

MINUTES OF THE MEETING  
AGRICULTURE, LIVESTOCK AND IRRIGATION  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

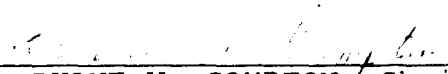
February 13, 1987

A joint meeting of the House and Senate Agriculture, Livestock and Irrigation Committees met in room 325 of the Capitol at 7:00 p.m. on February 13, 1987. Since the House was still in session at 7:00 p.m. several members of the Committee were a bit late, but all were in attendance.

Bills to be heard were SB 268, sponsored by Senator Bill Yellowtail, and SB 321, sponsored by Senator Greg Jergeson.

SB 268 was heard first. The testimony presented at this meeting was transcribed by the Senate Agriculture, Livestock and Irrigation Committee, as was the testimony for SB 321. The transcription is attached.

It is approved by the Chairman of the House Agriculture, Livestock and Irrigation Committee.

  
\_\_\_\_\_  
REP. DUANE W. COMPTON, Chairman  
Agriculture, Livestock and  
Irrigation House Committee

DAILY ROLL CALL

FORE, LIVESTOCK & IRRIGATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 13, 1987

[illegible]

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date \_\_\_\_\_ Bill No. \_\_\_\_\_ Time \_\_\_\_\_

NAME	YES	NO
ABRAMS, Hubert J.		
BENGTSON, Esther G.		
BECK, Tom		
JERGESON, Greg		
KOLSTAD, Allen C.		
LYBECK, Ray		
STORY, Peter R.		
THAYER, Gene		
GALT, Jack VICE CHAIRMAN		
BOYLAN, Paul CHAIRMAN		

ita Tenneson  
Secretary

Paul Boylan  
Chairman

Motion: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# NORTHERN PLAINS RESOURCE COUNCIL

Field Office  
Box 858  
Helena, MT 59624  
(406) 443-4965

Main Office  
419 Stapleton Building  
Billings, MT 59101  
(406) 248-1154

Field Office  
Box 886  
Glendive, MT 59330  
(406) 365-2525

## AG ACTION DAY

### FRIDAY, FEBRUARY 13

### HELENA

On February 13, members of NPRC and other agriculture, civic and church groups will participate in a showing of support for state-level solutions to the 'rural' crisis.

THIS EVENT IS IMPORTANT! We ask each of you to make a special effort to come to Helena next Friday. This is an opportunity to: \* ask Farm Credit Services and Farmers Home Administration about their future plans for borrowers. \* show our elected officials we want positive action taken on our legislative proposals. \* be a part of the legislative process and make our voices heard. \* meet other Montanans also interested in taking action to reverse the decline of rural communities and family agriculture.

at the Catholic Church 530 S. Ewing

-9:00am invocation Ci Jones, Episcopal Bishop  
Welcome with Howard Lyman, Jack Heyneman, Roy Patte  
Farm Credit Services representative  
Farmers Home Administration representative  
Senator John Melcher

-11:30am luncheon

at the Capitol

-12:30pm Rally walk five blocks from the church to the capitol in a parade (with banners & posters)  
Howard Lyman, emcee  
Senator John Melcher  
Helen Waller, chair National Save the Family Farm Coalition

-1:30pm briefing on NPRC bills, legislative process for members lobbying

-7:00pm Joint Senate and House Agricultural Committee hearing-  
Right to Mediation

LOGISTICS \* We will try to coordinate carpools. If you need a ride, give the Billings office a call; we'll try to fix you up. \* Reserve a room now, or make lodging arrangements, Helena is full. You may want to inquire at the Super 8 motel, we have a few rooms reserved. If you would prefer to stay with an NPRC member, please contact the Helena office ASAP. \* Bring written letters if possible to submit as testimony.

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TESTIMONY ON SB 268

Chairman, members of the committee. For the record, I'm Sue Olson. I farm and ranch near Roundup. I am testifying on behalf of the Northern Plains Resource Council in support of SB 268.

SB 268 would allow the immediately preceding former owner of foreclosed land the opportunity to redeem any portion of land which the former owner could afford to redeem as long as the portion redeemed does does not unreasonably effect the value of the remainder of the property.

Currently, MT law allows a foreclosed land owner one year to redeem the land for the full amount of the note. The problem with the law is that it's an all or nothing proposition. If for instance, I was foreclosed on, its unlikely that I could obtain the capital necessary to redeem the entire place inside of a year. I might be able to obtain enough capital to redeem a portion of my place. I could always purchase another ranch, but I would prefer the opportunity to redeem my own. I know my land and I'm probably the best person to work it.

Partial redemption is aimed at keeping farm families on their land and in their communities. This legislation could give many farm families a base from which to rebuild their operations and their lives. Without this law, families may be forced to leave their homes and communities, competing for scarce jobs elsewhere. Partial redemption

would allow these families to remain as viable members of their communities where they could continue to buy from local businesses, to attend local churches, to send their children to local schools, and to pay local taxes which fund essential services.

This legislation will not work for everyone. I want to emphasize that the ability to redeem a portion of land is totally dependant on access to capital. If an individual is not able to redeem a portion of land at the price at which that land was foreclosed, that individual will not be able to use partial redemption.

I also want to emphasize that an individual cannot redeem a parcel of land which unreasonably devalues the rest of the property. An appraiser shall determine the value of the entire property and of the portion to be redeemed. Additionally, the appraiser shall determine the depreciating effect that the redeemed portion might have on the value of the remainder of the property. This valuation process makes it impossible for an individual to redeem the creek bottoms and leave the sand dunes. In fact, this valuation process may benefit the lender. Land is typically foreclosed at the debt against it and then resold at fair market value. Because SB 268 requires an individual redeeming a portion of land to redeem the land for the debt against it, the lender at least recovers his investment on that portion of land.

Farm and ranch families need this legislation in order to stay on their land and in their communities. MT needs this legislation in order to assist its struggling number one industry. We're currently losing 20 farms or ranches every week as evidenced by the growing number of crosses in front of the capitol. MT cannot afford to lose anymore. Please support this legislation. Thank you.

Mr. Chairman and Members of the Committee, my name is Tom Tully. My family ranches in the Bull Mts. southeast of Roundup. I'm testifying on behalf of Northern Plains Resource Council in support of SB 268.

SB 268 would give ranchers and farmers an opportunity to redeem a part of their operation thus enabling them to stay in business at a reduced level, with the possibility of later rebuilding <sup>that operation. Because</sup> Other people have already testified as to the merits of this legislation,

I'd like to address some lenders allegations that reform will "dry up credit". (Other states that have already passed partial redemption and other credit reforms have been confronted with the same assertions by lenders, particularly the Farm Credit System and insurance companies.)

Agricultural credit has been increasingly harder to obtain nationwide since 1981 due to a general worsening of agricultural economics precipitated by poorer Ag commodity prices, decaying land values, and a shift in emphasis from equity lending to cash flow lending. As many of you know, it is much harder now to project a positive cash flow in farming or ranching than five years ago.

<sup>legislature</sup>  
The Nebraska, which last year passed its own Farmstead Protection Act containing a partial redemption provision, recently held a special session at the instigation of a group of long term lenders. At both the regular session and the special session, lenders such as Metropolitan Insurance Co. and the Omaha Federal Land Bank argued that passage of this particular legislation would "dry up credit", when in fact both of these lenders had already been in the process of curtailing agricultural lending for a variety of reasons. The chief reason according to Metropolitan was that they wanted to analyse the effects of the new Chapt. 12 bankruptcy law.

Availability of credit is primarily influenced by profitability in agriculture. Ultimately, we need to restore profitability. In the meantime, we need to do everything we can to stabilize the current situation. Partial redemption is one measure designed to allow individuals to rebuild their operations and remain productive members of society.

