

HOUSE BILL NO. 669

INTRODUCED BY HARP, NEUMAN, COMPTON, PATTERSON,  
SCHYE, HANSON, JENKINS, MEYERS, GRADY, M. WILLIAMS,  
CODY, WINSLOW, RAPP-SVRCEK, BARDANOUVE, BULGER,  
DARKO, POULSEN

IN THE HOUSE

FEBRUARY 9, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & LABOR.

FEBRUARY 13, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 14, 1987                   PRINTING REPORT.

FEBRUARY 16, 1987                   ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

FEBRUARY 17, 1987                   SECOND READING, DO PASS.

FEBRUARY 18, 1987                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
                                      AYES, 87; NOES, 0.

                                      TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 19, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

MARCH 14, 1987                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 18, 1987                    SECOND READING, CONCURRED IN.

MARCH 20, 1987                    THIRD READING, CONCURRED IN.  
AYES, 49; NOES, 0.

                                      RETURNED TO HOUSE.

IN THE HOUSE

MARCH 21, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 *House* BILL NO. *669*  
 2 INTRODUCED BY *HARRY NEUMAN* *Compton* *Patterson* *Lehze*  
 3 *Winstan* *Thompson* *Barbancu* *Williams* *Cady*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING NOTICE  
 5 PROCEDURES FOR THE DISPOSITION OF RURAL COOPERATIVE  
 6 PROPERTY; REQUIRING A VOTE OF TWO-THIRDS OF ALL OF THE  
 7 MEMBERS OF THE RURAL COOPERATIVE FOR DISSOLUTION OF THE  
 8 RURAL COOPERATIVE; AND AMENDING SECTIONS 35-18-317 AND  
 9 35-18-405, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 35-18-317, MCA, is amended to read:  
 13 "35-18-317. Disposition or encumbrance of property.  
 14 (1) Except as provided in subsection (2), a cooperative  
 15 may not sell, mortgage, lease, or otherwise dispose of or  
 16 encumber all or any substantial portion of its property  
 17 unless such sale, mortgage, lease, or other disposition or  
 18 encumbrance is authorized at a duly held meeting of members  
 19 thereof by the affirmative vote of not less than two-thirds  
 20 of all the members of the cooperative and unless the notice  
 21 of such proposed sale, mortgage, lease, or other disposition  
 22 or encumbrance shall have been contained in the notice of  
 23 the meeting.  
 24 (2) However, notwithstanding anything herein contained  
 25 or any other provisions of law, the board of trustees of

1 a cooperative, without authorization by the members thereof,  
 2 shall have full power and authority to authorize the  
 3 execution and delivery of a mortgage or mortgages or a deed  
 4 or deeds of trust upon or the pledging or encumbrancing of  
 5 any or all of the property, assets, rights, privileges,  
 6 licenses, franchises, and permits of the cooperative,  
 7 whether acquired or to be acquired and wherever situated, as  
 8 well as the revenues and income therefrom, all upon such  
 9 terms and conditions as the board of trustees shall  
 10 determine, to secure any indebtedness of the cooperative to  
 11 the United States of America or any instrumentality or  
 12 agency thereof or to any other financing sources within the  
 13 United States. ~~Further, the board may, upon the~~  
 14 ~~authorization of a majority of those members of the~~  
 15 ~~cooperative voting at a meeting of the members thereof,~~  
 16 ~~sell, lease, or otherwise dispose of all or a substantial~~  
 17 ~~portion of its property to another cooperative or foreign~~  
 18 ~~corporation doing business in this state pursuant to the act~~  
 19 ~~under which the cooperative is incorporated.~~

20 (3) Before a meeting is held to vote on authorization  
 21 of disposition of cooperative property, the board of  
 22 trustees shall:  
 23 (a) have the property appraised by three appraisers  
 24 chosen by the board and not associated with the cooperative  
 25 or a proposed buyer of cooperative property;



1       (b) notify all cooperative members, at least 90 days  
 2 in advance, of a meeting to vote on disposition of  
 3 cooperative property. Detailed proposals for disposition of  
 4 such property must accompany the notice.

5       (c) at least 30 days before the meeting, notify all  
 6 other cooperatives situated and operating in the state that  
 7 the property is available for disposition and include with  
 8 the notice one copy of each appraisal on the cooperative  
 9 property; and

10       (d) at least 30 days before the meeting, mail to all  
 11 members any alternative proposal made by cooperative members  
 12 if it has been submitted to the board and signed by 50 or  
 13 more members.

14       (4) The vote on property disposition may take place at  
 15 an annual meeting if the board notifies the members as  
 16 provided in this section.

17       (5) This section does not apply to the transfer of  
 18 cooperative property in a merger or consolidation of  
 19 cooperatives.

20       Section 2. Section 35-18-405, MCA, is amended to read:

21       "35-18-405. Dissolution and winding up of cooperative  
 22 which has commenced business. A cooperative which has  
 23 commenced business may dissolve voluntarily and wind up its  
 24 affairs in the following manner:

25       (1) The board of trustees shall first recommend that

1 the cooperative be dissolved voluntarily, and thereafter the  
 2 proposition that the cooperative be dissolved shall be  
 3 submitted to the members of the cooperative at any annual or  
 4 special meeting, the notice of which shall set forth such  
 5 proposition. The proposed voluntary dissolution shall be  
 6 deemed to be approved upon the affirmative vote of not less  
 7 than two-thirds of ~~those members voting thereon at such~~  
 8 meeting all of the members of the cooperative.

