

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

March 13, 1987

Representative Duane W. Compton, Chairman, called this meeting to order at 1:00 p.m. in Room 317 of the Capitol.

ROLL CALL

All committee members were present, except Rep. Harriet Hayne. Tom Gomez, Researcher, was present.

Bills to be heard today were SB 142 and SB 321.

SENATE BILL 142

Senator Cecil Weeding, Senate District 14, chief sponsor of SB 142, said this is the 'Right of First Refusal' bill. SB 142 is an Act to give the immediately preceding owner of foreclosed agricultural land the right to purchase or lease such land by meeting the terms and conditions of the highest offer made to purchase or lease such land; and provides an immediate effective date.

It is an opportunity for the preceding owner to come back in under certain conditions and meet an offer made to a third party or that another party makes to foreclosed land that is acceptable to that foreclosure. It doesn't give that former owner any rights to a diminished value or price. It doesn't require the mortgage forecloser to offer anything different to anyone else. Most of the burden is on the judgment debtor, the preceding owner who must claim this right. He must exercise this right, it must be filed, he must notify creditors that he will exert this right, and finally he must file that on record and provide the names and addresses of the people who are eligible to exert that right, so that it is easily determined and not something floating around that comes as a surprise to somebody.

This is an emerging concept - the states of Iowa, Minnesota, Colorado and Nebraska have adopted it. SB 142 is somewhat of a composite of those acts. This is in response to the crisis in agriculture and an attempt to keep some people on the farm and in rural communities. Farmers are a lot of times victims

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 11, 1987 - Page 2

of the times and circumstances. The more progressive people are the ones who are caught up in this. They expanded or bought equipment at the wrong time and this gives them one final opportunity to redeem themselves within one year through the right of redemption. It does acknowledge that farm people, farm land, farm business are somewhat unique. Many of those people have been on their places four or five generations. They are the backbone of their communities and if this would help preserve even some of them, it is worthwhile.

This is a new concept and this act received a long, extensive hearing in the Senate. Both sides were well debated. It was unfortunate scheduling that prevented SB 142 from being heard at the same time as SB 268 and SB 321.

He offered testimony from Lyle Quick, County Commissioner, who feels passage of SB 142 will offer a small ray of hope for those who have none. See EXHIBIT #1.

Although the bill was extensively amended in Senate action, and the language changed throughout, the substance of the bill has not been changed. The filing requirement was added in Section 5. Section 1 defines agricultural land; and includes the holder of foreclosed ag land and essentially includes commercial lenders, institutions, insurance companies, mortgage companies, and federal land bank and the FHA, but not private contracts. Section 2 is where the requirement is made that the holder of foreclosed land extend the offer to the former owner to repurchase or lease at terms they are purporting to offer to a third party. It is two-part: requires a lease offer to be made each time a lease is renegotiated. But the first time he fails to meet the lease offer, he has no right to come back. The purchase offer is a one time offer only. The former owner must meet the first bona fide offer made or his rights are forever extinguished.

Section 3 contains time limits for leasing or purchasing the foreclosed land. Section 4 contains the requirement that a notice by the preceding owner with any changes of address that result over time, and designates and provides transfer authority. The foreclosing creditor has an obligation under section 4 to advise the debtor at the time of foreclosure that this right does exist and the time frames in which he must act to preserve this right. Section 5 requires recording of that intent with the clerk & recorder within three days of the time that a response is made to the offer, so it is there for all to see. If it is not there within three days, the former owner has forfeited his right. He must release the

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 3

filing at the expiration of whatever time periods are involved or that he has failed to meet an offer and the right is void.

PROPOSENTS

LYLE QUICK, See EXHIBIT #1.

TERRY CARMODY, Montana Farmers Union, asked how can anybody vote against giving somebody a second chance. He hoped SB 142 would be concurred in.

JOYCE JANACARO, MACO Agriculture Committee, supports SB 142 on the basis of fairness for both the immediately preceding owner and the holder of foreclosed land. EXHIBIT #1A.

MARY KEE, Roundup, MT. Montana People's Action, said she and her husband need the opportunity to redeem their ranch. They need support for SB 142. EXHIBIT #1B.

MIGNON WATERMAN, Montana Association of Churches, supports public policies at the state level that help preserve family farms and the vitality of rural communities. EXHIBIT #2.

JOHN ORTWEIN, Montana Catholic Conference, supports SB 142 because it offers Montana farmers an opportunity to continue in farming. EXHIBIT #2A.

