

HOUSE FINAL STATUS

HB 10 INTRODUCED BY COBB, ET AL.

AGRICULTURAL LOAN PROGRAM FUNDED BY COAL SEVERANCE  
TAX APPROPRIATION

3/19 INTRODUCED

3/19 REFERRED TO AGRICULTURE, LIVESTOCK &  
IRRIGATION

3/19 FISCAL NOTE REQUESTED

3/25 HEARING

3/27 FISCAL NOTE RECEIVED

3/27 COMMITTEE REPORT--BILL NOT PASSED

3/28 ADVERSE COMMITTEE REPORT ADOPTED 54 34

1 House BILL NO. 10  
 2 INTRODUCED BY Bob Grady  
 3 Paterson

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE  
 5 MONTANA AGRICULTURAL LOAN AUTHORITY TO MAKE DIRECT LOANS TO  
 6 QUALIFIED AGRICULTURAL OPERATORS; TO ESTABLISH REQUIREMENTS  
 7 FOR SUCH LOANS; TO APPROPRIATE \$15 MILLION FROM THE COAL  
 8 SEVERANCE TAX TRUST FUND TO MAKE THE LOANS; AMENDING  
 9 SECTIONS 17-7-502 AND 80-12-103, MCA; AND PROVIDING AN  
 10 EFFECTIVE DATE."

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

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

13 "80-12-103. Agricultural loan authority -- general  
 14 powers. The authority may:

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

1 (6) procure insurance or guaranties in amounts and in  
 2 the form the authority considers desirable or necessary,  
 3 from any party, including a governmental agency, against any  
 4 loss in connection with its loan agreements; and

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

9 (8) make direct loans to agricultural operations, but  
 10 only as provided in [sections 2 through 9]."

11 NEW SECTION. Section 2. Agricultural loan state  
 12 special revenue account created -- administration. (1) There  
 13 is an agricultural loan state special revenue account in the  
 14 state special revenue fund that must be used by the  
 15 authority for the purpose of making loans to qualified  
 16 agricultural operators under [this part]. There must be paid  
 17 into the agricultural loan state special revenue account:

- 18 (a) money appropriated under [section 11];
- 19 (b) principal and interest received in repayment of  
 20 loans under [this part];
- 21 (c) income from investment of money in the account  
 22 under subsection (5) of this section; and
- 23 (d) fees and charges collected by the authority for  
 24 making and servicing loans under [this part], including  
 25 arrangements for obtaining security interests.



-2- INTRODUCED BILL  
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1 (2) All money in the agricultural loan state special  
2 revenue account is statutorily appropriated, as provided in  
3 17-7-502, to the authority for use as provided in [this  
4 part].

5 (3) Application for direct loans under [this part]  
6 must be made to the authority on forms and in the manner  
7 prescribed by the authority. Each application must be  
8 accompanied by a nonrefundable fee established by the  
9 authority in an amount not less than \$100.

10 (4) The authority shall establish a loan loss reserve  
11 account and shall establish by rule the ratio of reserve  
12 funds required to be maintained in the account.

13 (5) No more than 80% of the money in the agricultural  
14 loan state special revenue account may be loaned at any one  
15 time. Money not immediately needed for the purpose of [this  
16 part] must be invested by the board of investments.

17 (6) A loan made from the account may not exceed 80% of  
18 the value of property acquired with the loan proceeds or  
19 otherwise given as security for the loan. The authority  
20 shall obtain a first priority position in a mortgage or  
21 financing statement held as security for a loan, except that  
22 up to 15% of the total value of loans for annual operating  
23 expenses may be secured by other than a first priority  
24 security interest.

25 (7) The department shall provide primary

1 administrative staff and support to the authority as  
2 necessary to perform its duties under [this part]. The  
3 authority may also retain professional consultants and  
4 assistance as considered necessary.

5 NEW SECTION. Section 3. Direct loans -- purposes --  
6 limits. (1) Direct loans may be authorized by the authority  
7 for the following purposes:

8 (a) the purchase or lease of livestock or personal  
9 property suitable and necessary for use in the operation of  
10 an agricultural production unit;

11 (b) the acquisition, construction, and maintenance of  
12 improvements to agricultural land necessary for the  
13 operation of an agricultural production unit;

14 (c) annual operating expenses necessary for the  
15 operation of an agricultural production unit;

16 (d) the purchase of agricultural land.

17 (2) No applicant and no single agricultural production  
18 unit may be granted loans totaling more than \$100,000 under  
19 [this part].