This measure and others which work to keep farmers and ranchers in business benefit the entire community. The success of locally owned and operated independent banks, for example, is directly dependant on local economies. Those banks are dependant to varying degrees in making agricultural loans in order to ~~remain~~ <sup>remain</sup> profitable.

Passage of partial redemption will be a start in strengthening local rural economies. By creating a better business climate at the local level, local business conditions will improve, which will in turn work to improve the economy of Montana. Keeping our existing farms, ranches, banks, and other related, small, and not- so-small businesses in operation can only be good economic sense for the state of Montana.

In conclusion, I would challenge the opponents of partial redemption and other credit reforms, to :

- 1) Document long term and short term agricultural lending patterns over the past 5 years,
- 2) Document how proposed credit reforms would <sup>actually</sup> "dry up credit"
- 3) Compare credit availability in states which have passed credit reforms with states which have not passed these reforms

I strongly urge this committee to carefully evaluate the benefits of partial redemption and to pass SB 268 out of committee.

Thank you.



## STATEMENT OF INTENT

5 Bill No. 321

A statement of intent is required for this bill because section 18 contains a delegation of authority to allow the department of agriculture to adopt rules for administration of this act.

It is the intent of the legislature that the state provide farmers who are threatened with foreclosure the right to mediation of their indebtedness. No creditor who is subject to the provisions of section 3 may initiate a proceeding to enforce a debt on agricultural property until the farmer has been given an opportunity to participate in mediation.

For the purpose of assisting in mediation, the department shall provide credit analysts and mediators who will have the responsibilities described in section 6 and 80-13-202. The department shall by rule provide for compensation of credit analysts and mediators who provide services under this act. In accordance with section 17, the department shall collect fees to defray the costs of mediation services.

In adopting rules, the department should examine the various agricultural debt mediation programs established in other states. In particular, the department should consider the success of debt mediation programs in Minnesota and Iowa.

DATE \_\_\_\_\_

COMMITTEE ON \_\_\_\_\_

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Alvin Rice	Montana Farmers Union			
Arthur Green	Montana Farmers Union			
James P. Hender	U.S. A. Local 72			
Due Regaden				
Ed Lynes	W.F.A.			
Pat Lynes	MPA Lewistown			
Arthur P. Kypitnick	M.P.A.			
Alvin L. Eklund	MTU			
William John Lyman	P.O. Box 1168 St. Louis			
Alvin Christman	Western Union News Courier			
Kirch J. Small	Mont. Peoples Union			
LORRA FRANK	MT. FARM BUREAU			
Kay M. Carlsberg	WIFE			
Lee Hirsch	Senator, Miss. City			
John J. Jansen	July, Grand - WIFE			
Walter J. Jansen	self			
But Walde	self			
Sam Conley	M.P.A.			
Sped Conley	M.P.A.			
Ronald J. Jansen	Mont. Farmers Union			
Jim Siroky	" " "			
JIM SPATZ	Heardman Ag Supply			
Tom Brathack				
Rick Smith	K.M. 11/6 + Fair			
Stan Jones	M.P.A.			

(Please leave prepared statement with Secretary)



SENATE

COMMITTEE

BILL

VISITORS'

# REGISTER

DATE \_\_\_\_\_

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOS
Russell Salazar		268 321	✓	
Sue Salazar	W. Farmers Union	268 321	✓	
Thomas H. Salazar	Farmer's Union	321	✓	
Jeanne Salazar	W. F. U.	268 321	✓	
Steve Salazar	W. F. U.	268 321	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

REPRESENTING	BILL #	Check One	
		Support	Oppose
NPRC	321 268	✓	
MT Stockgrowers	321 268		X
MT Horsemen	321 268		X
MT NPC	321 268		
Hardin			
Four Bridges			
Comm			
Sen R. H.			
MT Farmers Union	321/119	✓	
Sen H. P.			
NPRC	SB 321	✓	
MT	SB 321	✓	
Small credit	SB 321 SB 268		✓
MT Council & Counties	SB 321 SB 268		✓
Sen R. H. P.	SB 268	✓	
Circle			
Billings			
Whitehall			
Liberty NTA	321 268	✓	
Helena MT FC		✓	
Helena		✓	
Helena		✓	
Helena MT	321 268	✓	
Mont. State AFL-CIO	321 268	✓	
Billings	321 268	✓	

(Please leave prepared statement with Secretary)

HUC / SENATE Agriculture COMMITTEE

BILL SB 321

VISITORS' REGISTER

DATE 2/13

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPO
Anne Back	NPRC		X	
Carbara Archer	self		✓	
Core Mallett	self		✓	
Bug Waldie	self		X	
Martyn Fortune	self		X	
Gay Ryn	Self		X	
Chuck Clinton	Self		X	
<del>John M. ...</del>	<del>MTA</del>		X	
Cheryl Mike Goffman	self		X	
Kend Jean Minnie	self		X	
Anne Arthur	self		X	
Beki Brandberg	self		X	
Jim Bralier	MFA		X	
Paul Hawke	Self		X	
Em & Nancy Burnham			X	
Peggy & Cary Dantz	self		X	
Theodore E. Herman	Self		X	
John Judge	MT STATE AFL-CIO		X	
Arlyp Seitz	NPA		X	
Henry Seitz	MFA		X	
George Rice Jr.	Self		X	
Rob Lutz	NPRC		X	
Carolyn Kardon	Self		X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

2/13/87

Ag

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

HOUSE/SENATE Agriculture COMMITTEE

BILL B 268

VISITORS' REGISTER

DATE 2/13

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOS
Anne Back	NPRC		X	
LORSA ERICKSON	NPRC		X	
Barbara Archer	RI		✓	
Greg LaBelle	NPRC		X	
Marilyn Fortune	self		X	
Kris Ryan	self		X	
Chuck Clinton	self		X	
John Smith	self		X	
S. Ross	self		X	
J. H. Hyman	NPRC		✓	
Heather Winter	MTFL		✓	
Kay & Dana Rose	MFA		✓	
Gero Baxer				
Orta Harding	self		✓	
Mark & Nancy Jyle Harding	self		✓	
Bladen Pearson			✓	
Wanda D. D. D.	self		X	
John D. D.	MT STATE AFL-CIO		X	
Carolyn Hlador	self		X	
Rod Green	NPRC		X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY



1 INTRODUCED BY *Senate Bill NO 321*  
*House 4-11-11* *By Senator B. J. ...*  
 2 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE RIGHT  
 3 TO MEDIATION OF AGRICULTURAL INDEBTEDNESS; AUTHORIZING THE  
 4 DEPARTMENT OF AGRICULTURE TO PROVIDE MEDIATION SERVICES;  
 5 GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; PROVIDING FOR  
 6 PAYMENT OF FEES TO DEFRAY THE COSTS OF MEDIATION; AMENDING  
 7 SECTIONS 80-13-102, 80-13-201 THROUGH 80-13-203, 80-13-211,  
 8 AND 80-13-212, MCA, AND SECTION 15, CHAPTER 9, SPECIAL LAWS  
 9 OF MARCH 1986; AND PROVIDING AN EFFECTIVE DATE AND A  
 10 TERMINATION DATE."

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

12 NEW SECTION. Section 1. Legislative findings. The  
 13 legislature finds that the agricultural sector of the  
 14 state's economy is under severe financial stress due to low  
 15 farm commodity prices, continuing high interest rates, and  
 16 reduced net farm income. The suffering agricultural economy  
 17 also adversely affects the economic conditions for  
 18 businesses in rural communities. The legislature further  
 19 finds that hundreds of this state's farmers are unable to  
 20 meet current interest and principal payments on mortgages  
 21 and other loan obligations and are threatened with the loss  
 22 of their farmland, equipment, crops, and livestock through

1 mortgage and lien foreclosures, cancellations of contracts  
 2 for deed, and other debt collections. Therefore, the  
 3 legislature finds that an economic emergency exists that  
 4 requires an orderly process for the adjustment of  
 5 agricultural indebtedness to preserve the general welfare of  
 6 the citizens of Montana.