9       (2) Upon such approval, a certificate of election to  
 10 dissolve, hereinafter designated the "certificate", shall be  
 11 executed on behalf of the cooperative by its president or  
 12 vice-president and its corporate seal shall be affixed  
 13 thereto and attested by its secretary or assistant  
 14 secretary. The certificate shall state the name of the  
 15 cooperative, the address of its principal office, the names  
 16 and addresses of its trustees, and the total number of  
 17 members who voted for and against the voluntary dissolution  
 18 of the cooperative. The president or vice-president  
 19 executing the certificate shall also make and annex thereto  
 20 an affidavit stating that the provisions of this subsection  
 21 were duly complied with. Such certificate and affidavit  
 22 shall be submitted to the secretary of state for filing as  
 23 provided in this chapter.

24       (3) Upon the filing of the certificate and affidavit  
 25 by the secretary of state, the cooperative shall cease to

1 carry on its business except insofar as may be necessary for  
 2 the winding up thereof, but its corporate existence shall  
 3 continue until articles of dissolution have been filed by  
 4 the secretary of state.

5 (4) After the filing of the certificate and affidavit  
 6 by the secretary of state, the board of trustees shall  
 7 immediately cause notice of the winding up proceedings to be  
 8 mailed to each known creditor and claimant and to be  
 9 published once a week for 2 successive weeks in a newspaper  
 10 of general circulation in the county in which the principal  
 11 office of the cooperative is located.

12 (5) The board of trustees shall have full power to  
 13 wind up and settle the affairs of the cooperative and shall  
 14 proceed to collect the debts owing to the cooperative,  
 15 convey and dispose of its property and assets, pay, satisfy,  
 16 and discharge its debts, obligations, and liabilities, and  
 17 do all other things required to liquidate its business and  
 18 affairs and after paying or adequately providing for the  
 19 payment of all its debts, obligations, and liabilities shall  
 20 distribute the remainder of its property and assets among  
 21 its members in proportion to the aggregate patronage of each  
 22 such member during the 7 years next preceding the date of  
 23 such filing of the certificate or, if the cooperative shall  
 24 not have been in existence for such period, during the  
 25 period of its existence.

1 (6) When all debts, liabilities, and obligations of  
 2 the cooperative have been paid and discharged or adequate  
 3 provision shall have been made therefor and all of the  
 4 remaining property and assets of the cooperative shall have  
 5 been distributed to the members pursuant to the provisions  
 6 of this section, the board of trustees shall authorize the  
 7 execution of articles of dissolution, which shall thereupon  
 8 be executed on behalf of the cooperative by its president or  
 9 vice-president and its corporate seal shall be affixed  
 10 thereto and attested by its secretary. Such articles of  
 11 dissolution shall recite in the caption that they are  
 12 executed pursuant to this chapter and shall state:

- 13 (a) the name of the cooperative;  
 14 (b) the address of the principal office of the  
 15 cooperative;  
 16 (c) that the cooperative has heretofore delivered to  
 17 the secretary of state a certificate of election to dissolve  
 18 and the date on which the certificate was filed by the  
 19 secretary of state in the records of his office;  
 20 (d) that all debts, obligations, and liabilities of  
 21 the cooperative have been paid and discharged or that  
 22 adequate provision has been made therefor;  
 23 (e) that all the remaining property and assets of the  
 24 cooperative have been distributed among the members in  
 25 accordance with the provisions of this section; and

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1           (f) that there are no actions or suits pending against  
2 the cooperative. The president or vice-president executing  
3 the articles of dissolution shall also make and annex  
4 thereto an affidavit stating that the provisions of this  
5 subsection were duly complied with. Such articles of  
6 dissolution and affidavit, accompanied by proof of the  
7 publication required in this subsection, shall be submitted  
8 to the secretary of state for filing as provided in this  
9 chapter."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB740, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to relieve Justices of the Peace from overly burdensome bookkeeping and other administrative duties in regard to fines, penalties and forfeitures paid in their courts; to revise the method of distributing the fines, penalties, and forfeitures.

ASSUMPTIONS:

1. To relieve Justices of the Peace from excessive administrative duties.
2. The ratio of distribution to be used by the State Treasurer is based on one year of collection.
3. The state's portion of collection will not be reduced.

FISCAL IMPACT:

There are no statistics available on a state-wide basis for determining the impact of redistributing the collections to state agencies.

The general fund collections for the last four fiscal years and the projected for FY87 under current law are listed below:

FY83 - \$587,000  
FY84 - \$521,000  
FY85 - \$576,000  
FY86 - \$525,000  
FY87 - \$500,000 (projected based on year-to-date collections)

David L. Hunter DATE 2/23/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

John Cobb DATE \_\_\_\_\_  
JOHN COBB, PRIMARY SPONSOR  
Fiscal Note for HB740, as introduced.  
HB 740

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE BILL NO. 668  
 2 INTRODUCED BY VINCENT  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE DRIVING  
 5 UNDER THE INFLUENCE AND PER SE PENALTY STATUTES RELATING TO  
 6 ALCOHOL- OR DRUG-RELATED DRIVING OFFENSES TO PROVIDE THAT A  
 7 CONVICTION UNDER ONE CONSTITUTES A CONVICTION UNDER THE  
 8 OTHER AND TO PROVIDE THAT, EXCEPT FOR THE FIRST OFFENSE, THE  
 9 PENALTIES IN THE TWO STATUTES ARE THE SAME; AND AMENDING  
 10 SECTIONS 61-8-714 AND 61-8-722, MCA."

