

SENATE BILL NO. 190

INTRODUCED BY DOHERTY, GAGE, JERGESON,  
AKLESTAD, L. NELSON, PETERSON

IN THE SENATE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 2, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 3, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 4, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 15, 1993	SECOND READING, CONCURRED IN.
MARCH 18, 1993	THIRD READING, CONCURRED IN. AYES, 85; NOES, 10.
MARCH 19, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 20, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 190  
 2 INTRODUCED BY Doherty  
 3 Peterson Ferguson AKKESTAD, L. Nelson  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A RURAL  
 5 ELECTRIC OR TELEPHONE COOPERATIVE TO USE UNCLAIMED PATRONAGE  
 6 REFUNDS FOR EDUCATIONAL PURPOSES; PROVIDING AN EXEMPTION TO  
 7 THE UNIFORM UNCLAIMED PROPERTY ACT; AND AMENDING SECTIONS  
 8 35-18-316, 70-9-203, 70-9-301, 70-9-309, AND 72-14-102,  
 9 MCA."

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

12 **Section 1.** Section 35-18-316, MCA, is amended to read:

13 "35-18-316. Refunds to members -- retention of  
 14 unclaimed refunds. (1) Revenues Revenue of a cooperative for  
 15 any fiscal year shall must, unless otherwise determined by a  
 16 vote of the members, be distributed by the cooperative to  
 17 its members as patronage refunds prorated in accordance with  
 18 the patronage of the cooperative by the respective members  
 19 paid for during such the fiscal year, whenever such the  
 20 revenues-exceed revenue exceeds the amount thereof necessary  
 21 to:

22 (a) defray expenses of the cooperative and of the  
 23 operation and maintenance of its facilities during such the  
 24 fiscal year;

25 (b) pay interest and principal obligations of the

1 cooperative coming due in such the fiscal year;

2 (c) finance or provide a reserve for the financing of  
 3 the construction or acquisition by the cooperative of  
 4 additional facilities to the extent determined by the board  
 5 of trustees;

6 (d) provide a reasonable reserve for working capital;

7 (e) provide a reserve for the payment of indebtedness  
 8 of the cooperative maturing more than 1 year after the date  
 9 of the incurrence of such the indebtedness in an amount not  
 10 less than the total of the interest and principal payments  
 11 in--respect--thereof required to be made during the next  
 12 following fiscal year; and

13 (f) provide a fund, which shall may be not less than 2%  
 14 or more than 5% of the balance remaining, for education in  
 15 cooperation and for the dissemination of information  
 16 concerning the effective use of electric energy and other  
 17 services made available by the cooperative.

18 (2) Nothing herein contained in this section shall may  
 19 be construed to prohibit the payment by a cooperative of all  
 20 or any part of its indebtedness prior to the date when the  
 21 same-shall-become payment becomes due.

22 (3) A cooperative may, upon the action of the board of  
 23 trustees, retain patronage refunds allocated to its members  
 24 that remain unclaimed for a period of 5 years after the end  
 25 of the year in which the refunds are given. Refunds retained

by the cooperative may be used for educational purposes."

**Section 2.** Section 70-9-203, MCA, is amended to read:

"70-9-203. Deposits and refunds held by utility. (1)

The following funds held or owing by any utility are presumed abandoned:

(1)(a) any deposit made by a subscriber with a utility to secure payment for or any sum paid in advance for utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto to it for more than 5 years after the termination of the services for which the deposit or advance payment was made;

(2)(b) any sum which that a utility has been ordered to refund and which that was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto to it for more than 5 years after the date it became payable in accordance with the final determination or order providing for the refund; and

(c) a patronage refund made to a member of a rural electric or telephone cooperative organized under Title 35, chapter 18, that has remained unclaimed by the person appearing on the records of the cooperative entitled to it for more than 5 years.

(2) The unclaimed funds provided for in subsection (1)(c) are not subject to or governed by any other provisions of parts 1 through 3 of this chapter. They may be used by the rural electric or telephone cooperative for educational purposes."