7 Section 2. Section 80-13-102, MCA, is amended to read:  
 8 "80-13-102. (Temporary) Definitions. As used in this  
 9 chapter, unless the context indicates otherwise, the  
 10 following definitions apply:

11 (1) "Agricultural production" means the production of  
 12 livestock, poultry, field crops, fruit, or other animal and  
 13 vegetable matter for food or fiber.

14 (2) "Agricultural property" means:

15 (a) real property that is principally used for  
 16 agricultural production; and

17 (b) personal property that is part of an agricultural  
 18 production operation or used as security to finance such an  
 19 operation, including equipment, crops, livestock, and the  
 20 proceeds of any security.

21 (3) "Department" means the department of agriculture  
 22 provided for in 2-15-3001.

23 (4) "Farmer" means a person who owns or operates a  
 24 farm or ranch primarily for the purpose of agricultural  
 25 production.



1 less than \$20,000.

2 Section 4. Section 30-1-201, MCA, is amended to read:

3 "80-13-201. (Temporary) Voluntary-mediation Mediation

4 request -- filing procedure ---dismissal-of-requests. (1) A

5 Within 14 days following service of notice under [section

6 3], a farmer who-is-in-danger-of-foreclosure-on-agricultural

7 property or a secured creditor may request mediation of the

8 farmer's indebtedness by filing a request for mediation with

9 the department on a form prescribed by the department.

10 (2) In filing or responding to a mediation request,

11 the farmer shall provide:

12 (a) the name and address of each secured and unsecured

13 creditor;

14 (b) the amount owed to each creditor;

15 (c) the amount of the periodic installment payments

16 due each creditor;

17 (d) any financial statements and pro forma cash flow

18 statements, including those related to any nonfarm

19 activities; and

20 (e) any additional information the department may

21 require.

22 (3) In filing or responding to a mediation request, a

23 secured creditor shall provide:

24 (a) information pertaining to the basis of the credit

25 determination;

1 (b) financial statements and pro forma cash flow  
2 statements on the respective farmer;

3 (c) statements regarding the status of the farmer's  
4 loan performance;

5 (d) the name and title of the representative of the  
6 creditor authorized to enter into a binding mediation  
7 agreement; and

8 (e) any additional information the department may  
9 require.

10 (4) A farmer or secured creditor who agrees-to  
11 participate-in is a party to mediation shall authorize the  
12 release to the department of any information held by a  
13 creditor.

14 (5) Upon receipt of--a--property--completed--mediation  
15 request-form, the department shall direct-a mediator-to meet  
16 with the farmer and secured creditor to assist-in mediation.  
17 An unsecured creditor may participate-in mediation between-a  
18 farmer--and--secured creditor-if each party agrees-or-if the  
19 mediator--determines--that--an--unsecured--creditor---is---a  
20 necessary-party-to-the-mediation;

21 (6) Subject--to--the-provisions-of-subsection-(7), the  
22 department--shall--immediately--terminate--an--attempt---at  
23 mediation--and--dismiss-the-mediation-request-if-at-any time  
24 it finds-that:

25 (a) a secured creditor does not agree-to-participate

1 mediation meeting mediator.

2 (2) If the farmer and the creditor have acted in good  
3 faith to mediate, the mediator shall sign a release order  
4 after 45 calendar days have elapsed following commencement  
5 of mediation. However, the mediator in his discretion may  
6 declare that either party has failed to act in good faith  
7 during the mediation and may extend the 45-day period  
8 accordingly, provided that the mediator notifies the farmer  
9 and the creditor that days have been lost because either  
10 party has failed to act in good faith as provided in  
11 [section 10].

12 (3) Once the 45-day period provided for in subsection  
13 (2) has ended, no mediation may continue beyond 10 days if  
14 either the farmer or the creditor serves notice that further  
15 mediation would not be effective.

16 NEW SECTION. Section 10. Obligation of good faith.

17 (1) A farmer and a creditor who are parties to mediation  
18 under this chapter shall act in good faith with respect to  
19 mediation. A farmer or a creditor does not act in good faith  
20 if he:

- 21 (a) fails on a regular or continuing basis to attend
- 22 and participate in mediation sessions without good cause;
- 23 (b) does not provide full information regarding his
- 24 financial obligations to other parties;
- 25 (c) fails to designate a representative to participate

1 in mediation with adequate authority to fully settle,  
2 compromise, or otherwise mediate the matter.

3 (d) demonstrates other behavior that evidences lack of  
4 good faith to mediate.

5 (2) A failure to reduce, restructure, refinance, or  
6 forgive debt does not, in itself, evidence a lack of good  
7 faith by the creditor.

8 Section 11. Section 80-13-202, MCA, is amended to  
9 read:

10 "80-13-202. (Temporary) Duties and requirements of  
11 mediators -- prohibitions. (1) A mediator must be qualified  
12 to provide the services required under this chapter. A  
13 mediator must be an impartial person knowledgeable in  
14 agricultural and financial matters.

15 (2) In carrying out his properly authorized duties,  
16 the mediator shall:

17 (a) listen to the farmer and any creditor desiring to  
18 be heard;

19 (b) attempt to negotiate an agreement that:

20 (i) extends the term of credit;

21 (ii) reduces the dollar amount of payments under  
22 credit; or

23 (iii) permits the farmer to continue in agricultural  
24 production and provides reasonable security to the creditor;  
25 and

1 farmer and creditor within 10 days after receiving the  
2 objection and attempt to mediate a new agreement.

3 Section 14. Section 80-13-211, MCA, is amended to  
4 read:

5 "80-13-211. (Temporary) Confidentiality of records.  
6 (1) All materials, data, and information received by the  
7 department or its agent with respect regard to any request  
8 filed aspect of mediation under 80-13-201 this chapter are  
9 confidential and are not subject to examination or  
10 disclosure as public information.

11 (2) No official, employee, or agent of the department  
12 may knowingly disclose any materials, data, or information  
13 concerning a any aspect of mediation request without the  
14 consent of the farmer and the creditor. (Terminates July 1,  
15 1987--sec. 15, Ch. 9, Sp. L. March 1986.)"

16 Section 15. Section 80-13-212, MCA, is amended to  
17 read:

18 "80-13-212. (Temporary) Closed meetings. Meetings  
19 between a farmer and any creditor conducted by a mediator  
20 under this chapter are not open to public participation and  
21 are not subject to the provisions of the open meeting law  
22 contained in 2-3-203. (Terminates July 1, 1987--sec. 15,  
23 Ch. 9, Sp. L. March 1986.)"

24 NEW SECTION. Section 16. Mediator immunity from suit.  
25 A mediator is immune from civil liability for actions

1 occurring within the scope of his authorized duties.

2 NEW SECTION. Section 17. Fees and expenses of  
3 mediation. (1) The department shall assess and collect fees  
4 to defray the costs of mediation.

5 (2) All parties to mediation shall contribute equally  
6 to the payment of the costs of mediation.

7 NEW SECTION. Section 18. Adoption of rules. (1) The  
8 department shall adopt rules to set the compensation of  
9 mediators and credit analysts, except that the compensation  
10 of mediators may not exceed \$20 an hour.

11 (2) The department may adopt any other rules necessary  
12 for the administration of this chapter.

13 Section 19. Section 15, Chapter 9, Special Laws of  
14 March 1986, is amended to read:

15 "Section 15. Effective date -- termination. (1) This  
16 act is effective on passage and approval, and terminates

17 (2) Sections 1, 3 through 5, 9, 12, and 14 terminate  
18 July 1, 1987.

19 (3) Sections 2, 6 through 8, 10, 11, and 13 terminate  
20 July 1, 1991."

21 NEW SECTION. Section 20. Effective date --  
22 termination. This act is effective July 1, 1987, and  
23 terminates July 1, 1991.