20 (3) No more than 15% of the amount appropriated by  
21 [section 11] may be committed to loans for the purchase of  
22 agricultural land at any given time.

23 (4) The authority may provide for a preference to a  
24 loan application by more than one person to jointly purchase  
25 and use farm equipment.

1 (5) No direct loan may be made to finance nonfarm  
2 vehicles, family living expenses, or property used for  
3 household purposes. No direct loan may be made to finance a  
4 personal residence unless the residence, at the time of the  
5 loan, is on land for the purchase of which the loan is  
6 intended and the appraised value of the residence does not  
7 exceed 10% of the loan amount.

8 (6) No direct loan may be made to a nonprofit  
9 organization.

10 (7) The authority shall clearly identify its reasons  
11 and objectives for each loan made.

12 NEW SECTION. Section 4. Loan agreements -- general  
13 provisions. (1) Each direct loan approved by the authority  
14 must include a loan agreement providing a repayment schedule  
15 not exceeding:

16 (a) 1 year for loans for operating expenses, unless  
17 first year operating expenses are included in a loan for  
18 other purposes authorized by [section 3], in which case such  
19 loan amount may be repaid over the period authorized for the  
20 loan;

21 (b) 7 years for loans for livestock or other personal  
22 property;

23 (c) 9 years for loans for improvements to agricultural  
24 land;

25 (d) 15 years for loans for the purchase of

1 agricultural land.

2 (2) The agreement may provide incentives for  
3 prepayment of the loan as established by the authority.

4 (3) The agreement must specify a reasonable rate of  
5 interest that may be a fixed or variable rate. If the rate  
6 is variable, the method of determination must be contained  
7 in the agreement.

8 (4) The agreement must provide for inspection by a  
9 representative of the authority or department, at reasonable  
10 times, of property used as collateral for a loan under [this  
11 part].

12 NEW SECTION. Section 5. Qualifications of applicants  
13 for direct loans -- rules. (1) To be eligible for a direct  
14 loan under [this part], an applicant:

15 (a) must be a resident and declare his intention to  
16 maintain his residence in Montana for the duration of the  
17 loan;

18 (b) must be at least 18 years of age;

19 (c) must be actively engaged in the production of  
20 agricultural commodities;

21 (d) shall demonstrate experience, knowledge, and  
22 ability to succeed in the agricultural production operation  
23 and must be willing to receive assistance from the  
24 university system or other sources as determined necessary  
25 by the authority;

1 (e) shall demonstrate that the agricultural production  
2 operation can reasonably be expected to generate proceeds  
3 sufficient to repay the loan and other obligations of the  
4 operation; and

5 (f) shall have total gross assets not exceeding  
6 \$750,000.

7 (2) The authority may by rule establish additional  
8 eligibility requirements that it determines appropriate.

9 NEW SECTION. Section 6. Management and technical  
10 assistance agreements. The authority and department may  
11 enter into agreements with units of the university system  
12 and other professional entities for the purpose of obtaining  
13 management and technical assistance for applicants for loans  
14 under [this part]. Costs of such agreements are  
15 administrative costs to be paid in the same manner as other  
16 administrative costs.

17 NEW SECTION. Section 7. Annual audit. The direct loan  
18 program provided for in [this part] must be audited each  
19 year for performance and financial compliance by or at the  
20 direction of the legislative auditor. The cost of the audit  
21 must be paid by the authority. The audit required by  
22 80-12-401 must be performed in conjunction with this audit.

23 NEW SECTION. Section 8. Improvement recommendations.  
24 The authority, through the department, shall make  
25 recommendations to each legislature for improvements to the

1 direct loan program provided for in [this part].

2 NEW SECTION. Section 9. Powers of agricultural loan  
3 authority. In addition to its powers prescribed in  
4 80-12-103, the authority may, for the purpose of [this  
5 part]:

6 (1) sue and be sued;

7 (2) adopt all substantive and procedural rules  
8 necessary for the administration of [this part], including  
9 but not limited to rules:

10 (a) prescribing the form and manner of application for  
11 loans;

12 (b) governing the application of criteria for awarding  
13 loans and the procedure for review of applications;

14 (c) providing for the servicing of loans, including  
15 arrangements for obtaining security interests;

16 (d) establishing reasonable fees or charges;

17 (e) providing for confidentiality of financial  
18 statements submitted; and

19 (f) prescribing the conditions of making loans;

20 (3) with regard to property:

21 (a) acquire real or personal property or any right,  
22 interest, or easement therein by gift, purchase, transfer,  
23 foreclosure, lease, or otherwise;

24 (b) hold, sell, assign, lease, encumber, mortgage, or  
25 otherwise dispose of such property;

1 (c) hold, sell, assign, or otherwise dispose of a  
2 lease, mortgage, or loan owned by it or in its control or  
3 custody;

4 (d) release or relinquish any right, title, claim,  
5 interest, easement, or demand, however acquired, including  
6 any equity or right of redemption;

7 (e) dispose of property by public or private sale,  
8 with or without public bidding;

9 (f) commence an action to protect or enforce any right  
10 conferred upon it by law, mortgage, contract, or other  
11 agreement;

12 (g) bid for and purchase property at a foreclosure or  
13 other sale or acquire or take possession of it in lieu of  
14 foreclosure;

15 (h) operate, manage, lease, dispose of, and otherwise  
16 deal with such property in any manner necessary or desirable  
17 to protect its interests or the holders of its bonds or  
18 notes, provided such action is consistent with any agreement  
19 with such holders;

20 (4) service, contract, and pay for the servicing of  
21 loans;

22 (5) provide financial analysis and technical  
23 assistance where considered appropriate;

24 (6) consent, whenever it considers necessary or  
25 desirable in fulfilling its purposes, to the modification of

1 the rate of interest, time, and payment of an installment of  
2 principal, interest, security, or any other term of a  
3 contract, lease agreement, loan agreement, mortgage,  
4 mortgage loan, mortgage loan commitment, construction loan,  
5 advance contract, or agreement of any kind, subject to any  
6 agreement with noteholders;

7 (7) collect reasonable interest, fees, and charges in  
8 connection with making and servicing its lease agreements,  
9 loan agreements, mortgage loans, notes, commitments, and  
10 other evidences of indebtedness. Interest, fees, and charges  
11 are limited to the amounts required to pay the costs of the  
12 authority, including operating and administrative expenses,  
13 reasonable allowances for losses that may be incurred, and  
14 the annual amount required under [section 11(3)] to be  
15 repaid, and the interest, fees, and charges must be used for  
16 such purposes.

17 (8) procure insurance or guaranties in amounts and in  
18 the form the authority considers desirable or necessary,  
19 from any party, including a governmental agency, against any  
20 loss in connection with its lease agreements, loan  
21 agreements, mortgage loans, and other assets or property;  
22 and

23 (9) perform any other acts necessary and convenient to  
24 carry out the purposes of the authority and [this part].

25 Section 10. Section 17-7-502, MCA, is amended to read:

1 "17-7-502. Statutory appropriations -- definition --  
 2 requisites for validity. (1) A statutory appropriation is an  
 3 appropriation made by permanent law that authorizes spending  
 4 by a state agency without the need for a biennial  
 5 legislative appropriation or budget amendment.

6 (2) Except as provided in subsection (4), to be  
 7 effective, a statutory appropriation must comply with both  
 8 of the following provisions:

9 (a) The law containing the statutory authority must be  
 10 listed in subsection (3).

11 (b) The law or portion of the law making a statutory  
 12 appropriation must specifically state that a statutory  
 13 appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing  
 15 statutory appropriations:

16 (a) 2-9-202;  
 17 (b) 2-17-105;  
 18 (c) 2-18-812;  
 19 (d) 10-3-203;  
 20 (e) 10-3-312;  
 21 (f) 10-3-314;  
 22 (g) 10-4-301;  
 23 (h) 13-37-304;  
 24 (i) 15-31-702;  
 25 (j) 15-36-112;

1 (k) 15-70-101;  
 2 (l) 16-1-404;  
 3 (m) 16-1-410;  
 4 (n) 16-1-411;  
 5 (o) 17-3-212;  
 6 (p) 17-5-404;  
 7 (q) 17-5-424;  
 8 (r) 17-5-804;  
 9 (s) 19-8-504;  
 10 (t) 19-9-702;  
 11 (u) 19-9-1007;  
 12 (v) 19-10-205;  
 13 (w) 19-10-305;  
 14 (x) 19-10-506;  
 15 (y) 19-11-512;  
 16 (z) 19-11-513;  
 17 (aa) 19-11-606;  
 18 (bb) 19-12-301;  
 19 (cc) 19-13-604;  
 20 (dd) 20-6-406;  
 21 (ee) 20-8-111;  
 22 (ff) 23-5-612;  
 23 (gg) 37-51-501;  
 24 (hh) 53-24-206;  
 25 (ii) 75-1-1101;

1 (jj) 75-7-305;  
 2 (kk) 80-2-103;  
 3 (ll) 80-2-228;  
 4 (mm) [section 2];  
 5 ~~(mm)~~(nn) 90-3-301;  
 6 ~~(nn)~~(oo) 90-3-302;  
 7 ~~(oo)~~(pp) 90-15-103; and  
 8 ~~(pp)~~(qq) Sec. 13, HB 861, L. 1985.