**Section 3.** Section 70-9-301, MCA, is amended to read:

"70-9-301. Report of abandoned property -- duty to prevent abandonment prior to filing. (1) Every Except as provided in 70-9-203(2), a person holding money or other property, tangible or intangible, presumed abandoned under parts 1 through 3 shall report the property to the department as provided in this part.

(2) The report must be verified and must include:

(a) except with respect to travelers' checks and money orders, the name, if known, and the last-known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$25 or more presumed abandoned under parts 1 through 3;

(b) in case of unclaimed money of life insurance corporations, the full name of the insured or annuitant and his the last-known address according to the life insurance corporation's records;

(c) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due. Items less than \$25 of value each may

1 be reported in aggregate.

2 (d) the date when the property became payable,  
3 demandable, or returnable and the date of the last  
4 transaction with the owner with respect to the property; and

5 (e) other information ~~which~~ that the department  
6 prescribes by rule as necessary for the administration of  
7 parts 1 through 3.

8 (3) If the person holding property presumed abandoned  
9 is a successor to other persons who previously held the  
10 property for the owner or if the holder holder's name has  
11 changed ~~his--name~~ while holding the property, ~~he~~ the holder  
12 shall file with ~~his~~ the report all prior known names and  
13 addresses of each holder of the property.

14 (4) The report must be filed before November 1 every  
15 year as of the preceding June 30, but the reports of life  
16 insurance corporations, banking and financial organizations,  
17 and cooperatives must be filed before May 1 of each year as  
18 of the preceding December 31. The department may postpone  
19 the reporting date upon written request by any person  
20 required to file a report. The department shall furnish  
21 forms for this report.

22 (5) Not more than 120 days before filing the report  
23 required by this section, the holder in possession of  
24 property presumed abandoned and subject to custody as  
25 unclaimed property under parts 1 through 3 shall send

1 written notice to the apparent owner at ~~his~~ the last-known  
2 address informing ~~him~~ the apparent owner that the holder is  
3 in possession of property subject to this chapter if:

4 (a) the holder has in ~~his~~ the holder's records an  
5 address for the apparent owner ~~which~~ that the holder's  
6 records do not disclose to be inaccurate;

7 (b) the claim of the apparent owner is not barred by  
8 the statute of limitations; and

9 (c) the property has a value of \$100 or more.

10 (6) Verification if made by a partnership must be  
11 executed by a partner; if made by an unincorporated  
12 association or private corporation, by an officer; and if  
13 made by a public corporation, by its chief fiscal officer."

14 **Section 4.** Section 70-9-309, MCA, is amended to read:

15 "70-9-309. Deposit of moneys ~~money~~ -- record --  
16 deduction of costs. (1) ~~All~~ Except for patronage refunds  
17 retained under 35-18-316, all moneys money received under  
18 parts 1 through 3, including the proceeds from the sale of  
19 abandoned property under 70-9-308, ~~shall-forthwith~~ must be  
20 immediately deposited by the department of revenue with the  
21 state treasurer for credit to the public school  
22 nonexpendable trust fund of the state, except that the state  
23 treasurer shall retain in the agency fund an amount not  
24 exceeding \$25,000 from which ~~he~~ the treasurer shall make  
25 prompt payment of claims allowed by the department as

1 hereinafter provided in this section.

2 (2) Before making the deposit, the department shall  
3 record the name and ~~last-known~~ last-known address of each  
4 person appearing from the holders' reports to be entitled to  
5 the abandoned property and of the name and ~~last--known~~  
6 last-known address of each insured person or annuitant and,  
7 with respect to each policy or contract listed in the report  
8 of a life insurance corporation, its number, the name of the  
9 corporation, and the amount due. The record ~~shall~~ must be  
10 available for public inspection at all reasonable business  
11 hours.

12 (3) Before making any deposit to the credit of the  
13 public school nonexpendable trust fund, the department may  
14 deduct:

15 (a) any costs in connection with sale of abandoned  
16 property;

17 (b) any costs of mailing and publication in connection  
18 with any abandoned property; and

19 (c) reasonable service charges."