-End-

## STATEMENT OF INTENT

Senate Bill No. 321

A statement of intent is required for this bill because section 18 contains a delegation of authority to allow the department of agriculture to adopt rules for administration of this act.

It is the intent of the legislature that the state provide farmers who are threatened with foreclosure the right to mediation of their indebtedness. No creditor who is subject to the provisions of section 3 may initiate a proceeding to enforce a debt on agricultural property until the farmer has been given an opportunity to participate in mediation.

For the purpose of assisting in mediation, the department shall provide credit analysts and mediators who will have the responsibilities described in section 6 and 80-13-202. The department shall by rule provide for compensation of credit analysts and mediators who provide services under this act. In accordance with section 17, the department shall collect fees to defray the costs of mediation services.

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Partial redemption is aimed at keeping farm families on their land and in their communities. This legislation could give many farm families a base from which to rebuild their operations and their lives. Without this law, families may be forced to leave their homes and communities, competing for scarce jobs elsewhere. Partial redemption

would allow these families to remain as viable members of their communities where they could continue to buy from local businesses, to attend local churches, to send their children to local schools, and to pay local taxes which fund essential services.

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I also want to emphasize that an individual cannot redeem a parcel of land which unreasonably devalues the rest of the property. An appraiser shall determine the value of the entire property and of the portion to be redeemed. Additionally, the appraiser shall determine the depreciating effect that the redeemed portion might have on the value of the remainder of the property. This valuation process makes it impossible for an individual to redeem the creek bottoms and leave the sand dunes. In fact, this valuation process may benefit the lender. Land is typically foreclosed at the debt against it and then resold at fair market value. Because SB 268 requires an individual redeeming a portion of land to redeem the land for the debt against it, the lender at least recovers his investment on that portion of land.

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Please support this legislation. Thank you.

NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

Subcommittee is partial subscription to  
take place in connection to keeping freedom  
movement in their communities.

Committee members for doing as have  
been repeatedly stated. I do from the  
separate groups, there are a great and  
subcommittee seems to show much to  
communities that have a great future.

I am a supporter of S. B. 268

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Mr. Chairman and Members of the Committee, my name is Tom Tully. My family ranches in the Bull Mts. southeast of Roundup. I'm testifying on behalf of Northern Plains Resource Council in support of SB 268.

SB 268 would give ranchers and farmers an opportunity to redeem a part of their operation thus enabling them to stay in business at a reduced level, with the possibility of later rebuilding <sup>that operation. Because</sup> Other people have already testified as to the merits of this legislation,

I'd like to address some lenders allegations that re-form will "dry up credit". (Other states that have already passed partial redemption and other credit reforms have been confronted with the same assertions by lenders, particularly the Farm Credit System and insurance companies)

Agricultural credit has been increasingly harder to obtain nationwide since 1981 due to a general worsening of agricultural economics precipitated by poorer Ag commodity prices, decaying land values, and a shift in emphasis from equity lending to cash flow lending. As many of you know, it is much harder now to project a positive cash flow in farming or ranching than five years ago.

<sup>legislature</sup> The Nebraska, which last year passed its own Farmstead Protection Act containing a partial redemption provision, recently held a special session at the instigation of a group of long term lenders. At both the regular session and the special session, lenders such as Metropolitan Insurance Co. and the Omaha Federal Land Bank argued that passage of this particular legislation would "dry up credit", when in fact both of these lenders had already been in the process of curtailing agricultural lending for a variety of reasons. The chief reason according to Metropolitan was that they wanted to analyse the effects of the new Chapt. 12 bankruptcy law.

Availability of credit is primarily influenced by profitability in agriculture. Ultimately, we need to restore profitability. In the meantime, we need to do everything we can to stabilize the current situation. Partial redemption is one measure designed to allow individuals to rebuild their operations and remain productive members of society.

This measure and others which work to keep farmers and ranchers in business benefit the entire community. The success of locally owned and operated independent banks, for example, is directly dependant on local economies. Those banks are dependant to varying degrees in making agricultural loans in order to <sup>remain</sup> profitable.

Passage of partial redemption will be a start in strengthening local rural economies. By creating a better business climate at the local level, local business conditions will improve, which will in turn work to improve the economy of Montana. Keeping our existing farms, ranches, banks, and other related, small, and not-so-small businesses in operation can only be good economic sense for the state of Montana.

In conclusion, I would challenge the opponents of partial redemption and other credit reforms, to :

- 1) Document long term and short term agricultural lending patterns over the past 5 years,
- 2) Document how proposed credit reforms would <sup>actually</sup> "dry up credit"
- 3) Compare credit availability in states which have passed credit reforms with states which have not passed these reforms

I strongly urge this committee to carefully evaluate the benefits of partial redemption and to pass SB 268 out of committee.

Thank you.

(x)  
NAME:

Jeanne Charter

DATE:

2/13/86

ADDRESS:

Et 1.

PHONE:

Shepherd Mt

REPRESENTING WHOM?

Musselshell Agricultural Alliance

APPEARING ON WHICH PROPOSAL:

Partial Redemption

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

There is a misconception that the only operators in favor of credit reform are those are in trouble. There are ~~some~~ solvent operators who can look beyond their fence lines, and see that if we lose many more owner-operators, the system will collapse for us too. We ~~need~~ <sup>all</sup> need each other to support essential private + public services. A study done in California in the 1940's and repeated in the 1970's showed that an owner-operated community had about 2x as much local trade and 2x as many business as a absentee-owned tenant farmed community of equal gross farm income. The rest of us cannot afford ~~an~~ absentee owner dominated communities.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

②  
TESTIMONY OF JIM MURRY ON SENATE BILL 268, JOINT HEARING OF THE SENATE AND HOUSE AGRICULTURE COMMITTEES, FEBRUARY 13, 1987

*because*  
The Montana State AFL-CIO supports this bill for ~~three~~ very basic reasons:

→ It is morally right and economically prudent.

It is fair and just to allow farm and ranch families to salvage their homes ~~from~~ <sup>from</sup> the financial disaster that has descended upon them.

*Mr. Chairman* *are*  
There ~~is~~ too many homeless and jobless people in our nation already. We have a real unemployment rate that is approaching 14 or 15%. The last thing this nation needs is more people fighting for ~~for~~ scarce jobs. For this reason, we support partial redemption, in the hopes that it will help keep Montana's farmers and ranchers in a position that they can return to agriculture as a means of making a livelihood and providing for their families.

*Jim Murry*  
We urge you to ~~pass this~~ legislation. Thank you.  
*Jim Murry*

NAME: Mary Lee DATE: 2-13-87

ADDRESS: 16545 Hwy 13. W Roundup, MT 59022

PHONE: 323-2557

REPRESENTING WHOM? MT Peoples Action

APPEARING ON WHICH PROPOSAL: ~~SB 268~~ SB 268

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENTS: When we asked for  
320 acres and 5 cows. We were refused  
2. SB 268 had been in effect we  
could have retained our home & start

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME A L Haslebach BILL NO. 268  
ADDRESS TAFIC-5 Spokane Wash 99220 DATE 2-14-87  
WHOM DO YOU REPRESENT? Farm Credit Services-Spokane  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Reluctantly oppose - sympathetic with intent - major concern is "diminution of value" in a partial Redemption

Note that Bill does not limit sale to House & few Acres

Also concerned that "unreasonably decreased" Section 3 (2) is not defined & would lead to disagreement.

Bill sponsors have attempted to deal with concerns of Lenders & are to be commended.