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

13 Section 1. Section 61-8-714, MCA, is amended to read:

14 "61-8-714. Penalty for driving under the influence of  
 15 alcohol or drugs. (1) A person convicted of a violation of  
 16 61-8-401 shall be punished by imprisonment in the county  
 17 jail for not less than 24 consecutive hours or more than 60  
 18 days, and shall be punished by a fine of not less than \$100  
 19 or more than \$500. The jail sentence may not be suspended  
 20 unless the judge finds that the imposition of the jail  
 21 sentence will pose a risk to the defendant's physical or  
 22 mental well-being.

23 (2) On a second conviction, he shall be punished by a  
 24 fine of not less than \$300 or more than \$500 and by  
 25 imprisonment for not less than 7 days, at least 48 hours of

1 which must be served consecutively, or more than 6 months.  
 2 Three days of the jail sentence may not be suspended unless  
 3 the judge finds that the imposition of the jail sentence  
 4 will pose a risk to the defendant's physical or mental  
 5 well-being.

6 (3) On the third or subsequent conviction, he shall be  
 7 punished by imprisonment for a term of not less than 30  
 8 days, at least 48 hours of which must be served  
 9 consecutively, or more than 1 year, to which may be added,  
 10 in the discretion of the court, a fine of not less than \$500  
 11 or more than \$1,000. Notwithstanding any provision to the  
 12 contrary providing for suspension of execution of a sentence  
 13 imposed under this subsection, the imposition or execution  
 14 of the first 10 days of the jail sentence imposed for a  
 15 third or subsequent offense that occurred within 5 years of  
 16 the first offense may not be deferred or suspended.

17 (4) In addition to the punishment provided in this  
 18 section, regardless of disposition, the defendant shall  
 19 complete an alcohol information course at an alcohol  
 20 treatment program approved by the department of  
 21 institutions, which may include alcohol or drug treatment,  
 22 or both, if considered necessary by the counselor conducting  
 23 the program. Each counselor providing such education or  
 24 treatment shall, at the commencement of the education or  
 25 treatment, notify the court that the defendant has been





1 enrolled in a course or treatment program. If the defendant  
 2 fails to attend the course or the treatment program, the  
 3 counselor shall notify the court of the failure.

4 (5) For the purpose of determining the number of  
 5 convictions under this section, "conviction" means a final  
 6 conviction, as defined in 45-2-101, in this state or a  
 7 similar statute in another state or a forfeiture of bail or  
 8 collateral deposited to secure the defendant's appearance in  
 9 court in this state or another state, which forfeiture has  
 10 not been vacated. An offender is considered to have been  
 11 previously convicted for the purposes of this section if  
 12 less than 5 years have elapsed between the commission of the  
 13 present offense and a previous conviction. If there has been  
 14 no additional conviction for an offense under this section  
 15 for a period of 5 years after a prior conviction hereunder,  
 16 then such prior offense shall be expunged from the  
 17 defendant's record.

18 (6) For the purpose of calculating subsequent  
 19 convictions UNDER THIS SECTION, a conviction for violation  
 20 of 61-8-406 also constitutes a conviction of 61-8-401."

21 Section 2. Section 61-8-722, MCA, is amended to read:  
 22 "61-8-722. Penalty for driving with excessive blood  
 23 alcohol concentration. (1) A person convicted of a violation  
 24 of 61-8-406 shall be punished by imprisonment for not more  
 25 than 10 days and shall be punished by a fine of not less

1 than \$100 or more than \$500.

2 ~~(2) On a second conviction of a violation of 61-8-406,~~  
 3 ~~he shall be punished by imprisonment for not less than 48~~  
 4 ~~consecutive hours or more than 30 days and by a fine of not~~  
 5 ~~less than \$300 or more than \$500. Second or subsequent~~  
 6 ~~convictions of 61-8-406 shall be treated under 61-8-714~~ ON A  
 7 SECOND CONVICTION, HE SHALL BE PUNISHED BY A FINE OF NOT  
 8 LESS THAN \$300 OR MORE THAN \$500 AND BY IMPRISONMENT FOR NOT  
 9 LESS THAN 7 DAYS, AT LEAST 48 HOURS OF WHICH MUST BE SERVED  
 10 CONSECUTIVELY, OR MORE THAN 6 MONTHS. THREE DAYS OF THE JAIL  
 11 SENTENCE MAY NOT BE SUSPENDED UNLESS THE JUDGE FINDS THAT  
 12 THE IMPOSITION OF THE JAIL SENTENCE WILL POSE A RISK TO THE  
 13 DEFENDANT'S PHYSICAL OR MENTAL WELL-BEING.