9 (4) There is a statutory appropriation to pay the  
 10 principal, interest, premiums, and costs of issuing, paying,  
 11 and securing all bonds, notes, or other obligations, as due,  
 12 that have been authorized and issued pursuant to the laws of  
 13 Montana. Agencies, that have entered into agreements  
 14 authorized by the laws of Montana to pay the state  
 15 treasurer, for deposit in accordance with 17-2-101 through  
 16 17-2-107, as determined by the state treasurer, an amount  
 17 sufficient to pay the principal and interest as due on the  
 18 bonds or notes have statutory appropriation authority for  
 19 such payments."

20 NEW SECTION. Section 11. Appropriation. (1) There is  
 21 appropriated \$15 million from the coal severance tax trust  
 22 fund to the Montana agricultural loan authority for the  
 23 purpose of making direct loans to qualified agricultural  
 24 operators under this part.

25 (2) The agricultural loan authority shall repay \$14

1 million to the coal severance tax trust fund within 20 years  
 2 from the effective date of this act.

3 (3) The authority on June 30 of each year shall pay to  
 4 the coal severance tax trust fund an amount calculated to  
 5 offset the loss of value, due to inflation, of the balance  
 6 of the \$14 million remaining unpaid. The amount must be  
 7 determined by multiplying the balance remaining unpaid on  
 8 June 30 of each year times the consumer price index, not to  
 9 exceed 9%, as published by the bureau of labor statistics of  
 10 the United States department of labor for the previous  
 11 calendar year.

12 (4) A portion of the amount appropriated by this  
 13 section may be used, as determined necessary by the  
 14 authority, to reimburse the department for administrative  
 15 and other costs incurred by the department during the  
 16 biennium ending June 30, 1989, in establishing the direct  
 17 loan program provided for by this act. Thereafter, no money  
 18 appropriated by this section may be used for administrative  
 19 costs incurred by the department or the agricultural loan  
 20 authority.

21 NEW SECTION. Section 12. Three-fourths vote required.  
 22 Because this act appropriates money from the coal severance  
 23 tax trust fund, Article IX, section 5, of the Montana  
 24 constitution requires a vote of three-fourths of the members  
 25 of each house of the legislature for passage.



1        NEW SECTION. Section 13. Severability. If a part of  
2 this act is invalid, all valid parts that are severable from  
3 the invalid part remain in effect. If a part of this act is  
4 invalid in one or more of its applications, the part remains  
5 in effect in all valid applications that are severable from  
6 the invalid applications.

7        NEW SECTION. Section 14. Codification instruction.  
8 Sections 2 through 9 are intended to be codified as an  
9 integral part of Title 80, chapter 12, and the provisions of  
10 Title 80 apply to sections 2 through 9.

11        NEW SECTION. Section 15. Effective date. This act is  
12 effective July 1, 1987.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB010, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to authorize the Montana agricultural loan authority to make direct loans to qualified agricultural operators; to establish requirements for such loans; to appropriate \$15 million from the coal severance tax trust fund to make the loans; and providing an effective date.

Coal Severance Tax Trust Fund ImpactASSUMPTIONS:

1. Under the proposed law the agricultural loan authority will pay the coal severance tax trust fund an amount to offset the loss in value, due to inflation, of an unpaid balance which will be \$14,000,000 in FY88 and \$13,608,000 in FY89.
2. The change in the consumer price index for all urban consumers for all items will be 2.8% in CY 1987 and 3.8% in CY 1988. (Wharton Econometrics).
3. The beginning balance of the coal severance tax trust fund will be \$313,757,000 (June 30, 1987). (REAC)
4. This analysis does not include investment earnings foregone as a result of shifting \$15,000,000 from the coal severance tax trust fund to the agricultural loan authority in FY88.