Al Haslebach

NAME: John A. Allen DATE:           

ADDRESS: 311 Highland Court

PHONE: Dorseyman Montano 251-9141 Home

REPRESENTING WHOM? 1 - United Bank - Denver

APPEARING ON WHICH PROPOSAL: # 50 268

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? ☒

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

9

NAME: Alons L. Teigen DATE: 2/13/87

ADDRESS: Box 1679 Helena 59624

PHONE: 442-3420

REPRESENTING WHOM? W.F. Stockgrowers & Cattlewomen

APPEARING ON WHICH PROPOSAL: SB 268

DO YOU: SUPPORT?            AMEND?            OPPOSE? X

COMMENTS: We believe that this legislation is unnecessary as  
most lenders would probably allow partial redemption if the  
individual had the financial resources to do so.  
If the bill only applied to a home site (1 acre or so)  
we could probably support.  
This whole proposal seems to be directed toward  
making credit less available to those who remain

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Mr. Chairman and Members of the Committee, my name is Mike Sjostrom, Vice President of Montana Livestock Ag Credit, Inc. I am here to represent MLACI and consequently the borrowers who are the shareholders of this corporation. I oppose Senate Bill 268 as per the following reasons:

- 1) It can in effect dissect a viable operation so that it is no longer an economic or functional unit.
- 2) It can restrict fair trade and credit for the legitimate farmer and rancher.
- 3) It can potentially harm the very people it proposes to help, as farmers and ranchers hold the financing to much of the real estate in Montana.

1 agricultural land to a petition for partial redemption has  
 2 been filed. Within 10 days of the filing, the court shall  
 3 appoint a licensed appraiser to determine the percentage of  
 4 the value of the entire property that is attributable to the  
 5 portion to be redeemed, and the percentage attributable to  
 6 the remaining portion, with both percentages reflecting the  
 7 effect of partial redemption on the value of each portion.  
 8 The appraiser must submit his determination to the court or  
 9 trustee within 30 days after his appointment.

10 (2) The court shall multiply the percentage of total  
 11 value attributable to the portion to be redeemed, as  
 12 determined by appraisal, times the amount of the purchase  
 13 price at foreclosure, to determine the value of the portion  
 14 to be redeemed. The court shall notify the redemptioner and  
 15 the current owner of such value by certified mail within 5  
 16 days after receiving the appraiser's determination.

17 NEW SECTION. Section 5. Method of redemption. The  
 18 redemptioner may redeem the designated property not later  
 19 than the close of business on the last day of the redemption  
 20 period by payment of:  
 21 (1) the value of the parcel to be redeemed, as  
 22 determined in (section 4);

23 (2) all survey, appraisal, and court costs;

24 (3) all unpaid taxes and assessments attributable to  
 25 the redeemed portion; and

1 (4) interest attributable to the redeemed portion at  
 2 the rate specified in 31-1-106.

3 NEW SECTION. Section 6. Resolution of disputes. The  
 4 value of the portion to be redeemed, as determined under  
 5 (section 4), is presumed to be its proper value in  
 6 redemption. The court shall consider any objection raised by  
 7 the current owner concerning the proper designation of the  
 8 portion, the effect of partial redemption on the value of  
 9 the remaining property, or the appraised proportional  
 10 values, and may make such adjustments in the designation,  
 11 appraisal, or other matters as it determines proper to  
 12 preserve the interest of the parties consistent with  
 13 (sections 1 through 6).

14 Section 7. Section 25-13-710, MCA, is amended to read:

15 "25-13-710. Real property -- what interest  
 16 transferred. Upon a sale of real property, the purchaser is  
 17 substituted to and acquires the right, title, interest, and  
 18 claim of the judgment debtor thereto; and when the estate is  
 19 less than a leasehold of 2 years' unexpired term, the sale  
 20 is absolute. In all other cases, the property is subject to  
 21 redemption, as provided in part 8 of this chapter, or  
 22 partial redemption, as provided in (sections 1 through 6),  
 23 if the property is agricultural land."

24 Section 8. Section 25-13-801, MCA, is amended to read:

25 "25-13-801. Who may redeem. (1) Property except as

*help transfer a portion of the property to a 100% equity*

1 agricultural land that a petition for partial redemption has  
2 been filed. Within 10 days of the filing, the court shall  
3 appoint a licensed appraiser to determine the percentage of  
4 the value of the entire property that is attributable to the  
5 portion to be redeemed, and the percentage attributable to  
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23 (2) all survey, appraisal, and court costs;

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22 partial redemption, as provided in [sections 1 through 6],  
23 if the property is agricultural land."

24 Section 8. Section 25-13-801, MCA, is amended to read:  
25 "25-13-801. Who may redeem. (1) Property Except as

*get the title?*

①  
Mediation is the backbone of all negotiations between adversarial parties. It is a proven, usable tool in labor conflicts, marriage disputes, environmental disputes, and many other areas of life.

However, mediation is pointless unless it takes place. In Montana, under our program of voluntary mediation, hardly any adversarial situations have been mediated. It is a proven fact that in states where voluntary mediation takes place, the number of cases mediated is one-tenth (10%) of the number of cases mediated in states where farmers and creditors have the right to mediate (from the Center for Rural Affairs, Walthill, Nebraska).

We are frequently asked, "Why do we need the right to mediate in Montana?" The reason is pure and simple -- voluntary mediation has been a failure and the only constructive way to promote debt restructuring is by giving farmers and creditors the right to call the other party to the table. ~~In Minnesota and Iowa, close to 10,000 mediation cases have taken place.~~ In Minnesota and Iowa, where the right to mediate exists, close to 10,000 cases have been mediated in the past year. In Montana, our voluntary mediation, implemented last spring, has produced a dozen mediation ~~xx-  
xxxxxxxxxxxx~~ cases at best.

Debt restructuring is the only solution <sup>to</sup> ~~the~~ the current farm credit crunch. Farmers are losing their farms, rural communities are losing their tax bases, local income, and residents who must move to seek better opportunities, and yes, the lenders are losing. In their attempts to grab as much as they can, <sup>ruval + ag</sup> lenders are a part of the ruination of the local economy upon which they depend. This doesn't have to be.

Mediation is a constructive process that benefits the whole community, and it clearly will not happen unless all parties are given the right to use it. Which is preferable, a rash of bankruptcies and foreclosures, or a process through which lenders and producers can work out their differences?

NAME: Larry Murphy DATE: 2-13-87

ADDRESS: Box 2441 Great Falls, MT. 59403

PHONE: 452 - 6406

REPRESENTING WHOM? Montana Farmers Union

APPEARING ON WHICH PROPOSAL: SB 321

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENT: We support the "right to mediation". This only mandates that either party can compel a mediation process. A settlement still requires the agreement of both parties. As such it is not binding arbitration, but has proven to be a useful process which is becoming more widely used all the time. The third-party mediator can be very helpful. This is a good bill & should be favorably recommended.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL 321 BEFORE THE JOINT HEARING OF THE  
SENATE AND HOUSE AGRICULTURE COMMITTEES, FEBRUARY 13, 1987

-----

Mr. Chairman, my name is Jim Murry and I am here today on behalf of the Montana State AFL-CIO to testify in support of Senate Bill 321.

We support this bill because:

1. Mediation is fair to both the borrower and the lender.
2. It promotes a system that will keep Montana's farmers and ranchers in business.
3. Settlement through mediation is less costly than litigation.
4. The social costs to the individuals involved in the communities in which they reside is considerably less when farmers and creditors resolve problems before a crisis occurs.

Montana is facing a financial crisis. The depression in our state is not just affecting one or two segments of our economy. It has encompassed the entire economy.

Every basic industry (agriculture, minerals, timber, oil and gas) in our state is in a decline if not in an outright depression. The result of our depressed natural wealth industries is the budget deficit, high unemployment, the loss of population and tax base.

Our economic problems and those of the other 30 states in this nation that are in the midst of a depression have been caused by the failed economic agriculture and trade policies of our national administration. Montana's economic problems have not been caused by the leaders or the people of our state.

However, the fact that our problems originate outside of Montana in no way lessens your responsibility as the elected leaders of our state to recognize these problems while doing everything possible to minimize the negative impact.

Senate Bill 321 is one positive step that you can take to help resolve the problems facing agriculture here in Montana. It will not provide solutions to all of Montana's economic problems, but it is a start.