JO ANN FORSNESS, WIFE, supports SB 142 as originally written. EXHIBIT #2B.

MONTE MLEKUSH, farms south of Winnett, testified on behalf of the Northern Plains Resource Council. They feel we are obligated to protect our agricultural heritage. Some claim this legislation will dry up credit, but no lender should lend to any business that is not viable. Without profitability to agriculture, there will be continued restriction of ag credit. Some way ag families must be kept in their communities as taxpaying contributors. He urged support of SB 142. EXHIBIT #3.

BUTTONS MATHIAS, a licensed real estate broker in Wyoming and Montana, supports SB 142. The Right of First Refusal as it is defined is an opportunity for a party to match a bona fide offer. These people must meet all components of an offer, not just one or two. Sometimes there is confusion between the Right of First Refusal and an option. An option already has value established. The 15 days to meet a lease offer and the 60 days to meet a purchase offer are not excessive in any

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 4

way. This is not uncommon in the real estate industry. The right of first refusal could simply become a way of doing business. All real estate brokers and representatives of lenders would just disclose that the Right of First Refusal is on this particular piece of land, and in most cases that the purchasers are qualified and they are bona fide buyers. They will still stay interested.

This does not need to be heavy on administration. The right of redemption is not recorded - it is just the law, and this could be done the same way in this bill. It is not necessary to file a right of redemption because it is already in the law. If there are problems with clearing where the title could possibly be encumbered, this could be extinguished with filing of an affidavit, so if there is concern about files or encumbrances on the title, there are already things in place that deal with this.

The Right of First Refusal is just assurance that the dispossessed farmers and ranchers of Montana are having the same chance as the rest of the world. They have put much of their life into this land and they should be just as eligible for a writedown, a writeoff as anybody else in the world, and at this point they are not. If wealthy out-of-state people come in and buy up foreclosed Montana land, it is being placed in the wrong hands.

RICHARD SIDWELL, Sidwell Land and Cattle Company, Columbus, MT, is a real estate broker, and also ranches and has ranched in Montana his entire life. The last seven years he has spent in the real estate business. He strongly supports SB 142. It is a way to stabilize the value of agriculture land. Usually the borrower has worked to improve the property and make it worth more than when the mortgage was made although in today's times it is hard to see that. If someone is allowed to come in and bid substantially less and the lender takes that offer, the borrower is not able to protect his investment. This is just another way for him to protect his investment in time and give him an opportunity to have a second chance back on his farm or ranch. There isn't anything wrong with that. As far as the real estate business goes, it is hard enough for brokers to get a repossessed property from a banker to sell anyway, and bankers are not the best of salesmen.

DON JUDGE, AFL-CIO, supports SB 142 because farmers, ranchers, and workers of Montana have a common heritage of a strong work ethic, believe in social and economic fairness, and in the protection of the rights of the individual. See his testimony, EXHIBIT #4.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 5

EXHIBITS #4A-4M - Because of a time crunch the committee had with the House going into session shortly, there were many who did not have the opportunity to testify orally. They presented the attached testimonies. Also see the Visitors' Register for others who were in attendance and support SB 142.

OPPONENTS

GEORGE BENNETT, attorney from Helena, MT, representing the Montana Bankers Association, opposes SB 142. This bill will work to the disadvantage of communities generally. See his lengthy testimony EXHIBIT #5. He does not think the many flaws can be remedied by amendment. Our present mortgage laws and the free marketplace should be allowed to operate.

ELROY FLETCHER, representing the 12th Farm Credit District of Spokane, Washington, stated their basic practice is to lease property back to the immediately preceding owner of land obtained through deeds in lieu of foreclosure or foreclosure action, unless there is a situation where the previous owner had not been properly maintaining the property and/or has been seriously uncooperative. They do not oppose SB 142, but it does create significant impediments to the lease or sale of such acquired property. See his testimony, EXHIBIT #6.

ROBERT N. HELDING, appearing on behalf of the Montana Association of Realtors, was instructed by the Association to let people know they are cognizant of the critical problems facing Montana's agricultural community. They oppose SB 142 for reasons stated on their EXHIBIT #7. Montana Realtors recommends a Do Not Pass on SB 142.

TIM GILL, President of Montana Livestock Ag Credit, said they finance only agriculture loans, and they feel SB 142 is a discriminatory bill. They are concerned for the availability of ag credit to all of the people who borrow. They haven't had a foreclosure for years. Their organization does not loan for profit, but to support the 200 borrowers to whom they loan. See his testimony, EXHIBIT #8.