20 **Section 5.** Section 72-14-102, MCA, is amended to read:

21 "72-14-102. When title to escheated property vests in  
22 state. (1) Whenever the title to any property, either real  
23 or personal or mixed, fails for any reason, including want  
24 of heirs or next of kin, such the title vests in the state  
25 of Montana immediately upon the death of the owner without

1 an inquest or other similar proceeding and there is no  
2 presumption that ~~such the~~ owner died leaving heirs or next  
3 of kin.

4 (2) This chapter does not apply to any rural electric  
5 or telephone cooperative organized under Title 35, chapter  
6 18, if the board of trustees of the cooperative has acted to  
7 retain patronage refunds that are made by the cooperative to  
8 a member or former member and that remain unclaimed for 5  
9 years, as provided in 70-9-203."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0190, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a rural electric or telephone cooperative to use unclaimed patronage refunds for educational purposes; providing an exemption to the uniform property act.

ASSUMPTIONS:

1. During FY92, the Department of Revenue collected \$154,000 in abandoned property from rural electric and telephone cooperatives (MDOR).
2. On average, the department returns 32.9% of abandoned property within the first year that the property is reported abandoned (MDOR).
3. The average long-term interest rate is 8.00% (MDOR).
4. Under the proposed legislation, all abandoned property from rural electric and telephone cooperatives would be retained by the cooperatives and not remitted to the department (MDOR).
5. The effective date of the proposed legislation is October 1, 1993, and is applicable to all property which has been abandoned for five years on or after October 1, 1993 (MDOR).

FISCAL IMPACT:

Expenditures:

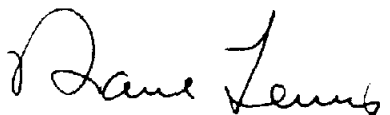
There is no impact to Department of Revenue expenditures under the proposed legislation.

Revenues:


Under the proposed legislation, abandoned property deposits to the school trust fund would decrease by approximately \$105,000 annually. This decrease in principal to the trust fund would result in decreased interest earnings to the school equalization account of approximately \$8,300 annually. Because of the October 1, 1993 effective and applicability dates, there would be no impact in FY94 and a partial impact in FY95.

TECHNICAL NOTES:

The intent of the proposed legislation appears to exempt only unclaimed patronage dividends from being remitted to the state. However, the language in Section 5 exempts all abandoned property of rural electric and telephone cooperative members from the Uniform Unclaimed Property Act.

 2-6-93

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/8/93

STEVE DOHERTY, PRIMARY SPONSOR      DATE

Fiscal Note for SB0190, third reading

SB 190

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

SENATE BILL NO. 190

INTRODUCED BY DOHERTY, GAGE, JERGESON,  
AKLESTAD, L. NELSON, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A RURAL  
ELECTRIC OR TELEPHONE COOPERATIVE TO USE UNCLAIMED PATRONAGE  
REFUNDS FOR EDUCATIONAL PURPOSES; PROVIDING AN EXEMPTION TO  
THE UNIFORM UNCLAIMED PROPERTY ACT; AND AMENDING SECTIONS  
35-18-316, 70-9-203, 70-9-301, 70-9-309, AND 72-14-102,  
MCA."

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

**Section 1.** Section 35-18-316, MCA, is amended to read:

"35-18-316. Refunds to ~~members~~ -- retention of  
unclaimed refunds. (1) ~~Revenues~~ Revenue of a cooperative for  
any fiscal year ~~shall must~~, unless otherwise determined by a  
vote of the members, be distributed by the cooperative to  
its members as patronage refunds prorated in accordance with  
the patronage of the cooperative by the respective members  
paid for during ~~such the~~ fiscal year, whenever ~~such the~~  
~~revenues-exceed~~ revenue exceeds the amount thereof necessary  
to:

(a) defray expenses of the cooperative and of the  
operation and maintenance of its facilities during ~~such the~~  
fiscal year;

(b) pay interest and principal obligations of the  
cooperative coming due in ~~such the~~ fiscal year;

(c) finance or provide a reserve for the financing of  
the construction or acquisition by the cooperative of  
additional facilities to the extent determined by the board  
of trustees;

(d) provide a reasonable reserve for working capital;

(e) provide a reserve for the payment of indebtedness  
of the cooperative maturing more than 1 year after the date  
of the incurrence of ~~such the~~ indebtedness in an amount not  
less than the total of the interest and principal payments  
~~in--respect--thereof~~ required to be made during the next  
following fiscal year; and

(f) provide a fund, which ~~shall may~~ be not less than 2%  
or more than 5% of the balance remaining, for education in  
cooperation and for the dissemination of information  
concerning the effective use of electric energy and other  
services made available by the cooperative.