14 ~~(3) On a third or subsequent conviction of a violation~~  
 15 ~~of 61-8-406, he shall be punished by imprisonment for not~~  
 16 ~~less than 48 consecutive hours or more than 6 months and by~~  
 17 ~~a fine of not less than \$500 or more than \$1,000.~~

18 (3) ON A THIRD OR SUBSEQUENT CONVICTION, HE SHALL BE  
 19 PUNISHED BY IMPRISONMENT FOR A TERM OF NOT LESS THAN 30  
 20 DAYS, AT LEAST 48 HOURS OF WHICH MUST BE SERVED  
 21 CONSECUTIVELY, OR MORE THAN 1 YEAR, TO WHICH MAY BE ADDED,  
 22 IN THE DISCRETION OF THE COURT, A FINE OF NOT LESS THAN \$500  
 23 OR MORE THAN \$1,000. NOTWITHSTANDING ANY PROVISION TO THE  
 24 CONTRARY PROVIDING FOR SUSPENSION OF EXECUTION OF A SENTENCE  
 25 IMPOSED UNDER THIS SUBSECTION, THE IMPOSITION OR EXECUTION

1 OF THE FIRST 10 DAYS OF THE JAIL SENTENCE IMPOSED FOR A  
 2 THIRD OR SUBSEQUENT OFFENSE THAT OCCURRED WITHIN 5 YEARS OF  
 3 THE FIRST OFFENSE MAY NOT BE DEFERRED OR SUSPENDED.

4 ~~(4)~~(3)(4) The provisions of 61-5-205(2), 61-5-208(2),  
 5 and 61-11-203(2)(d) relating to revocation and suspension of  
 6 driver's licenses shall apply to any conviction under  
 7 61-8-406.

8 ~~(5)~~(4)(5) In addition to the punishment provided in  
 9 this section, regardless of disposition, the defendant shall  
 10 complete an alcohol information course at an alcohol  
 11 treatment program approved by the department of  
 12 institutions, which may include alcohol or drug treatment,  
 13 or both, if considered necessary by the counselor conducting  
 14 the program. Each counselor providing such education or  
 15 treatment shall, at the commencement of the education or  
 16 treatment, notify the court that the defendant has been  
 17 enrolled in a course or treatment program. If the defendant  
 18 fails to attend the course or the treatment program, the  
 19 counselor shall notify the court of the failure.

20 ~~(6)~~(5)(6) For the purpose of determining the number of  
 21 convictions under this section, "conviction" means a final  
 22 conviction, as defined in 45-2-101, in this state or a  
 23 similar statute in another state or a forfeiture of bail or  
 24 collateral deposited to secure the defendant's appearance in  
 25 court in this state or another state, which forfeiture has

1 not been vacated. An offender is considered to have been  
 2 previously convicted for the purposes of this section if  
 3 less than 5 years have elapsed between the commission of the  
 4 present offense and a previous conviction. If there has been  
 5 no additional conviction for an offense under this section  
 6 for a period of 5 years after a prior conviction hereunder,  
 7 then such prior offense shall be expunged from the  
 8 defendant's record.

9 ~~(6)~~(7) For the purpose of calculating subsequent  
 10 convictions UNDER THIS SECTION, a conviction for violation  
 11 of 61-8-401 also constitutes a conviction of 61-8-406."

-End-

APPROVED BY COMM. ON BUSINESS AND LABOR

1 *House* BILL NO. *669*  
 2 INTRODUCED BY *HARRY NEUMAN Compton Pastorek Kelly*  
 3 *7th House on Judiciary* *Winstan* *Barband* *Williams* *Cody*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING NOTICE  
 5 PROCEDURES FOR THE DISPOSITION OF RURAL COOPERATIVE  
 6 PROPERTY; REQUIRING A VOTE OF TWO-THIRDS OF ALL OF THE  
 7 MEMBERS OF THE RURAL COOPERATIVE FOR DISSOLUTION OF THE  
 8 RURAL COOPERATIVE; AND AMENDING SECTIONS 35-18-317 AND  
 9 35-18-405, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 35-18-317, MCA, is amended to read:  
 13 "35-18-317. Disposition or encumbrance of property.  
 14 (1) A Except as provided in subsection (2), a cooperative  
 15 may not sell, mortgage, lease, or otherwise dispose of or  
 16 encumber all or any substantial portion of its property  
 17 unless such sale, mortgage, lease, or other disposition or  
 18 encumbrance is authorized at a duly held meeting of members  
 19 thereof by the affirmative vote of not less than two-thirds  
 20 of all the members of the cooperative and unless the notice  
 21 of such proposed sale, mortgage, lease, or other disposition  
 22 or encumbrance shall have been contained in the notice of  
 23 the meeting.  
 24 (2) However, notwithstanding anything herein contained  
 25 or any other provisions of law, the The board of trustees of

1 a cooperative, without authorization by the members thereof,  
 2 shall have full power and authority to authorize the  
 3 execution and delivery of a mortgage or mortgages or a deed  
 4 or deeds of trust upon or the pledging or encumbering of  
 5 any or all of the property, assets, rights, privileges,  
 6 licenses, franchises, and permits of the cooperative,  
 7 whether acquired or to be acquired and wherever situated, as  
 8 well as the revenues and income therefrom, all upon such  
 9 terms and conditions as the board of trustees shall  
 10 determine, to secure any indebtedness of the cooperative to  
 11 the United States of America or any instrumentality or  
 12 agency thereof or to any other financing sources within the  
 13 United States. ~~Further, the board may, upon the~~  
 14 ~~authorization of a majority of those members of the~~  
 15 ~~cooperative voting at a meeting of the members thereof,~~  
 16 ~~sell, lease, or otherwise dispose of all or a substantial~~  
 17 ~~portion of its property to another cooperative or foreign~~  
 18 ~~corporation doing business in this state pursuant to the act~~  
 19 ~~under which the cooperative is incorporated.~~

20 (3) Before a meeting is held to vote on authorization  
 21 of disposition of cooperative property, the board of  
 22 trustees shall:  
 23 (a) have the property appraised by three appraisers  
 24 chosen by the board and not associated with the cooperative  
 25 or a proposed buyer of cooperative property;



1 (b) notify all cooperative members, at least 90 days  
2 in advance, of a meeting to vote on disposition of  
3 cooperative property. Detailed proposals for disposition of  
4 such property must accompany the notice.