LOREN SOLBERG, Montana Land and Title Association, opposes SB 142 because it raises a lot more questions than it offers answers, and they strongly believe that they would not have an insurable title to land if the Right of First Refusal were to be adopted. This bill raises a lot of problems with title foreclosures.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 11, 1987 - Page 6

WARREN ROSS, Chinook, Ross 8-7 Ranch, Inc., opposes SB 142, saying terms of a contract should not be changed. Most lenders will try to work out a viable plan. There is no lack of available funds, but lenders are not sure they will be able to get their money back. See his testimony EXHIBIT #8A.

CAROL MOSHER, Montana CattleWomen, is opposed to SB 142 because of the adverse effects that it could have on the agricultural borrower who is struggling to obtain operating funds. See her testimony, EXHIBIT #9.

LYLE MANLEY, Department of State Lands, said they are not opposed to SB 142, but are uncertain as to its effect on the leasing of school trust lands, and may place the leasehold in a tenuous position. The DSL offered an amendment, copy of which is attached, exempting school trust lands. See EXHIBIT #10.

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE

Rep. Cody asked how the secondary mortgage market in the four states that have the right of first refusal has affected the banking industry. Bill Johnson, President of Montana Bankers, thought the secondary market will dry up.

Rep. Rapp-Svrcek asked if the right of first refusal is a normal thing. Ms. Mathias said that is used in general practice in the real estate business at the present time. It is a trade tool. It does not hinder their sales. People know that right is there.

Rep. Rapp-Svrcek asked if a bank would control if they foreclosed? Mr. Bennett said over time things change. After five or more years the title might have to go through a quiet title action to clear it. A bank bids in a piece of land to protect their money, and they want to dispose of it as quickly as possible. This bill would mandate the bank to deal with the former owner no matter whether he were credit worthy or a good operator or not. Under the law 20 acres is considered agricultural land if it is not used for industrial or commercial purposes.

Rep. Giacometto said this would be a match offer? Mr. Bennett said on page 8, line 2 the bill says make a good offer to the former owner and on the same terms and conditions. Ms. Mathias said the question in general here is the writeoff. The banks are willing to take a loss, but they are not willing to take the loss from the man who lost the land to them.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 7

Rep. Corne' asked why the bill does not apply to all lenders. Sen. Weeding stated it is not discriminatory because the charters of credit unions and savings and loans prohibit them from engaging in ag land loans. The contracts of deeds are not commercial. Theirs is two-party and if I default the person selling it gets his property back. With a lender it is a three-party loan. The 20-acre thing is being addressed this time.

Rep. Cody asked about the 60-day timeframe. Sen. Weeding said 60 days is a typical timeframe.

Rep. Patterson said different lenders have different means of dealing with foreclosing land. Land Banks and PCAs have certain guidelines they have to follow. This type of bill might bring banks more in line. Mr. Bennett didn't believe that would be the effect of the bill. Rep. Patterson asked if the bottom line of banks is to redeem your money. Mr. Bennett said they are under the control of the court. Generally the parties who can redeem are named. Right of redemptions are rejected. Rep. Patterson asked who received that payment. Mr. Bennett said if the bank bids that property in, the payment is made to the bank. If someone else bids it in, or a second or third mortgage lender, the payment would go to the bank. The holder of the second mortgage has the right to redeem as does the third mortgagor. He had no amendments and feels the total bill is unworkable.

Rep. Bachini asked if the new Chapter 12 would have anything to do with this now. Mr. Bennett stated Chapter 12 is a reorganization type of bankruptcy on lands that may have been used as collateral. It sets the debt based on the value of the land and not the amount of the loan. There are those who feel it may be better to let the property go into bankruptcy and then go back in and buy it at a lower price.

Rep. Cody asked what is being added timewise by this bill. Sen. Weeding said you have one year's right to redeem after foreclosure. This adds five years from the date of foreclosure, but it has seven in it at this time.

Rep. Corne' remarked this is talking about the right of redemption based on the full indebtedness. Right of refusal wouldn't necessarily be on the full amount.

Senator Weeding closed. Most of the ag land is held by the federal farm home (FHA) and the PCAs. Commercial banks hold 10% and 10% is held by insurance companies; 25% is held by private people. The FHA has the right of first refusal

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 8

written into their law now. It is the intent of Congress that the Federal Farm Credit System have the right of first refusal. SB 142 would just be putting into Montana codes what the intent of Congress is. The other 10% don't have a whole lot of real estate in their portfolios; they have sent them to the FHA for poorer loans.