(2) Nothing herein contained in this section shall may  
be construed to prohibit the payment by a cooperative of all  
or any part of its indebtedness prior to the date when the  
~~same-shall-become~~ payment becomes due.

(3) A cooperative may SHALL, upon the action of the  
board of trustees, retain patronage refunds allocated to its  
members that remain unclaimed for a period of 5 years after



the end of the year in which the refunds are given. Refunds retained by the cooperative ~~may~~ **MUST** be used for educational purposes."

**Section 2.** Section 70-9-203, MCA, is amended to read:

"70-9-203. Deposits and refunds held by utility. (1)

The following funds held or owing by any utility are presumed abandoned:

(1)(a) any deposit made by a subscriber with a utility to secure payment for or any sum paid in advance for utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto to it for more than 5 years after the termination of the services for which the deposit or advance payment was made;

(2)(b) any sum which ~~that~~ a utility has been ordered to refund and which ~~that~~ was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto to it for more than 5 years after the date it became payable in accordance with the final determination or order providing for the refund; and

(c) a patronage refund made to a member of a rural electric or telephone cooperative organized under Title 35, chapter 18, that has remained unclaimed by the person

appearing on the records of the cooperative entitled to it for more than 5 years.

(2) The unclaimed funds provided for in subsection (1)(c) are not subject to or governed by any other provisions of parts 1 through 3 of this chapter. They ~~may~~ **MUST** be used by the rural electric or telephone cooperative for educational purposes."

**Section 3.** Section 70-9-301, MCA, is amended to read:

"70-9-301. Report of abandoned property -- duty to prevent abandonment prior to filing. (1) Every ~~Except as provided in 70-9-203(2),~~ a person holding money or other property, tangible or intangible, presumed abandoned under parts 1 through 3 shall report the property to the department as provided in this part.

(2) The report must be verified and must include:

(a) except with respect to travelers' checks and money orders, the name, if known, and ~~the~~ last-known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$25 or more presumed abandoned under parts 1 through 3;

(b) in case of unclaimed money of life insurance corporations, the full name of the insured or annuitant and his ~~the~~ last-known address according to the life insurance corporation's records;

(c) the nature and identifying number, if any, or

1 description of the property and the amount appearing from  
2 the records to be due. Items less than \$25 of value each may  
3 be reported in aggregate.

4 (d) the date when the property became payable,  
5 demandable, or returnable and the date of the last  
6 transaction with the owner with respect to the property; and

7 (e) other information which that the department  
8 prescribes by rule as necessary for the administration of  
9 parts 1 through 3.

10 (3) If the person holding property presumed abandoned  
11 is a successor to other persons who previously held the  
12 property for the owner or if the ~~holder~~ holder's name has  
13 changed ~~his-name~~ while holding the property, he the holder  
14 shall file with his the report all prior known names and  
15 addresses of each holder of the property.

16 (4) The report must be filed before November 1 every  
17 year as of the preceding June 30, but the reports of life  
18 insurance corporations, banking and financial organizations,  
19 and cooperatives must be filed before May 1 of each year as  
20 of the preceding December 31. The department may postpone  
21 the reporting date upon written request by any person  
22 required to file a report. The department shall furnish  
23 forms for this report.

24 (5) Not more than 120 days before filing the report  
25 required by this section, the holder in possession of

1 property presumed abandoned and subject to custody as  
2 unclaimed property under parts 1 through 3 shall send  
3 written notice to the apparent owner at ~~his~~ the last-known  
4 address informing ~~him~~ the apparent owner that the holder is  
5 in possession of property subject to this chapter if:

6 (a) the holder has in ~~his~~ the holder's records an  
7 address for the apparent owner ~~which~~ that the holder's  
8 records do not disclose to be inaccurate;

9 (b) the claim of the apparent owner is not barred by  
10 the statute of limitations; and

11 (c) the property has a value of \$100 or more.