The Montana State AFL-CIO has a long history of working with farm groups for social and economic justice for all Montanans. And, that is why we are here tonight.

When the economy of our country turns sour everyone has to accept responsibility and everyone has to work together to find solutions to the problems. It is a common occurrence today for a company that is having financial trouble to go to its workers and ask them to share the cost of making the company viable again.

American workers are facing reduced wages, reduced hours and reduced benefits. That hurts, but we still do it because we know it must be done to put the economy of this country back on track again.

Right to mediation asks the lending institutions that service agriculture to do the same thing. It asks them to work with the borrower to find solutions that are acceptable to both parties involved. It asks the lending institution to share in the responsibility for putting Montana agriculture back on the track.

We hope you agree with our position and support this bill. Thank you.

14 TO: MPA Farm Leadership  
 FM: Jim Fleischmann  
 RE: "Right To Mediate" Programs, IA and MN  
 December 10, 1986

I thought that it would be helpful if I circulated my notes from my phone conversations last week with personnel from the Iowa and Minnesota mediation programs. I spoke with Kathy Mangum from Minnesota. She is an Extension Specialist and is the Coordinator of the Minnesota Farm Credit Mediation Program; and with Mike Thompson, who is the Executive Director of the Iowa Farmer-Creditor Mediation Service.

*John & Joyce  
 Mediation*  
Kathy Mangum

*/MH Coordinator of the Minn. Farm Credit Mediation Program*  
 Said that MN has "right to" and voluntary as a part of their '85 Farm Bill and that 99% of their mediation has come in under "right to".

As of Nov. 25th, MN had 2,966 mediation cases and had settled 1,100. Remainder of cases (unsettled) is either settled without a formal mediation agreement or still in process.

Said that even without settlement, their experience is that the parties continue to talk.

KM cited numerous benefits of the program:

- positive impact on communities. Farmers & community in general see that all alternatives are being explored.
- positive impact on Extension Services. A lot more farmers, in order to prepare for mediation, are coming in to use the services that Extension provides and becoming exposed to Extension.
- farmers are learning new communications and financial skills.

Said that prior to "right to mediate", the Farm Credit Services and Fmha were "just not coming to the table" with farmers. Now they are.

Said that she believes that you have to have a "decentralized system of delivery" to make mediation work, and that Extension Services, with offices across the state provides such a network for people to get into mediation (in contrast to Montana where the Dept. of Ag runs the program and has one office in Helena).

Said that the lending community has gradually grown to accept mediation and that the majority of mediation requests are made by lenders.

Michael Thompson

*/Lava Executive Director of the Iowa Farmer-Creditor Mediation Service*

Said that lenders have gone gradually from "active distaste to grudging acceptance to support" for the IA mediation program.

Didn't have exact figures on number of mediation requests and settlements reached, but said they've had 4,000+ requests; that 30% of those cases didn't go to mediation because farmers let the deadline for providing paperwork expire, they've given up/they're immobilized, or they've already settled; and that of the remaining 70%, 50%-55% reached agreements.

Said that creditors are now saying that "they're making deals that they never imagined they could make".

Said that "they (lenders) never do it (mediate) when it's voluntary".

Said that a Farm Credit Services spokesman said "it's working" meaning IA's mandatory mediation program.

Said that credit drying up because of mediation is a bogus issue.

(over)



The Iowa breakdown is as follows:

- 4,000 mediation requests
- 30% of those have not gone to mediation because:
  - \* farmers are gone/no help possible
  - \* farmers are immobilized, i.e., they're so depressed and down they can't get it together
  - \* farmers and lenders work out a deal prior to mediation
- of the remaining 70%, 50%-55% reach mediation agreements

Thompson said that he believes that it is much easier to promote voluntary mediation when you have mandatory in place, than it is to have voluntary and then move to mandatory/right to mediate.

#### Conclusions

Both people I talked to said that the real value of their mandatory programs is that both lenders and farmers are making informed, constructive decisions based on the fact that they talk, share their positions, and try to reach some middle ground, and that this process would clearly not happen unless parties are forced to get together. They also both said that it is clearly appropriate for some farmers to go out of business, and that when mediation results in liquidation, liquidation results from a constructive dialogue from which anger, resentment, conflict, etc. are reduced, as opposed to the destructive feelings that result from foreclosure/forced liquidation.

They also both stated clearly that any process which forces parties to confront difficult decisions (for the farmer, the decision to liquidate; for the lender, the decision to restructure) is going to meet with opposition, and that the reason that lenders oppose right to mediation is that without it, they hold all the cards and are not forced to consider alternatives to foreclosure.

Finally, the figures speak for themselves. In states where the right to mediate farm debt is being restructured. In Montana, \$350,000 purchased 24 mediation requests, 2 of those were "successfully settled" (according to Keith Kelly), but resulted in liquidation.

#### Miscellaneous

In Montana, mediation is run by the Dept. of Ag. In Minnesota, the program is run by Extension Services up until the point where the actual mediation occurs, and then a trained mediator takes over. In Iowa, the program is run by a non-profit organization.

We need to think about what we want to propose to the legislature this coming session. They've already shown that they don't want a non-profit running the program (MT Assoc. of Churches). I have had conversations with the Director of Montana's Extension Services and he seems interested in the possibility of their running the program, but worried about their need to remain on good terms with Kelly/Dept. of Ag, and Schwinden.

The bottom line for us seems to be that the most important aspect of the program is not who runs it, but rather that farmers have the right to use the program.

### Are Lenders Better Off?

	Yes	No	Undecided
Farmers in Mediation(n=62)	58%	11%	31%
Mediators (n=277)	54%	17%	29%
Agents (n=84)	39%	23%	38%
Farmers not in Mediation(n=118)	35%	20%	45%
Lenders (n=109)	12%	54%	34%

#### Q18. How did mediation improve the situation of lenders?

A. According to some respondents the lenders situation is better in two ways. Lenders were perceived by some as gaining financially through resolution and by improved communication with farmers.

	Farmers in Mediation n=18	Lenders n=11	Mediators n=104	Agents n=29	Farmers not in Mediation n=33
Financial Benefit/ Resolution	12	---	77	13	14
Better Communications	10	10	44	16	22

#### Description of Benefits to Lenders

**Financial Benefit/Resolution.** The financial benefit to lenders of the FCMP was viewed in several different ways. Most frequently "deals", however they were structured, were perceived as more advantageous financially than foreclosure. Meeting with all creditors of a farmer was also viewed as allowing the lender to assess his position more intelligently. Some suggested that mediation saves financial institutions litigation costs. A long term benefit of mediation for lenders, according to some respondents, will be improved lending policies.

*Some creditors, without an avenue for mediation, would not be making the effort to restructure and in the long run would be hurting themselves financially even more. (Mediator)*

*The creditors can make offers to each other to help the farmer. They can be assured if they are willing to make concessions, the others know about it and are challenged to follow. (Mediator)*

*Legal costs of foreclosure and saturation of the market of all these properties would lower their value and in the end would cause lenders to take a greater loss. (Mediator)*

*In the future, regardless of land prices, gov't farm policies and politics, they will be more cautious about their lending programs. The mediation program centralizes their problem with the debtor and they will be better informed and able to cope with this in the future. (Mediator)*

*Creditors are better off if they compromise rather than liquidate the whole farm. Liquidation produces huge loss to creditors immediately while a compromise will produce moderate loss for creditors provided it is close on a very conservative cash flow plan. (Farmer in mediation)*

**Better Communication.** Free flow of information and reopened channels of communication with the farmer and other creditors were identified as benefits to lenders. Structured opportunities to communicate were perceived as helpful in improving the relationship between lenders and farmers.