Representative Compton stated SB 142 would be put into a subcommittee.

SENATE BILL 321

Senator Greg Jergeson, Senate District #8, remarked this bill had been heard by a joint Senate and House Committee. This is an Act providing for mediation of agricultural indebtedness, authorizing the Department of Agriculture to provide mediation services; amending 80-13-102, and section 15, Chapter 9, special laws of March 1986; and providing an effective date and a termination date. As written it provided for the mandatory right to mediation. Senate amendments changed the right to voluntary mediation and that would support a mediation process of some kind that is being discussed with this bill. There are two different versions of the supporters of this bill.

PROPOSERS

JO BRUNNER, speaking for the Montana Ag Coalition, said they have met several times on this bill and have met with other agriculture interests. It was decided to support certain portions of SB 321 concerning the mediation process. See her testimony, EXHIBIT #11.

DON JUDGE, Montana State AFL-CIO, supports SB 321. Mediation is fair, is less costly than litigation. We must have a viable agriculture industry as a basis for other industries. Montana's economic problems are caused by actions from Washington, D.C. See his testimony, EXHIBIT #12.

PHILIP B. JOHNSON, Director of the MBA, supports SB 321 with voluntary mediation only. See his testimony, EXHIBIT #1.

ROBBIE GREEN, rancher, testified on behalf of the Northern Plains Resource Council in support of SB 321. He would rather have mandatory mediation than voluntary mediation. See his testimony, EXHIBIT #14.

ROY PATTE, farmer from Ryegate, MT and President of Montana People's Action, entered several documents, EXHIBITS #15. He says mediation is working well in other states and should work in Montana.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 11, 1987 - Page 9

JIM FLEISCHMANN, MBA, left information about agriculture lending practices by 12 banks, see EXHIBIT #16. Banks restructured more non-agricultural loans than agricultural loans in 1985-86. Their total volume of ag loans dropped from 67% in 1985 to 41% of the loan volume in 1986. In many cases banks have loaned more money to their officers and directors than they have to agricultural loans. He recommends striking the Aklestad amendment which makes the right to mediation voluntary.

BILL MILTON, was representing the Mushellshell Agricultural Alliance which is a grassroots group of farmers, ranchers, and townspeople concerned with sustainable economic development in that region. MAA is an affiliate of the NPRC. They feel mandatory mediation will reduce Chapter 12 filings. See his testimony, EXHIBIT #17.

TOM TULLY, NPRC, read a letter from Michael L. Thompson, Executive Director of the Iowa Farmer/Creditor Mediation Service written to Ms. Meg Nelson, expressing definite approval of a mandatory mediation of farmer/creditor disputes. Voluntary mediation does not meet the process. He suggested Montana move forward with a mandatory bill, see EXHIBIT #18.

JOYCE JANACARO, Whitehall, MT, speaking for the MACO Agriculture Committee, supports SB 321 because it would provide an opportunity to resolve difficulties between a rancher and his banker. See EXHIBIT #19.

KEITH KELLY, Director of the Department of Agriculture, offered an amendment that would provide a means of funding the program. The Department supports SB 321 as amended in the Senate providing for voluntary agricultural debt mediation. See EXHIBITS #20 and 20A.

There was no time to hear all the proponents that were present, so they left their written testimony, EXHIBITS 21 through 45. Some were in favor of returning the bill back to its original form requiring mandatory mediation, but all were in favor of some kind of mediation.

OPPONENTS

JOHN CADEY, Montana Bankers Association, left some statistics regarding funding of ag loans and ag credit. See EXHIBIT #46.

Senator Greg Jergeson closed saying the amendment, EXHIBIT #20A regarding funding, would allow \$25,000 of general fund

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 13, 1987 - Page 10

money and would allow the DOA authority to charge fees. It would be scaled back one-fourth from what it was at the beginning of the session.

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE.

Rep. Giacometto asked Mr. Cadby if the Bankers Association opposes SB 321 in its present form. He answered Yes.

Rep. Koehnke asked what is left without any amendments? Sen. Jergeson said the present program that is in effect now would be left. The final paragraphs change the sunset provisions passed during the special session.