12 (6) Verification if made by a partnership must be  
13 executed by a partner; if made by an unincorporated  
14 association or private corporation, by an officer; and if  
15 made by a public corporation, by its chief fiscal officer."

16 **Section 4.** Section 70-9-309, MCA, is amended to read:

17 "70-9-309. Deposit of moneys money -- record --  
18 deduction of costs. (1) ~~All~~ Except for patronage refunds  
19 retained under 35-18-316, all moneys money received under  
20 parts 1 through 3, including the proceeds from the sale of  
21 abandoned property under 70-9-308, ~~shall-forthwith~~ must be  
22 immediately deposited by the department of revenue with the  
23 state treasurer for credit to the public school  
24 nonexpendable trust fund of the state, except that the state  
25 treasurer shall retain in the agency fund an amount not

1 exceeding \$25,000 from which he the treasurer shall make  
2 prompt payment of claims allowed by the department as  
3 hereinafter provided in this section.

4 (2) Before making the deposit, the department shall  
5 record the name and ~~last-known~~ last-known address of each  
6 person appearing from the holders' reports to be entitled to  
7 the abandoned property and of the name and ~~last-known~~  
8 last-known address of each insured person or annuitant and,  
9 with respect to each policy or contract listed in the report  
10 of a life insurance corporation, its number, the name of the  
11 corporation, and the amount due. The record ~~shall~~ must be  
12 available for public inspection at all reasonable business  
13 hours.

14 (3) Before making any deposit to the credit of the  
15 public school nonexpendable trust fund, the department may  
16 deduct:

17 (a) any costs in connection with sale of abandoned  
18 property;

19 (b) any costs of mailing and publication in connection  
20 with any abandoned property; and

21 (c) reasonable service charges."

22 **Section 5.** Section 72-14-102, MCA, is amended to read:

23 "72-14-102. When title to escheated property vests in  
24 state. (1) Whenever the title to any property, either real  
25 or personal or mixed, fails for any reason, including want

1 of heirs or next of kin, such the title vests in the state  
2 of Montana immediately upon the death of the owner without  
3 an inquest or other similar proceeding and there is no  
4 presumption that such the owner died leaving heirs or next  
5 of kin.

6 (2) This chapter does not apply to any rural electric  
7 or telephone cooperative organized under Title 35, chapter  
8 18, if the board of trustees of the cooperative has acted to  
9 retain patronage refunds that are made by the cooperative to  
10 a member or former member and that remain unclaimed for 5  
11 years, as provided in 70-9-203."

-End-

SENATE BILL NO. 190  
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vote of the members, be distributed by the cooperative to  
its members as patronage refunds prorated in accordance with  
the patronage of the cooperative by the respective members  
paid for during such the fiscal year, whenever such the  
revenues-exceed revenue exceeds the amount thereof necessary  
to:

(a) defray expenses of the cooperative and of the  
operation and maintenance of its facilities during such the  
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(b) pay interest and principal obligations of the  
cooperative coming due in such the fiscal year;

(c) finance or provide a reserve for the financing of  
the construction or acquisition by the cooperative of  
additional facilities to the extent determined by the board  
of trustees;

(d) provide a reasonable reserve for working capital;

(e) provide a reserve for the payment of indebtedness  
of the cooperative maturing more than 1 year after the date  
of the incurrence of such the indebtedness in an amount not  
less than the total of the interest and principal payments  
~~in--respect--thereof~~ required to be made during the next  
following fiscal year; and

(f) provide a fund, which ~~shall~~ may be not less than 2%  
or more than 5% of the balance remaining, for education in  
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(2) Nothing herein contained in this section ~~shall~~ may  
be construed to prohibit the payment by a cooperative of all  
or any part of its indebtedness prior to the date when the  
~~same-shall-become~~ payment becomes due.

(3) A cooperative may ~~SHALL~~, upon the action of the  
board of trustees, retain patronage refunds allocated to its  
members that remain unclaimed for a period of 5 years after

1 the end of the year in which the refunds are given. Refunds  
 2 retained by the cooperative may MUST be used for educational  
 3 purposes."

