

HOUSE BILL NO. 535

INTRODUCED BY FOSTER, KOEHNKE

IN THE HOUSE

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| FEBRUARY 9, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION. FIRST READING. |
| FEBRUARY 16, 1993 | TABLED IN COMMITTEE. |
| FEBRUARY 20, 1993 | ON MOTION, TAKEN FROM COMMITTEE AND PLACED ON 2ND READING. |
| FEBRUARY 22, 1993 | PRINTING REPORT. SECOND READING, DO PASS AS AMENDED. |
| FEBRUARY 24, 1993 | ENGROSSING REPORT. THIRD READING, PASSED. AYES, 64; NOES, 35. TRANSMITTED TO SENATE. |

IN THE SENATE

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| MARCH 1, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION. FIRST READING. |
| MARCH 11, 1993 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| MARCH 12, 1993 | SECOND READING, CONCURRED IN. |
| MARCH 13, 1993 | THIRD READING, CONCURRED IN. AYES, 47; NOES, 0. RETURNED TO HOUSE. |

IN THE HOUSE

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| MARCH 15, 1993 | RECEIVED FROM SENATE. SENT TO ENROLLING. REPORTED CORRECTLY ENROLLED. |
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1 House BILL NO. 535
2 INTRODUCED BY Erster Fehnk
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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CASH
5 RENEWAL ON STATE LAND AGRICULTURAL LEASES UPON WHICH THE
6 LESSEE HAS MADE IMPROVEMENTS AT THE LESSEE'S OWN EXPENSE;
7 SETTING A RATE FOR RENEWAL OF A LEASE; AND AMENDING SECTION
8 77-6-501, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 77-6-501, MCA, is amended to read:

12 "77-6-501. Agricultural leases. (1) As to agricultural
13 lands, all leases shall except lease renewals upon which the
14 lessee has made improvements at the lessee's expense, as
15 provided in subsection (3), must be continued or made upon a
16 crop share rental basis of not less than one-fourth of the
17 annual crops to the state or the usual landlord's share
18 prevailing in the district, whichever is greater. The board
19 may, however, approve special crop share rentals of less
20 than one-fourth for high production cost crops such as but
21 not limited to potatoes and sugar beets or for high
22 production cost methods when these methods would result in
23 more income to the state. The board may not delegate the
24 authority to approve such special crop share rentals.

25 (2) If Except in the case of cash lease renewals under

1 subsection (3), if it is in the best interests of the state,
2 the department may authorize a lease upon other basis than
3 crop share, but in these cases the rental shall must at
4 least equal the value of the usual landlord's share
5 prevailing in the district under similar circumstances, and
6 the department shall set forth in the records the conditions
7 of the case and the rental to be charged.
8 (3) In cases in which the lessee has made improvements
9 to the lease at the lessee's own expense, the department
10 shall authorize a cash lease renewal at not less than \$15 an
11 acre on the portion of the lease that has been improved."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0535, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing the cash renewal of state lands agricultural leases upon which the lessee has made improvements at the lessee's own expense; setting a rate for renewal of a lease.

ASSUMPTIONS:

1. Improvements include summer fallowing, seeding and fertilization in preparation for the next crop; as well as capitalized equipment such as irrigation structures.
2. The proposed legislation authorizes the Department of State Lands (DSL) to process a cash lease renewal. This means that a cash lease renewal is voluntary for both DSL and the lessee.
3. The proposed legislation states, "...a cash lease renewal at not less than \$15 an acre on the portion of the lease that has been improved." Therefore, DSL will be required to determine the minimum cash rental equivalent to the usual landlord's share in the district. DSL would need to establish procedures and/or formulas that would easily establish the minimum rentals.
4. The average rent received per acre during FY92 on all agricultural acres was \$15.50/acre. In many cases of dryland leases that would have improvements as listed above, the minimum of \$15 and acre is probably higher than the usual landlord's share in the district. On the other hand there are also many agricultural leases currently returning substantially more than \$15 per acre.
5. Once a lease is established as a cash rental, that rental shall remain constant throughout the term of the lease. The rental would be due every year regardless of whether or not a crop is harvested, and regardless of whether the market price increases or decreases, unless the land board directed DSL to implement a formula which would fluctuate annually in accordance with market prices and/or production (i.e. similar to the formula for establishing annual grazing rentals, MCA 77-6-507).
6. The proposed legislation would have no effect on leases currently in place. It would take ten years worth of renewals to allow all current lessees the opportunity to renew the existing leases at a cash rental. Existing lessee requests to convert from a crop share to a cash rental would be handled the same as they have been handled to date.
7. The DSL would not expect to see a significant change in expenditures to implement the proposed legislation. The legislation will probably result in more lessees requesting to go to a cash rental requiring more departmental time spent on figuring the appropriate minimum cash rental. However, DSL would spend less time in dealing with the Federal Farm Program and on reviewing crop shares on those leases converted to cash. Additionally, DSL would need to establish a system of requesting whether lessees wish to implement a cash renewal.
8. The state would expect to receive incomes close to those received on an annual basis at the current time.

(continued on next page)

David Lewis 2-13-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mike Foster 2/15/93
MIKE FOSTER, PRIMARY SPONSOR DATE

Fiscal Note for HB0535, as introduced **HB535**

FISCAL IMPACT:

None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The long-term impact of the proposed legislation would be to stabilize the annual income received from agricultural leases. With more cash leases in effect, there would be less variation in income due to environmental or other factors that currently cause variation in the actual revenues returned from crop shares.

TECHNICAL NOTES:

1. The proposed legislation does not define what is to be included under "improvements at the lessee's expense". If the intent is to include all improvements considered under ARM 26.3.152, essentially every agricultural lease would fall into the category eligible for cash lease renewal.
2. The Department of State Lands currently has the authority under MCA 77-6-501(2) to convert a crop share rental to a cash lease rental without the proposed legislation. The department has negotiated several such leases in the past. However, all lease renewals must currently be processed on a crop share basis.

HB 535

TAKEN FROM TABLE IN
COMMITTEE ON AGRICULTURE,
LIVESTOCK & IRRIGATION

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INTRODUCED BY

Feater Fiehnke

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

Section 1. Section 77-6-501, MCA, is amended to read:

"77-6-501. Agricultural leases. (1) As to agricultural lands, all leases shall except lease renewals upon which the lessee has made improvements at the lessee's expense, as provided in subsection (3), must be continued or made upon a crop share rental basis of not less than one-fourth of the annual crops to the state or the usual landlord's share prevailing in the district, whichever is greater. The board may, however, approve special crop share rentals of less than one-fourth for high production cost crops such as but not limited to potatoes and sugar beets or for high production cost methods when these methods would result in more income to the state. The board may not delegate the authority to approve such special crop share rentals.

(2) If Except in the case of cash lease renewals under

subsection (3), if it is in the best interests of the state, the department may authorize a lease upon other basis than crop share, but in these cases the rental shall must at least equal the value of the usual landlord's share prevailing in the district under similar circumstances, and the department shall set forth in the records the conditions of the case and the rental to be charged.

(3) In cases in which the lessee has made improvements to the lease at the lessee's own expense, the department shall authorize a cash lease renewal at not less than \$15 an acre on the portion of the lease that has been improved."

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