Mr. Cadby said banks are opposed to mandatory mediation. Mr. Bennett said mandatory mediation would open banks up to more liability in the intimidating bad faith area. Banks have always mediated, but when it becomes mandatory, it is more grounded. There is no definition of bad faith on the books at this time.

Rep. Rapp-Svroeck asked if SB 321 is passed, what is there over what we have at present? Sen. Jergeson said the mechanics for mediation would be provided. The present law expires. This bill removes the current sunset and applies a new one, and the DOA amendment provides for funding.

Sen. Jergeson asked none of the stricken words be added and that judgment be exercised in providing a mediation service to Montana.

The subcommittee for SB 142 was to be Rep. Holliday, chairman, and Reps. Giacometto and Ellison.

ADJOURNMENT

The meeting adjourned at 3:10 p.m. after obtaining permission from the Speaker for the committee to be a few minutes late to the session.

Rep. Duane W. Compton, Jr.

REP. DUANE W. COMPTON, Chairman

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

Date March 13, 1987

[illegible]

#1
EXHIBIT #1
DATE Mar. 13 1987
SB 142 - Sen.
Cecil Weeding

Dear Chairman, members of the committee.

My name is Lyle Quick. I'm presently a McCone County Commissioner and serve as Chairman of the Agriculture Rural Affairs Committee for our state Association and also represent Montana on the National Association of Counties Agriculture Committee.

For the first time in history, the state and national association have organized agricultural steering committees. I believe it is quite obvious why this action was taken. Our state and national heartland is dying. We as public servants must put forth every effort to save our businesses, our farms and ranches, our schools and churches, and ultimately our communities.

In your deliberations of SB 142, I think 2 questions must be asked of yourself and possibly of others:

- #1 Is it not fair and just that the original land owner be given the right to meet a 3rd party bid?
- #2 Will SB 142 dry up credit? If so, surely there must be a thread of evidence somewhere that would substantiate that claim. I too cannot give you irreputable evidence that it won't dry up credit, but I can say that in the states that have similar legislation, it has not created a problem.

Whether SB 142 passes or not will make a small difference to the masses on either side, but it will offer a ray of hope for those who have none.

Please look favorably at SB 142.

Thank you.

Lyle Quick

WITNESS STATEMENT

EXHIBIT #1A
DATE Mar. 13, 1987
~~HB~~ SB 142 - Sen.
Cecil Weeding

NAME Joyce Jaramas BILL NO. 142
ADDRESS Whitell, Mt. DATE 3-13-87
WHOM DO YOU REPRESENT? Mo Co Agriculture & Rural Affairs Com
SUPPORT yes OPPOSE _____ AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We support the bill on the basis of fairness for both the "immediate preceding owner" and the "holder of foreclosed land." A farmer or rancher should have the first right of refusal.

EXHIBIT #13^{1B}
DATE Mar. 13, 1987
SB 142 - Sen.
Orvil Weeding

WITNESS STATEMENT

NAME Mary Roe BILL NO. SB 142
ADDRESS 16545 Hwy 12 W, Roundup MT DATE 3-13-87
WHOM DO YOU REPRESENT? Montana People's Action
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr. Chairman committee members:

My name is Mary Roe of Roundup MT and I am a member of Montana People's Action.

I am here in support of SB 142. Our ranch was sold at sheriff's sale Sept 11, 1986 for \$261,000. The current price is \$100,000. I need the opportunity to redeem the ranch at a price which will support a cash flow.

Please support SB 142

Thank You
Mary Roe



March 13, 1987

WORKING TOGETHER:

American Baptist Churches
of the Northwest

American Lutheran Church
Rocky Mountain District

Christian Church
(Disciples of Christ)
in Montana

Episcopal Church
Diocese of Montana

Lutheran Church
in America
Pacific Northwest Synod

Roman Catholic Diocese
of Great Falls-Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
MT-N.WY Conference

United Methodist Church
Yellowstone Conference

Presbyterian Church (U.S.A.)
Glacier Presbytery

Presbyterian Church (U.S.A.)
Yellowstone Presbytery

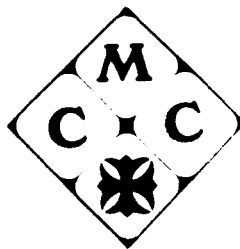
CHAIRMAN COMPTON AND MEMBERS OF THE HOUSE AGRICULTURAL
COMMITTEE:

I am Mignon Waterman and I represent the Montana
Association of Churches.