4 **Section 2.** Section 70-9-203, MCA, is amended to read:

5 "70-9-203. Deposits and refunds held by utility. (1)  
 6 The following funds held or owing by any utility are  
 7 presumed abandoned:

8 ~~{1}~~(a) any deposit made by a subscriber with a utility  
 9 to secure payment for or any sum paid in advance for utility  
 10 services to be furnished in this state, less any lawful  
 11 deductions, that has remained unclaimed by the person  
 12 appearing on the records of the utility entitled thereto to  
 13 it for more than 5 years after the termination of the  
 14 services for which the deposit or advance payment was made;

15 ~~{2}~~(b) any sum which that a utility has been ordered to  
 16 refund and which that was received for utility services  
 17 rendered in this state, together with any interest thereon,  
 18 less any lawful deductions, that has remained unclaimed by  
 19 the person appearing on the records of the utility entitled  
 20 thereto to it for more than 5 years after the date it became  
 21 payable in accordance with the final determination or order  
 22 providing for the refund; and

23 (c) a patronage refund made to a member of a rural  
 24 electric or telephone cooperative organized under Title 35,  
 25 chapter 18, that has remained unclaimed by the person

1 appearing on the records of the cooperative entitled to it  
 2 for more than 5 years.

3 (2) The unclaimed funds provided for in subsection  
 4 (1)(c) are not subject to or governed by any other  
 5 provisions of parts 1 through 3 of this chapter. They may  
 6 MUST be used by the rural electric or telephone cooperative  
 7 for educational purposes."

8 **Section 3.** Section 70-9-301, MCA, is amended to read:

9 "70-9-301. Report of abandoned property -- duty to  
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 12 property, tangible or intangible, presumed abandoned under  
 13 parts 1 through 3 shall report the property to the  
 14 department as provided in this part.

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 17 orders, the name, if known, and the last-known address, if  
 18 any, of each person appearing from the records of the holder  
 19 to be the owner of any property of value of \$25 or more  
 20 presumed abandoned under parts 1 through 3;

21 (b) in case of unclaimed money of life insurance  
 22 corporations, the full name of the insured or annuitant and  
 23 his the last-known address according to the life insurance  
 24 corporation's records;

25 (c) the nature and identifying number, if any, or

1 description of the property and the amount appearing from  
2 the records to be due. Items less than \$25 of value each may  
3 be reported in aggregate.

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14 shall file with his the report all prior known names and  
15 addresses of each holder of the property.

16 (4) The report must be filed before November 1 every  
17 year as of the preceding June 30, but the reports of life  
18 insurance corporations, banking and financial organizations,  
19 and cooperatives must be filed before May 1 of each year as  
20 of the preceding December 31. The department may postpone  
21 the reporting date upon written request by any person  
22 required to file a report. The department shall furnish  
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24 (5) Not more than 120 days before filing the report  
25 required by this section, the holder in possession of

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3 written notice to the apparent owner at his the last-known  
4 address informing him the apparent owner that the holder is  
5 in possession of property subject to this chapter if:

6 (a) the holder has in his the holder's records an  
7 address for the apparent owner which that the holder's  
8 records do not disclose to be inaccurate;

9 (b) the claim of the apparent owner is not barred by  
10 the statute of limitations; and

11 (c) the property has a value of \$100 or more.

12 (6) Verification if made by a partnership must be  
13 executed by a partner; if made by an unincorporated  
14 association or private corporation, by an officer; and if  
15 made by a public corporation, by its chief fiscal officer."

16 **Section 4.** Section 70-9-309, MCA, is amended to read:

17 "70-9-309. Deposit of moneys money -- record --  
18 deduction of costs. (1) All Except for patronage refunds  
19 retained under 35-18-316, all moneys money received under  
20 parts 1 through 3, including the proceeds from the sale of  
21 abandoned property under 70-9-308, shall-forthwith must be  
22 immediately deposited by the department of revenue with the  
23 state treasurer for credit to the public school  
24 nonexpendable trust fund of the state, except that the state  
25 treasurer shall retain in the agency fund an amount not

1 exceeding \$25,000 from which he the treasurer shall make  
 2 prompt payment of claims allowed by the department as  
 3 hereinafter provided in this section.