*It seems to keep a better relationship with the farmer. (Lender)*

*All creditors are able to analyze standardized information; communication is improved. (Lender)*

*The creditors are able to establish a line of communication with the debtor. Creditors can also establish contact with each other to learn about their respective positions and attitudes. The mediation environment can encourage the free flow of information which, again, will provide the best opportunity they have for avoiding legal actions. (Mediator)*

*In cases where communication had broken down mediation helped force the issue and put negotiations on a time table. (Agent)*

---

**Q19. What were the benefits of Farm Credit Mediation to the community?**

**A. Diffused anger and potential community leadership.** The mediation program has involved considerable human and financial resources. It will be a number of years before anyone can accurately determine to what extent and in what ways the program has been successful in resolving farm debt. In addition to the desired outcomes of the program many unintended benefits may be realized although hard to define until considerable time has passed.

NAME: Clark Walker DATE: 2-13-87

ADDRESS: SR. 275 Box 13 - Union, MT. 59215

PHONE: 485-3490

REPRESENTING WHOM? National Save the Family Farm Coalition

APPEARING ON WHICH PROPOSAL: 5321 ~~5321~~ ~~5321~~

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: I come here to speak specifically on the  
importance of the Right to mediation as it  
relates to activation at the National level. Emergency  
loan & debt restructuring legislation has been  
introduced in Congress which, if passed, requires  
a State mediation board to be in place in  
order for Montana farmers & ranchers to be  
eligible for emergency funds. State departments  
are responsible for this. ~~State departments~~  
~~State departments~~ ARPA is a potential credit source  
~~State departments~~ which should not be lost by default  
in one year at the possibility of a maximum of \$3.5M per year for 3 years  
which goes to support of 5-1 - of interest free  
Thank you.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

# NORTHERN PLAINS RESOURCE COUNCIL

Field Office  
Box 858  
Helena, MT 59624  
(406) 443-4965

Main Office  
419 Stapleton Building  
Billings, MT 59101  
(406) 248-1154

Field Office  
Box 886  
Glendive, MT 59330  
(406) 365-2525

CHAIRMAN. MEMBERS OF THE JOINT COMMITTEE, MY NAME IS JERRY SCHILLINGER. I FARM NORTH OF CIRCLE. I AM TESTIFYING ON BEHALF OF THE NORTHERN PLAINS RESOURCE COUNCIL IN SUPPORT OF SB321. THANK YOU FOR HOLDING THIS HEARING ON A FRIDAY EVENING.

THE RURAL ECONOMIC CRISIS IS CAUSING HUNDREDS OF FORECLOSURES AND BANKRUPTCIES ACROSS THE U.S.: A MID-YEAR SURVEY CONDUCTED BY THE AMERICAN BANKING ASSOCIATION FOUND THAT TWENTY FARMS AND RANCHES ARE LOST EACH WEEK IN MONTANA ALONE. EACH FARM LOST RESULTS IN LOST JOBS AND LOST INCOME IN RURAL COMMUNITIES. THIS HAS LED TO CLOSURES OF MAIN STREET BUSINESSES, SCHOOLS AND CHURCHES. IN THE PAST WEEK SEVERAL EMPLOYEES OF OUR LOCAL TELEPHONE COOPERATIVE, MID-RIVERS INC., WERE DISMISSED -- THE DIRECT RESULT OF A CONTINUING CONTRACTION IN THE NUMBERS OF THEIR SUBSCRIBERS. LET THERE BE NO DOUBT: AS THE FAMILY FARMERS' FORTUNES GO, SO WILL GO THOSE OF ALL MONTANA.

WE DON'T HAVE TO STAND BY AND LET THIS TREND CONTINUE. IT IS TIME TO LOOK AFTER THE BACKBONE OF THE MONTANA ECONOMY -- FAMILY FARMS AND RANCHES.

MANY FARMERS AND RANCHERS COULD STAY ON THE LAND IF THEIR DEBT LOADS WERE RESTRUCTURED PRIOR TO BANKRUPTCY OR FORECLOSURE. GIVING TROUBLED BORROWERS THE RIGHT TO MEDIATION ALLOWS THEM AN OPPORTUNITY TO WORK OUT SUCH AN ARRANGEMENT, WITH A MEDIATOR PRESENT TO HELP SMOOTH THE STRAINED BORROWER-LENDER RELATIONS SO COMMON WITH

(2)

## FAMILY-FARM DEBT PROBLEMS.

UNDER THIS BILL THE MEDIATION PROCESS COULD BE REQUESTED BY THE BORROWER OR THE LENDER. THE MEDIATOR MAY ADVISE, COUNSEL AND ASSIST THE PARTIES ON WAYS TO COME TO AN AGREEMENT, BUT CAN NOT TELL THEM HOW TO CONDUCT THEIR BUSINESS OR PERSONAL AFFAIRS. BORROWERS MUST PROVIDE A FINANCIAL STATEMENT AND FULL INFORMATION ABOUT THE DEBT IN DISPUTE. LENDERS MUST ATTEND ONE SESSION BEFORE PROCEEDING WITH FORECLOSURE. BOTH PARTIES MUST NEGOTIATE IN GOOD FAITH. IF BOTH PARTIES REACH AGREEMENT, THEY MAY WRITE UP THE AGREEMENT AS A BINDING CONTRACT. IF AFTER ONE OR MORE SESSIONS EITHER PARTY BELIEVES THAT FURTHER DISCUSSION WOULD BE FUTILE, MEDIATION IS ENDED AND THE LENDER MAY BEGIN FORECLOSURE PROCEEDINGS.

NO ONE BENEFITS FROM FORECLOSURE OR BANKRUPTCY, INCLUDING LENDERS. MEDIATION HELPS WORK OUT SOLUTIONS THAT PAY BACK LENDERS WHAT THEY WOULD GET THROUGH FORECLOSURE OR FORCED LIQUIDATION, BUT WITHOUT THE TIME AND LEGAL EXPENSES INVOLVED. THE RIGHT TO MEDIATION WOULD NOT AFFECT A LENDERS RIGHT TO COLLECT DEBT THROUGH FORECLOSURE - IT SIMPLY STATES THAT LENDERS WOULD HAVE TO SIT DOWN TO ONE MEETING WITH THE BORROWER AND A MEDIATOR BEFORE FORECLOSING. THIS IS NOT ARBITRATION: NO SETTLEMENT COULD BE IMPOSED WITHOUT THE CONSENT OF BOTH THE LENDER AND THE BORROWER. LENDERS ARE NOT OBLIGATED TO ACCEPT ANY PARTICULAR LOAN RESTRUCTURING PROPOSAL -- ONLY TO LISTEN TO SUCH PROPOSALS.

STATES WHICH ALREADY HAVE RIGHT TO MEDIATION LAWS INCLUDE IOWA AND MINNESOTA. IN LESS THAN A YEAR, IOWA MEDIATORS HAVE STARTED MEDIATION WITH THOUSANDS OF FARMERS AND THEIR LENDERS; ABOUT TWO-THIRDS OF THE CASES IN MEDIATION

HAVE RESULTED IN AGREEMENTS BETWEEN BORROWER AND LENDER. MINNESOTA'S PROGRAM HAS ALSO INITIATED THOUSANDS OF MEDIATION SESSIONS, WITH SIMILAR SUCCESS. IN IOWA THE INDEPENDENT BANKERS SUPPORTED RIGHT TO MEDIATION. THE FARM CREDIT SERVICES' OMAHA DIVISION ALSO SUPPORTS RIGHT TO MEDIATION.

TO THOSE WHO WOULD SAY THAT THIS BILL WOULD "DRY UP" CREDIT, WE CHALLENGE YOU TO POINT OUT WHICH LANGUAGE IN THE BILL WOULD RESULT IN DRIED UP CREDIT, AND WHY. WE'RE TIRED OF EMPTY ARGUMENTS AGAINST LEGISLATION WHICH WOULD HELP FAMILY FARMERS AS WELL AS RURAL BANKS AND BUSINESSES. LONG TERM AG CREDIT HAS BEEN HARD TO OBTAIN SINCE 1981. ONLY BY KEEPING FAMILY FARMERS ON THE LAND AND BY RESTORING SOME SEMBLANCE OF STABILITY TO AGRICULTURE CAN WE IMPROVE THE AG CREDIT SITUATION AND BEGIN TO REBUILD A CRUMBLING RURAL ECONOMY.