5 (c) at least 30 days before the meeting, notify all  
6 other cooperatives situated and operating in the state that  
7 the property is available for disposition and include with  
8 the notice one copy of each appraisal on the cooperative  
9 property; and

10 (d) at least 30 days before the meeting, mail to all  
11 members any alternative proposal made by cooperative members  
12 if it has been submitted to the board and signed by 50 or  
13 more members.

14 (4) The vote on property disposition may take place at  
15 an annual meeting if the board notifies the members as  
16 provided in this section.

17 (5) This section does not apply to the transfer of  
18 cooperative property in a merger or consolidation of  
19 cooperatives.

20 Section 2. Section 35-18-405, MCA, is amended to read:

21 "35-18-405. Dissolution and winding up of cooperative  
22 which has commenced business. A cooperative which has  
23 commenced business may dissolve voluntarily and wind up its  
24 affairs in the following manner:

25 (1) The board of trustees shall first recommend that

1 the cooperative be dissolved voluntarily, and thereafter the  
2 proposition that the cooperative be dissolved shall be  
3 submitted to the members of the cooperative at any annual or  
4 special meeting, the notice of which shall set forth such  
5 proposition. The proposed voluntary dissolution shall be  
6 deemed to be approved upon the affirmative vote of not less  
7 than two-thirds of ~~those--members--voting--thereon--at--such~~  
8 meeting all of the members of the cooperative.

9 (2) Upon such approval, a certificate of election to  
10 dissolve, hereinafter designated the "certificate", shall be  
11 executed on behalf of the cooperative by its president or  
12 vice-president and its corporate seal shall be affixed  
13 thereto and attested by its secretary or assistant  
14 secretary. The certificate shall state the name of the  
15 cooperative, the address of its principal office, the names  
16 and addresses of its trustees, and the total number of  
17 members who voted for and against the voluntary dissolution  
18 of the cooperative. The president or vice-president  
19 executing the certificate shall also make and annex thereto  
20 an affidavit stating that the provisions of this subsection  
21 were duly complied with. Such certificate and affidavit  
22 shall be submitted to the secretary of state for filing as  
23 provided in this chapter.

24 (3) Upon the filing of the certificate and affidavit  
25 by the secretary of state, the cooperative shall cease to

1 carry on its business except insofar as may be necessary for  
 2 the winding up thereof, but its corporate existence shall  
 3 continue until articles of dissolution have been filed by  
 4 the secretary of state.

5 (4) After the filing of the certificate and affidavit  
 6 by the secretary of state, the board of trustees shall  
 7 immediately cause notice of the winding up proceedings to be  
 8 mailed to each known creditor and claimant and to be  
 9 published once a week for 2 successive weeks in a newspaper  
 10 of general circulation in the county in which the principal  
 11 office of the cooperative is located.

12 (5) The board of trustees shall have full power to  
 13 wind up and settle the affairs of the cooperative and shall  
 14 proceed to collect the debts owing to the cooperative,  
 15 convey and dispose of its property and assets, pay, satisfy,  
 16 and discharge its debts, obligations, and liabilities, and  
 17 do all other things required to liquidate its business and  
 18 affairs and after paying or adequately providing for the  
 19 payment of all its debts, obligations, and liabilities shall  
 20 distribute the remainder of its property and assets among  
 21 its members in proportion to the aggregate patronage of each  
 22 such member during the 7 years next preceding the date of  
 23 such filing of the certificate or, if the cooperative shall  
 24 not have been in existence for such period, during the  
 25 period of its existence.

1 (6) When all debts, liabilities, and obligations of  
 2 the cooperative have been paid and discharged or adequate  
 3 provision shall have been made therefor and all of the  
 4 remaining property and assets of the cooperative shall have  
 5 been distributed to the members pursuant to the provisions  
 6 of this section, the board of trustees shall authorize the  
 7 execution of articles of dissolution, which shall thereupon  
 8 be executed on behalf of the cooperative by its president or  
 9 vice-president and its corporate seal shall be affixed  
 10 thereto and attested by its secretary. Such articles of  
 11 dissolution shall recite in the caption that they are  
 12 executed pursuant to this chapter and shall state:

- 13 (a) the name of the cooperative;  
 14 (b) the address of the principal office of the  
 15 cooperative;  
 16 (c) that the cooperative has heretofore delivered to  
 17 the secretary of state a certificate of election to dissolve  
 18 and the date on which the certificate was filed by the  
 19 secretary of state in the records of his office;  
 20 (d) that all debts, obligations, and liabilities of  
 21 the cooperative have been paid and discharged or that  
 22 adequate provision has been made therefor;  
 23 (e) that all the remaining property and assets of the  
 24 cooperative have been distributed among the members in  
 25 accordance with the provisions of this section; and

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1           (f) that there are no actions or suits pending against  
2 the cooperative. The president or vice-president executing  
3 the articles of dissolution shall also make and annex  
4 thereto an affidavit stating that the provisions of this  
5 subsection were duly complied with. Such articles of  
6 dissolution and affidavit, accompanied by proof of the  
7 publication required in this subsection, shall be submitted  
8 to the secretary of state for filing as provided in this  
9 chapter."