4 (2) Before making the deposit, the department shall  
 5 record the name and last-known last-known address of each  
 6 person appearing from the holders' reports to be entitled to  
 7 the abandoned property and of the name and last-known  
 8 last-known address of each insured person or annuitant and,  
 9 with respect to each policy or contract listed in the report  
 10 of a life insurance corporation, its number, the name of the  
 11 corporation, and the amount due. The record shall must be  
 12 available for public inspection at all reasonable business  
 13 hours.

14 (3) Before making any deposit to the credit of the  
 15 public school nonexpendable trust fund, the department may  
 16 deduct:

17 (a) any costs in connection with sale of abandoned  
 18 property;

19 (b) any costs of mailing and publication in connection  
 20 with any abandoned property; and

21 (c) reasonable service charges."

22 **Section 5.** Section 72-14-102, MCA, is amended to read:

23 "72-14-102. When title to escheated property vests in  
 24 state. (1) Whenever the title to any property, either real  
 25 or personal or mixed, fails for any reason, including want

1 of heirs or next of kin, such the title vests in the state  
 2 of Montana immediately upon the death of the owner without  
 3 an inquest or other similar proceeding and there is no  
 4 presumption that such the owner died leaving heirs or next  
 5 of kin.

6 (2) This chapter does not apply to any rural electric  
 7 or telephone cooperative organized under Title 35, chapter  
 8 18, if the board of trustees of the cooperative has acted to  
 9 retain patronage refunds that are made by the cooperative to  
 10 a member or former member and that remain unclaimed for 5  
 11 years, as provided in 70-9-203."

-End-

## SENATE BILL NO. 190

INTRODUCED BY DOHERTY, GAGE, JERGESON,

AKLESTAD, L. NELSON, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A RURAL ELECTRIC OR TELEPHONE COOPERATIVE TO USE UNCLAIMED PATRONAGE REFUNDS FOR EDUCATIONAL PURPOSES; PROVIDING AN EXEMPTION TO THE UNIFORM UNCLAIMED PROPERTY ACT; AND AMENDING SECTIONS 35-18-316, 70-9-203, 70-9-301, 70-9-309, AND 72-14-102, MCA."

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

**Section 1.** Section 35-18-316, MCA, is amended to read:

"35-18-316. Refunds to ~~members~~ -- retention of unclaimed refunds. (1) Revenues ~~Revenue~~ of a cooperative for any fiscal year ~~shall must~~, unless otherwise determined by a vote of the members, be distributed by the cooperative to its members as patronage refunds prorated in accordance with the patronage of the cooperative by the respective members paid for during such the fiscal year, whenever such the ~~revenues-exceed~~ revenue exceeds the amount thereof necessary to:

(a) defray expenses of the cooperative and of the operation and maintenance of its facilities during such the fiscal year;

(b) pay interest and principal obligations of the cooperative coming due in such the fiscal year;

(c) finance or provide a reserve for the financing of the construction or acquisition by the cooperative of additional facilities to the extent determined by the board of trustees;

(d) provide a reasonable reserve for working capital;

(e) provide a reserve for the payment of indebtedness of the cooperative maturing more than 1 year after the date of the incurrence of such the indebtedness in an amount not less than the total of the interest and principal payments ~~in--respect--thereof~~ required to be made during the next following fiscal year; and

(f) provide a fund, which ~~shall may~~ be not less than 2% or more than 5% of the balance remaining, for education in cooperation and for the dissemination of information concerning the effective use of electric energy and other services made available by the cooperative.

(2) Nothing herein contained in this section shall may be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the ~~same-shall-become~~ payment becomes due.

(3) A cooperative may SHALL, upon the action of the board of trustees, retain patronage refunds allocated to its members that remain unclaimed for a period of 5 years after



1 the end of the year in which the refunds are given. Refunds  
 2 retained by the cooperative may MUST be used for educational  
 3 purposes."

