill 208] to establish  
 5 balances or restore deficiencies therein and may agree, in  
 6 connection with the issuance of bonds or notes secured by  
 7 such account [or fund], to make such loans. Such loans must  
 8 be on terms and conditions determined by the authority and  
 9 must be repaid from revenues of the authority realized from  
 10 the exercise of its powers under this chapter, subject to  
 11 the prior pledge thereof to the bonds and notes.

12 NEW SECTION. Section 7. Maintenance of capital  
 13 reserve account. (1) In order to assure the maintenance of  
 14 the capital reserve account established in 80-12-312, the  
 15 authority shall, on or before September 1 in each year  
 16 preceding the convening of the legislature, deliver to the  
 17 governor a certificate stating the sum, if any, required to  
 18 restore the capital reserve account to the minimum capital  
 19 reserve requirement. The governor shall include in the  
 20 executive budget submitted to the legislature the sum  
 21 required to restore the capital reserve account to such  
 22 minimum amount. All sums appropriated by the legislature for  
 23 this purpose must be deposited in the capital reserve  
 24 account.

25 (2) All amounts appropriated to the authority under

1 this section constitute advances to the authority and,  
 2 subject to the rights of the holders of any bonds or notes  
 3 of the authority, must be repaid to the state general fund,  
 4 without interest, from available operating revenues of the  
 5 authority in excess of amounts required for the payment of  
 6 bonds, notes, or other obligations of the authority, for  
 7 maintenance of the capital reserve account, and for  
 8 operating expenses.

9 NEW SECTION. Section 8. Service charges. The  
 10 authority shall by rule establish reasonable service fees  
 11 that may be charged on loans made from the agricultural  
 12 authority investment fund. This section does not require  
 13 such fees to be charged on every loan.

14 Section 9. Section 17-6-201, MCA, is amended to read:

15 "17-6-201. Unified investment program -- general  
 16 provisions. (1) The uniform investment program directed by  
 17 Article VIII, section 13, of the 1972 Montana constitution  
 18 to be provided for public funds shall be administered by the  
 19 board of investments, and the Montana economic development  
 20 board, and the Montana agricultural loan authority in  
 21 accordance with the rules provided in this chapter [and  
 22 Title 80, chapter 12,] and with that degree of judgment and  
 23 care, under circumstances from time to time prevailing,  
 24 which people of prudence, discretion, and intelligence  
 25 exercise in the management of their own affairs, not for

1 speculation but for investment, considering the probable  
 2 safety of their capital as well as the probable income to be  
 3 derived, and preservation of purchasing power of capital  
 4 during periods of sustained high monetary inflation.  
 5 Investments by the Montana economic development board are  
 6 limited to those made from the Montana in-state investment  
 7 fund and for the purposes set forth in part 3.

8 (2) All state funds shall be invested and reinvested  
 9 in securities enumerated in 17-6-211 to the maximum extent  
 10 consistent with this policy and with the need and timing of  
 11 cash expenditures for particular purposes.

12 (3) The board of investments has the sole authority to  
 13 invest state funds other than the Montana in-state  
 14 investment fund and the agricultural authority investment  
 15 fund. No other agency may invest such state funds. The board  
 16 shall direct the investment of state funds in accordance  
 17 with the laws and constitution of this state. The board has  
 18 the power to veto any investments made under its general  
 19 supervision.

20 (4) The board of investments shall:

21 (a) assist agencies with public money to determine if,  
 22 when, and how much surplus cash is available for investment;

23 (b) determine the amount of surplus treasury cash to  
 24 be invested;

25 (c) determine the type of investment to be made; and

1 (d) prepare the claim to pay for the investment.

2 (5) The board of investments may:

3 (a) execute deeds of conveyance transferring all real  
 4 property obtained through foreclosure of any investments  
 5 purchased under the provisions of 17-6-211 when full payment  
 6 has been received therefor;

7 (b) direct the withdrawal of any funds deposited by or  
 8 for the state treasurer pursuant to 17-6-101 and 17-6-105;

9 (c) direct the sale of any securities in the program  
 10 at their full and true value when found necessary to raise  
 11 money for payments due from the treasury funds for which the  
 12 securities have been purchased.

13 (6) The state treasurer shall keep an account of the  
 14 total of each investment fund and of all the investments  
 15 belonging to such fund and of the participation of each  
 16 treasury fund account therein and shall make from time to  
 17 time such reports with reference thereto as may be directed  
 18 by the board of investments.

19 (7) The cost of administering and accounting for each  
 20 investment fund shall be deducted from the income therefrom,  
 21 except that such costs of the nonexpendable trust funds  
 22 shall be paid from income otherwise receivable from the  
 23 pooled investment fund, and the amounts required for this  
 24 purpose shall be appropriated by the legislature from the  
 25 respective investment funds."

1 Section 10. Section 17-6-307, MCA, is amended to read:  
 2 "17-6-307. Unified investment program. The Montana  
 3 economic development board, and the board of investments,  
 4 and the Montana agricultural loan authority shall hold joint  
 5 meetings at least twice a year as a unified investment board  
 6 for purposes of coordinating investment strategies,  
 7 policies, and programs as required by Article VIII, section  
 8 13, of the Montana constitution."

9 NEW SECTION. Section 11. Extension of authority. Any  
 10 existing authority of the Montana agricultural loan  
 11 authority to make rules on the subject of the provisions of  
 12 this act is extended to the provisions of this act.

13 NEW SECTION. Section 12. Severability. If a part of,  
 14 this act is invalid, all valid parts that are severable from  
 15 the invalid part remain in effect. If a part of this act is  
 16 invalid in one or more of its applications, the part remains  
 17 in effect in all valid applications that are severable from  
 18 the invalid applications.

19 NEW SECTION. Section 13. Codification instruction.  
 20 Sections 2 through 8 are intended to be codified as an  
 21 integral part of Title 80, chapter 12, and the provisions of  
 22 Title 80, chapter 12, apply to sections 2 through 8.

23 NEW SECTION. Section 14. Coordination instruction.  
 24 (1) The bracketed language in section 6(3) referring to a  
 25 guaranty fund created by Senate Bill No. 208 is effective

1 only if Senate Bill No. 208 is passed by the 49th  
 2 legislature and approved.

3 (2) The bracketed language in section 9, referring to  
 4 Title 80, chapter 12, is void if Senate Bill No. 11 is  
 5 passed by the 49th legislature and approved.

6 NEW SECTION. Section 15. Effective date. This act is  
 7 effective July 1, 1985.

8 NEW SECTION. SECTION 16. TERMINATION DATE. THIS ACT  
 9 TERMINATES JULY 1, 1987.

-End-