FUND INFORMATION:Coal Severance Tax Trust Fund

	<u>Current Law</u>	<u>Proposed Law</u>
Beginning Balance 6/30/87	\$313,757,000	\$313,757,000
FY88 Receipts	\$ 39,332,000	\$ 39,332,000
FY88 Interest Earnings	\$ 5,482,000	\$ 5,482,000*
FY88 Appropriation	-	(\$ 15,000,000)
Trust Fund Payback 6/30/88	-	\$ 392,000
Ending Balance 6/30/88	\$358,571,000	\$343,963,000
FY89 Receipts	\$ 40,928,000	\$ 40,928,000
FY89 Interest Earnings	\$ 6,054,000	\$ 6,054,000*
Trust Fund Payback 6/30/89	-	\$ 517,000
Ending Balance 6/30/89	\$405,553,000	\$391,462,000

\* These amounts would be reduced by approximately \$225,000 if the \$15,000,000 were expended or transferred from the permanent trust on July 1, 1987.

David L. Hunter DATE 3/26/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

John Cobb DATE March 27/87  
 JOHN COBB, PRIMARY SPONSOR

Fiscal Note for HB010, as introduced.

**HB 10**

Agricultural Loan Authority Program Impact:

ASSUMPTIONS:

1. Interest earnings and fees collected on loans and deposited to the special revenue account may be used to defray administrative costs of program.
2. 20% of funds appropriated may not be loaned, but are invested through Board of Investments.
3. Use portion of \$1 million dollars, not required to be paid back, for first year administrative costs. Remaining funds used to establish loan loss reserve account. Administrative costs of future years to be derived from interest earnings obtained through Board of Investments and loans or loan fees.
4. Maximum loan amount of \$100,000. Average loan amount of \$30,000, resulting in approximately 350 loans per year requiring servicing, etc.
5. Statutory appropriation applies to interest earnings used to make new loans.
6. Loan origination and servicing conducted by Department of Agriculture.
7. Loan loss reserve at 5% of loanable funds.
8. Loans made at 8% interest to borrower.
9. Loan origination fee at 1% of total loan amount.
10. FY88 loan interest income received in FY89.
11. Average 6% rate of return from Board of Investments on loan loss reserve and invested funds in FY88 and FY89.
12. Assume 50% of loans - short term operating (1 year term).
13. Assume 400 applications FY88, 300 applications FY89.

FISCAL IMPACT:

Expenditures:

(Agricultural Loan State Special Revenue Account)

(Based on servicing approximately 350 loans per year)

Personal Services

		<u>Salary</u>	<u>Benefits</u>	<u>Insurance</u>	
1/3 Administrator	Gr 17, st 5	\$ 9,797	\$ 1,470	\$ 460	
Bureau Chief	Gr 16, st 2	25,336	3,800	1,380	
Loan Officer	Gr 14, st 2	21,351	3,203	1,380	
Secretary	Gr 9, st 2	14,542	2,181	1,380	
	TOTAL	<u>\$71,026</u>	<u>\$10,654</u>	<u>\$ 4,600</u>	= \$86,280

Personal Services

Other Comp. (MALA) 100 man days @ \$50/day	\$86,280
	<u>5,000</u>
TOTAL	<u>\$91,280</u>

	<u>FY88</u>	<u>FY89</u>
Total Personal Services	\$ 91,280	\$ 91,280
Operating Costs:	<u>FY88</u>	<u>FY89</u>
Contracted Services	\$ 17,700	\$ 12,800
Supplies & Materials	11,450	3,150
Communications	6,910	6,400
Travel	12,610	12,610
Rent	4,500	4,500
Repair & Maintenance	500	600
Other Expenses	750	750
Total Operating Costs	<u>\$ 54,420</u>	<u>\$ 40,810</u>
Equipment	<u>\$ 11,500</u>	<u>\$ 200</u>
TOTAL PROGRAM COSTS	<u>\$157,200</u>	<u>\$132,290</u>

Expenditures:

(General Fund)

Legislative Auditor	\$ 0	\$ 5,565
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Fiscal Note Request, HB010, as introduced.

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Revenue:

(Agricultural Loan State Special Revenue Account)

	<u>FY88</u>	<u>FY89</u>
Board of Investments (\$3,000,000)	\$180,000	\$ 180,000
Loan Loss Reserve (\$ 550,000)	33,000	33,000
Loan Funds (\$11,000,000)	0	880,000
Application fee @ \$100/loan application	40,000	30,000
Loan Origination Fee	<u>110,000</u>	<u>55,000</u>
TOTAL	<u>\$363,000</u>	<u>\$1,178,000</u>

Revenue:

(General Fund)

Audit Fees - Legislative Auditor	\$ 0	\$ 5,565
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HB 10