4 **Section 2.** Section 70-9-203, MCA, is amended to read:

5 "70-9-203. Deposits and refunds held by utility. (1)

6 The following funds held or owing by any utility are  
 7 presumed abandoned:

8 ~~(1)(a)~~ any deposit made by a subscriber with a utility  
 9 to secure payment for or any sum paid in advance for utility  
 10 services to be furnished in this state, less any lawful  
 11 deductions, that has remained unclaimed by the person  
 12 appearing on the records of the utility entitled thereto to  
 13 it for more than 5 years after the termination of the  
 14 services for which the deposit or advance payment was made;

15 ~~(2)(b)~~ any sum which that a utility has been ordered to  
 16 refund and which that was received for utility services  
 17 rendered in this state, together with any interest thereon,  
 18 less any lawful deductions, that has remained unclaimed by  
 19 the person appearing on the records of the utility entitled  
 20 thereto to it for more than 5 years after the date it became  
 21 payable in accordance with the final determination or order  
 22 providing for the refund; and

23 (c) a patronage refund made to a member of a rural  
 24 electric or telephone cooperative organized under Title 35,  
 25 chapter 18, that has remained unclaimed by the person

1 appearing on the records of the cooperative entitled to it  
 2 for more than 5 years.

3 (2) The unclaimed funds provided for in subsection  
 4 (1)(c) are not subject to or governed by any other  
 5 provisions of parts 1 through 3 of this chapter. They may  
 6 MUST be used by the rural electric or telephone cooperative  
 7 for educational purposes."

8 **Section 3.** Section 70-9-301, MCA, is amended to read:

9 "70-9-301. Report of abandoned property -- duty to  
 10 prevent abandonment prior to filing. (1) Every Except as  
 11 provided in 70-9-203(2), a person holding money or other  
 12 property, tangible or intangible, presumed abandoned under  
 13 parts 1 through 3 shall report the property to the  
 14 department as provided in this part.

15 (2) The report must be verified and must include:

16 (a) except with respect to travelers' checks and money  
 17 orders, the name, if known, and the last-known address, if  
 18 any, of each person appearing from the records of the holder  
 19 to be the owner of any property of value of \$25 or more  
 20 presumed abandoned under parts 1 through 3;

21 (b) in case of unclaimed money of life insurance  
 22 corporations, the full name of the insured or annuitant and  
 23 his the last-known address according to the life insurance  
 24 corporation's records;

25 (c) the nature and identifying number, if any, or

description of the property and the amount appearing from the records to be due. Items less than \$25 of value each may be reported in aggregate.

(d) the date when the property became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the property; and

(e) other information which that the department prescribes by rule as necessary for the administration of parts 1 through 3.

(3) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner or if the holder holder's name has changed his-name while holding the property, he the holder shall file with his the report all prior known names and addresses of each holder of the property.

(4) The report must be filed before November 1 every year as of the preceding June 30, but the reports of life insurance corporations, banking and financial organizations, and cooperatives must be filed before May 1 of each year as of the preceding December 31. The department may postpone the reporting date upon written request by any person required to file a report. The department shall furnish forms for this report.

(5) Not more than 120 days before filing the report required by this section, the holder in possession of

property presumed abandoned and subject to custody as unclaimed property under parts 1 through 3 shall send written notice to the apparent owner at his the last-known address informing him the apparent owner that the holder is in possession of property subject to this chapter if:

(a) the holder has in his the holder's records an address for the apparent owner which that the holder's records do not disclose to be inaccurate;

(b) the claim of the apparent owner is not barred by the statute of limitations; and

(c) the property has a value of \$100 or more.

(6) Verification if made by a partnership must be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer."

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1 exceeding \$25,000 from which he the treasurer shall make  
2 prompt payment of claims allowed by the department as  
3 hereinafter provided in this section.

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5 record the name and ~~last-known~~ last-known address of each  
6 person appearing from the holders' reports to be entitled to  
7 the abandoned property and of the name and ~~last-known~~  
8 last-known address of each insured person or annuitant and,  
9 with respect to each policy or contract listed in the report  
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11 corporation, and the amount due. The record shall must be  
12 available for public inspection at all reasonable business  
13 hours.

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-End-