-End-

1 *House* BILL NO. *669*  
 2 INTRODUCED BY *HAPP Neuman Compton Patton Deb*  
 3 *M Hayes G. Jenkins Rogers Andy Williams Ed*  
 4 *Winstan Happ Jack Bartland Buzza*  
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 15 may not sell, mortgage, lease, or otherwise dispose of or  
 16 encumber all or any substantial portion of its property  
 17 unless such sale, mortgage, lease, or other disposition or  
 18 encumbrance is authorized at a duly held meeting of members  
 19 thereof by the affirmative vote of not less than two-thirds  
 20 of all the members of the cooperative and unless the notice  
 21 of such proposed sale, mortgage, lease, or other disposition  
 22 or encumbrance shall have been contained in the notice of  
 23 the meeting.

24 (2) However, notwithstanding anything herein contained  
 25 or any other provisions of law, the The board of trustees of

1 a cooperative, without authorization by the members thereof,  
 2 shall have full power and authority to authorize the  
 3 execution and delivery of a mortgage or mortgages or a deed  
 4 or deeds of trust upon or the pledging or encumbering of  
 5 any or all of the property, assets, rights, privileges,  
 6 licenses, franchises, and permits of the cooperative,  
 7 whether acquired or to be acquired and wherever situated, as  
 8 well as the revenues and income therefrom, all upon such  
 9 terms and conditions as the board of trustees shall  
 10 determine, to secure any indebtedness of the cooperative to  
 11 the United States of America or any instrumentality or  
 12 agency thereof or to any other financing sources within the  
 13 United States. Further, ~~the board may, upon the~~  
 14 ~~authorization of a majority of those members of the~~  
 15 ~~cooperative voting at a meeting of the members thereof,~~  
 16 ~~sell, lease, or otherwise dispose of all or a substantial~~  
 17 ~~portion of its property to another cooperative or foreign~~  
 18 ~~corporation doing business in this state pursuant to the act~~  
 19 ~~under which the cooperative is incorporated.~~

20 (3) Before a meeting is held to vote on authorization  
 21 of disposition of cooperative property, the board of  
 22 trustees shall:

23 (a) have the property appraised by three appraisers  
 24 chosen by the board and not associated with the cooperative  
 25 or a proposed buyer of cooperative property;

1 (b) notify all cooperative members, at least 90 days  
 2 in advance, of a meeting to vote on disposition of  
 3 cooperative property. Detailed proposals for disposition of  
 4 such property must accompany the notice.

5 (c) at least 30 days before the meeting, notify all  
 6 other cooperatives situated and operating in the state that  
 7 the property is available for disposition and include with  
 8 the notice one copy of each appraisal on the cooperative  
 9 property; and

10 (d) at least 30 days before the meeting, mail to all  
 11 members any alternative proposal made by cooperative members  
 12 if it has been submitted to the board and signed by 50 or  
 13 more members.

14 (4) The vote on property disposition may take place at  
 15 an annual meeting if the board notifies the members as  
 16 provided in this section.

17 (5) This section does not apply to the transfer of  
 18 cooperative property in a merger or consolidation of  
 19 cooperatives.

20 Section 2. Section 35-18-405, MCA, is amended to read:

21 "35-18-405. Dissolution and winding up of cooperative  
 22 which has commenced business. A cooperative which has  
 23 commenced business may dissolve voluntarily and wind up its  
 24 affairs in the following manner:

25 (1) The board of trustees shall first recommend that

1 the cooperative be dissolved voluntarily, and thereafter the  
 2 proposition that the cooperative be dissolved shall be  
 3 submitted to the members of the cooperative at any annual or  
 4 special meeting, the notice of which shall set forth such  
 5 proposition. The proposed voluntary dissolution shall be  
 6 deemed to be approved upon the affirmative vote of not less  
 7 than two-thirds of ~~those--members--voting--thereon--at--such~~  
 8 meeting all of the members of the cooperative.

9 (2) Upon such approval, a certificate of election to  
 10 dissolve, hereinafter designated the "certificate", shall be  
 11 executed on behalf of the cooperative by its president or  
 12 vice-president and its corporate seal shall be affixed  
 13 thereto and attested by its secretary or assistant  
 14 secretary. The certificate shall state the name of the  
 15 cooperative, the address of its principal office, the names  
 16 and addresses of its trustees, and the total number of  
 17 members who voted for and against the voluntary dissolution  
 18 of the cooperative. The president or vice-president  
 19 executing the certificate shall also make and annex thereto  
 20 an affidavit stating that the provisions of this subsection  
 21 were duly complied with. Such certificate and affidavit  
 22 shall be submitted to the secretary of state for filing as  
 23 provided in this chapter.

24 (3) Upon the filing of the certificate and affidavit  
 25 by the secretary of state, the cooperative shall cease to



1 carry on its business except insofar as may be necessary for  
 2 the winding up thereof, but its corporate existence shall  
 3 continue until articles of dissolution have been filed by  
 4 the secretary of state.