IN CLOSING, THE NORTHERN PLAINS RESOURCE COUNCIL STRONGLY URGES YOU TO VOTE IN FAVOR OF SB321, RIGHT TO MEDIATION. PASSAGE OF THIS BILL WOULD SEND A SIGNAL TO MONTANA'S FAMILY FARMERS AND RANCHERS THAT THIS LEGISLATURE IS SERIOUS ABOUT TURNING AROUND THE RURAL CRISIS. THANK YOU.

NAME:

444 22K

DATE:

1-13-85

ADDRESS:

Box 384 Circle MT

PHONE:

425-2732

REPRESENTING WHOM?

Mont Assoc. of County - Agri. Comm.

APPEARING ON WHICH PROPOSAL:

SB 321

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:



(This sheet to be used by those testifying on a bill.)

NAME: JoAnn Wilson DATE: 2-13-87

ADDRESS: RT 1 box 174 Polson Montana 59860

PHONE: 273-4896

REPRESENTING WHOM? Montana Peoples Action

APPEARING ON WHICH PROPOSAL: SB 321 (Right to Mediate)

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENT: - over - please -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bud Mehlberg DATE: Feb 13, 1987

ADDRESS: PO 1 North Washington - Otis, Colo 80743

PHONE: 303 246 3414

REPRESENTING WHOM? Colo Coalition to Save Rural America

APPEARING ON WHICH PROPOSAL: Mediation SB 321

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: Lower than a 55% success in mediation  
Minnesota has 96,000 producers, 4000 signed up  
for mediation the first few weeks. Mediation works  
legal, court process should be a last resort  
Bank closures are an area that needs  
attention by the F.D.I.C. ag loans not accepted  
by another Bank in a bank closure have a real  
problem of getting things worked out by  
F.D.I.C. a state mediation process could help  
a good number of ag producers work with F.D.I.C.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

07

T E S T I M O N Y

Mary Lou Heiken  
Rural Ministries Coordinator  
Rocky Mountain College  
Tyler Hall - 1511 Poly Drive  
Billings, MT 59102

I am Mary Lou Heiken, the Rural Ministries Coordinator for the Montana Association of Churches. *I am personally*  
in support of Senate Bill 321.

✓ support mediation because:

1. Both the lender and borrower are losers in a foreclosure.
2. Inventoried foreclose land that is put on the market by lenders usually decrease the market value of the surrounding real estate. This decreases the equity value of all the farmers in that particular area. In many cases it puts the debt to equity ratio in a negative position.
3. Mediation can open communication between the lender and the borrower. They can begin to listen to each other and be more objective.
4. Mediation can be a useful tool to the restructure of loans. To restructure loans is probably the most productive way to protect the lenders investment and to keep the borrower on the land.
5. Agriculture is the #1 industry in Montana. If you save agriculture, hundreds of small businesses and many rural communities will survive.

(21)

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in the morning

before the morning

I reported it as a case of

but the morning

the morning

the morning

copy

(12) (This sheet to be used by those testifying on a bill.)

NAME: Howard F. Green DATE: 13 Feb 87

ADDRESS: Box 1168 Lst Falls

PHONE: 452-8119

REPRESENTING WHOM? Self.

APPEARING ON WHICH PROPOSAL: 321

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

Chapter 12 makes Mediation  
the only way that makes  
good sense.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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# Montana Catholic Conference

February 13, 1987

## MEMBERS OF THE HOUSE AND SENATE AGRICULTURAL COMMITTEES:

I am John Ortwein representing the Montana Catholic Conference. The Catholic Conference serves as the liaison between the two Roman Catholic Bishops of the State in matters of public policy.

In the recently released U.S. Bishops' Pastoral letter on the Economy the Bishops stress their concern for preservation of the family farm. They state that losing any job is painful, but losing one's farm and having to leave the land can be tragic. It often means the sacrifice of the family heritage and a way of life.

There has been a frustration by farmers and loaning institutions alike in the last several years. That frustration is the result of having little success in having the other party sit down and discuss ways to resolve financial disputes.

It would seem to us that passage of S.B. 321 would help in giving the two parties involved in the economic emergency a practical mediation process to help in resolving the differences between them.

We would urge you to vote "yes" on S.B. 321.

NAME: Al Haslebacher DATE: 2-14-87

ADDRESS: AF C 5 Spokane Wash 99220

PHONE: 509-838-9208

REPRESENTING WHOM? Farmer Credit Services

APPEARING ON WHICH PROPOSAL: S 321

DO YOU: SUPPORT?            AMEND?            OPPOSE? ✓

COMMENT: Agree new 3rd party offer provides  
valuable benefits---we consider S321 a mandatory  
mediation Bill & believe if it is mandatory it raises  
false hope on cases that are beyond hope---main  
concern is undue delay on these hopeless cases thus  
adding costs---As a cooperative lender owned by  
our borrowers these added costs are borne by the  
paying borrowers

We support the Extension of the  
Montana Ag Assistance program that includes  
voluntary mediation & we pledge a good faith  
effort to support voluntary mediation  
Al Haslebacher

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John WITTE

DATE: 2/13/87

ADDRESS: 2400 1st

PHONE: 487-2282

REPRESENTING WHOM? Citizens State Bank

APPEARING ON WHICH PROPOSAL: Initiation of Partial Redlining

DO YOU: SUPPORT? ☐ AMEND? ☐ OPPOSE? ☒

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



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(3)

NAME:

Phillip B Johnson

DATE: 2-13-87

ADDRESS:

c/o Montana Sunbels Assoc

PHONE:

443-4121

REPRESENTING WHOM?

MBA

APPEARING ON WHICH PROPOSAL:

SB 321

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

- (1) Time involved (per bill) and extensions involved.
- (2) Cost limitations
- (3) Credentials of Analysts. Experience; what quality can you expect @ \$20/hr.
- (4) How many mediators are needed?
- (5) Mediators practicing law - not qualified
- (6) Places state dept of Agr in position of a bankruptcy judge.
- (7) Moratorium of Foreclosure
- (8) Applications will be further scrutinized & rejected.
- (9) This is an additional tax to be passed on to the public.

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line  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(27)  
NAME: Noris Teigen DATE: 2/13/87

ADDRESS: Helena 59624

PHONE: 442-3420

REPRESENTING WHOM? MT Stockgrowers + Cattlewomen

APPEARING ON WHICH PROPOSAL: SB 321

DO YOU: SUPPORT?            AMEND?            OPPOSE? <sup>SB</sup> 321 X

COMMENTS: While we are not strongly opposed to mediation, we cannot  
support any additional legislation employing state authority. Where useful  
we think it will be done without legislation.

The stockgrowers credit committee has reviewed this issue  
and have found that FIMHA operations have probably resulted in  
more delays than anything else, but as a Federal agency is  
difficult to deal with under state law.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SB 321

Mr. Chairman and Members of the Committee, my name is Mike Sjostrom, Vice President of Montana Livestock Ag Credit, Inc. I am here to represent MLACI and consequently the borrowers who are the shareholders of the corporation. I oppose Senate Bill 321 as per the following reasons:

- 1) Voluntary mediation is already available, and of the requests for mediation that were turned down, approximately 85% were declined by borrowers. One of the problems we have seen with voluntary mediation is lack of a time frame.-(expedient)
- 2) The right to mandatory mediation will increase the cost of doing business, resulting in increased interest to legitimate farmers and ranchers.
- 3) It will make availability of agricultural funds more limited, as it continues to add more expense and risk to financing the most marginal producers.
- 4) We must not legislate away the problems of a few onto the backs of the rest of the industry.

20

John White

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENT :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.