5 (4) After the filing of the certificate and affidavit  
 6 by the secretary of state, the board of trustees shall  
 7 immediately cause notice of the winding up proceedings to be  
 8 mailed to each known creditor and claimant and to be  
 9 published once a week for 2 successive weeks in a newspaper  
 10 of general circulation in the county in which the principal  
 11 office of the cooperative is located.

12 (5) The board of trustees shall have full power to  
 13 wind up and settle the affairs of the cooperative and shall  
 14 proceed to collect the debts owing to the cooperative,  
 15 convey and dispose of its property and assets, pay, satisfy,  
 16 and discharge its debts, obligations, and liabilities, and  
 17 do all other things required to liquidate its business and  
 18 affairs and after paying or adequately providing for the  
 19 payment of all its debts, obligations, and liabilities shall  
 20 distribute the remainder of its property and assets among  
 21 its members in proportion to the aggregate patronage of each  
 22 such member during the 7 years next preceding the date of  
 23 such filing of the certificate or, if the cooperative shall  
 24 not have been in existence for such period, during the  
 25 period of its existence.

1 (6) When all debts, liabilities, and obligations of  
 2 the cooperative have been paid and discharged or adequate  
 3 provision shall have been made therefor and all of the  
 4 remaining property and assets of the cooperative shall have  
 5 been distributed to the members pursuant to the provisions  
 6 of this section, the board of trustees shall authorize the  
 7 execution of articles of dissolution, which shall thereupon  
 8 be executed on behalf of the cooperative by its president or  
 9 vice-president and its corporate seal shall be affixed  
 10 thereto and attested by its secretary. Such articles of  
 11 dissolution shall recite in the caption that they are  
 12 executed pursuant to this chapter and shall state:

- 13 (a) the name of the cooperative;  
 14 (b) the address of the principal office of the  
 15 cooperative;  
 16 (c) that the cooperative has heretofore delivered to  
 17 the secretary of state a certificate of election to dissolve  
 18 and the date on which the certificate was filed by the  
 19 secretary of state in the records of his office;  
 20 (d) that all debts, obligations, and liabilities of  
 21 the cooperative have been paid and discharged or that  
 22 adequate provision has been made therefor;  
 23 (e) that all the remaining property and assets of the  
 24 cooperative have been distributed among the members in  
 25 accordance with the provisions of this section; and

1 (f) that there are no actions or suits pending against  
2 the cooperative. The president or vice-president executing  
3 the articles of dissolution shall also make and annex  
4 thereto an affidavit stating that the provisions of this  
5 subsection were duly complied with. Such articles of  
6 dissolution and affidavit, accompanied by proof of the  
7 publication required in this subsection, shall be submitted  
8 to the secretary of state for filing as provided in this  
9 chapter."

-End-

HOUSE BILL NO. 669

INTRODUCED BY HARP, NEUMAN, COMPTON, PATTERSON,  
SCHYE, HANSON, JENKINS, MEYERS, GRADY, M. WILLIAMS,  
CODY, WINSLOW, RAPP-SVRCEK, BARDANOUE, BULGER,  
DARKO, POULSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING NOTICE  
PROCEDURES FOR THE DISPOSITION OF RURAL COOPERATIVE  
PROPERTY; REQUIRING A VOTE OF TWO-THIRDS OF ALL OF THE  
MEMBERS OF THE RURAL COOPERATIVE FOR DISSOLUTION OF THE  
RURAL COOPERATIVE; AND AMENDING SECTIONS 35-18-317 AND  
35-18-405, MCA."

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

Section 1. Section 35-18-317, MCA, is amended to read:

"35-18-317. Disposition or encumbrance of property.

(1) A Except as provided in subsection (2), a cooperative  
may not sell, mortgage, lease, or otherwise dispose of or  
encumber all or any substantial portion of its property  
unless such sale, mortgage, lease, or other disposition or  
encumbrance is authorized at a duly held meeting of members  
thereof by the affirmative vote of not less than two-thirds  
of all the members of the cooperative and unless the notice  
of such proposed sale, mortgage, lease, or other disposition  
or encumbrance shall have been contained in the notice of

the meeting.

~~(2) However, notwithstanding anything herein contained  
or any other provisions of law, the The~~ board of trustees of  
a cooperative, without authorization by the members thereof,  
shall have full power and authority to authorize the  
execution and delivery of a mortgage or mortgages or a deed  
or deeds of trust upon or the pledging or encumbrancing of  
any or all of the property, assets, rights, privileges,  
licenses, franchises, and permits of the cooperative,  
whether acquired or to be acquired and wherever situated, as  
well as the revenues and income therefrom, all upon such  
terms and conditions as the board of trustees shall  
determine, to secure any indebtedness of the cooperative to  
the United States of America or any instrumentality or  
agency thereof or to any other financing sources within the  
United States. ~~Further, the board may, upon the  
authorization of a majority of those members of the  
cooperative voting at a meeting of the members thereof,  
sell, lease, or otherwise dispose of all or a substantial  
portion of its property to another cooperative or foreign  
corporation doing business in this state pursuant to the act  
under which the cooperative is incorporated.~~

(3) Before a meeting is held to vote on authorization  
of disposition of cooperative property, the board of  
trustees shall;



1 (a) have the property appraised by three appraisers  
 2 chosen by the board and not associated with the cooperative  
 3 or a proposed buyer of cooperative property;

4 (b) notify all cooperative members, at least 90 days  
 5 in advance, of a meeting to vote on disposition of  
 6 cooperative property. Detailed proposals for disposition of  
 7 such property must accompany the notice.

8 (c) at least 30 days before the meeting, notify all  
 9 other cooperatives situated and operating in the state that  
 10 the property is available for disposition and include with  
 11 the notice one copy of each appraisal on the cooperative  
 12 property; and

13 (d) at least 30 days before the meeting, mail to all  
 14 members any alternative proposal made by cooperative members  
 15 if it has been submitted to the board and signed by 50 or  
 16 more members.

17 (4) The vote on property disposition may take place at  
 18 an annual meeting if the board notifies the members as  
 19 provided in this section.

20 (5) This section does not apply to the transfer of  
 21 cooperative property in a merger or consolidation of  
 22 cooperatives.

23 Section 2. Section 35-18-405, MCA, is amended to read:

24 "35-18-405. Dissolution and winding up of cooperative  
 25 which has commenced business. A cooperative which has

1 commenced business may dissolve voluntarily and wind up its  
 2 affairs in the following manner:

3 (1) The board of trustees shall first recommend that  
 4 the cooperative be dissolved voluntarily, and thereafter the  
 5 proposition that the cooperative be dissolved shall be  
 6 submitted to the members of the cooperative at any annual or  
 7 special meeting, the notice of which shall set forth such  
 8 proposition. The proposed voluntary dissolution shall be  
 9 deemed to be approved upon the affirmative vote of not less  
 10 than two-thirds of ~~those--members--voting--thereon--at--such~~  
 11 meeting all of the members of the cooperative.

12 (2) Upon such approval, a certificate of election to  
 13 dissolve, hereinafter designated the "certificate", shall be  
 14 executed on behalf of the cooperative by its president or  
 15 vice-president and its corporate seal shall be affixed  
 16 thereto and attested by its secretary or assistant  
 17 secretary. The certificate shall state the name of the  
 18 cooperative, the address of its principal office, the names  
 19 and addresses of its trustees, and the total number of  
 20 members who voted for and against the voluntary dissolution  
 21 of the cooperative. The president or vice-president  
 22 executing the certificate shall also make and annex thereto  
 23 an affidavit stating that the provisions of this subsection  
 24 were duly complied with. Such certificate and affidavit  
 25 shall be submitted to the secretary of state for filing as

1 provided in this chapter.

2 (3) Upon the filing of the certificate and affidavit  
3 by the secretary of state, the cooperative shall cease to  
4 carry on its business except insofar as may be necessary for  
5 the winding up thereof, but its corporate existence shall  
6 continue until articles of dissolution have been filed by  
7 the secretary of state.

8 (4) After the filing of the certificate and affidavit  
9 by the secretary of state, the board of trustees shall  
10 immediately cause notice of the winding up proceedings to be  
11 mailed to each known creditor and claimant and to be  
12 published once a week for 2 successive weeks in a newspaper  
13 of general circulation in the county in which the principal  
14 office of the cooperative is located.

15 (5) The board of trustees shall have full power to  
16 wind up and settle the affairs of the cooperative and shall  
17 proceed to collect the debts owing to the cooperative,  
18 convey and dispose of its property and assets, pay, satisfy,  
19 and discharge its debts, obligations, and liabilities, and  
20 do all other things required to liquidate its business and  
21 affairs and after paying or adequately providing for the  
22 payment of all its debts, obligations, and liabilities shall  
23 distribute the remainder of its property and assets among  
24 its members in proportion to the aggregate patronage of each  
25 such member during the 7 years next preceding the date of

1 such filing of the certificate or, if the cooperative shall  
2 not have been in existence for such period, during the  
3 period of its existence.

4 (6) When all debts, liabilities, and obligations of  
5 the cooperative have been paid and discharged or adequate  
6 provision shall have been made therefor and all of the  
7 remaining property and assets of the cooperative shall have  
8 been distributed to the members pursuant to the provisions  
9 of this section, the board of trustees shall authorize the  
10 execution of articles of dissolution, which shall thereupon  
11 be executed on behalf of the cooperative by its president or  
12 vice-president and its corporate seal shall be affixed  
13 thereto and attested by its secretary. Such articles of  
14 dissolution shall recite in the caption that they are  
15 executed pursuant to this chapter and shall state:

- 16 (a) the name of the cooperative;
- 17 (b) the address of the principal office of the  
18 cooperative;
- 19 (c) that the cooperative has heretofore delivered to  
20 the secretary of state a certificate of election to dissolve  
21 and the date on which the certificate was filed by the  
22 secretary of state in the records of his office;
- 23 (d) that all debts, obligations, and liabilities of  
24 the cooperative have been paid and discharged or that  
25 adequate provision has been made therefor;

1           (e) that all the remaining property and assets of the  
2 cooperative have been distributed among the members in  
3 accordance with the provisions of this section; and  
4           (f) that there are no actions or suits pending against  
5 the cooperative. The president or vice-president executing  
6 the articles of dissolution shall also make and annex  
7 thereto an affidavit stating that the provisions of this  
8 subsection were duly complied with. Such articles of  
9 dissolution and affidavit, accompanied by proof of the  
10 publication required in this subsection, shall be submitted  
11 to the secretary of state for filing as provided in this  
12 chapter."

-End-