The Montana Association of Churches supports SB142
because we believe it will provide Montana farmers an
opportunity to buy or to lease back their property
after it has been liquidated.

The Montana Association of Churches supports public
policies at the state level that will help preserve
the family farm system and the vitality of rural
communities. We believe the right of first refusal
is such a policy.

We urge this committee to support SB142.



Montana Catholic Conference

2A
Mar 13, 1987
SB 142 - Sen. Ortwein
Meeting

March 13, 1987

CHAIRMAN COMPTON AND MEMBERS OF THE HOUSE AGRICULTURAL COMMITTEE:

I am John Ortwein representing the Montana Catholic Conference.

The recently released United States Bishops' Pastoral Letter on the Economy states: the loss of a farm and being forced to leave the land is a tragic experience. It often means the sacrifice of a family heritage and a way of life. Once farmers sell their land and equipment, their move is practically irreversible. The costs of returning are so great that few who leave ever come back. Society should help those who would and could continue effectively in farming.

Because Senate Bill 142 offers Montana farmers an opportunity to continue in farming, the Montana Catholic Conference urges the committee to support this bill.

NORTHERN PLAINS RESOURCE COUNCIL

EXHIBIT #3

MAY 13, 1987

SB 142

Meeting

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

Testimony in support of SB 142
House Agriculture Committee 3/13/87

Mr. Chairman, members of the committee. I'm Monte Mlekush. I farm south of Winnett. I'm testifying on behalf of the Northern Plains Resource Council in support of SB 142.

It is ironic that in Montana's Centennial year we are selling our basic heritage by refusing to help Montana's farmers and ranchers.

The intent of this legislation is to give people who have lost their operation the opportunity to meet a third party bid for the lease or purchase of their foreclosed land.

For instance, if I lost my place and the creditor accepted a third party bid, I would have the opportunity to match the same terms and conditions of that bid. According to SB 142, I would have 15 days to match a lease agreement and 60 days to match a 'bid' for purchase.

Borrowers who cannot make payments on loans made in times of inflated land values see their places sold at today's lower prices, ^{at} terms some of them could meet. Foreclosures today are due more to declining land values than to poor management. Many of these people have been making a living, a good living, for 10-15-^{even} 50 years. Both lender and borrower entered these contracts with eyes wide open. However, while

both borrower and lender lose in a foreclosure proceeding the borrower stands to lose all with no real alternative or chance of recovery.

Opponents claim this legislation will dry up credit. I feel the concern is moot. Credit has been drying up since 1981 due to general worsening of the ag economy. No lender should lend to any business that is not viable. The bottom line is that unless we can improve

profitability to agriculture, there will be continued restriction of ag credit.

One solution to this tragedy is to devise ways to help keep ag families in their communities as taxpaying contributors. The right of first refusal effectively allows both lender and borrower to resume a reasonable debt load without unnecessary loss of community vitality.

As agricultural people are forced to leave their land and communities, the costs of maintaining basic services are borne by fewer and fewer people. Businesses in small communities suffer, the communities themselves suffer, rural banks suffer. Providing the right of first refusal allows capable families, who are for the most part victims of circumstances beyond their control, to remain in their homes and communities.

I urge you to support SB 142.

Thank you.



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

EXHIBIT # 4

Mar 13, 1987

SB 142 - Sen. Gail
Weeding

TESTIMONY OF DON JUDGE ON SENATE BILL 142 BEFORE THE HOUSE AGRICULTURE COMMITTEE,
MARCH 13, 1987

Mr. Chairman, my name is Don Judge and I am here today on behalf of the Montana State AFL-CIO to testify in support of Senate Bill 142.

We support this bill because the farmers, ranchers and workers of this state have a common heritage. This common heritage is based in a strong work ethic, a belief in social and economic fairness, and a belief in the protection of the rights of the individual.

Montana is being confronted with a financial crisis. Every basic industry (agriculture, mining, timber, oil and gas) in our state, is in a decline. The state's budget deficit, the high unemployment, and the loss of population and tax base by our cities and towns are all symptoms of a basic underlying problem -- a depression in our natural wealth industries.

The question that is being addressed by Senate Bill 142 is not how to increase revenue or decrease expenditures. It is not a question of what type of new tax to impose on the people of our state. Nor is it a question of which service or program for the economically disadvantaged must be curtailed. The question that is addressed in this legislation, and this committee in its decision on SB 142 must answer is -- ARE WE GOING TO FIGHT FOR THE SURVIVAL OF RURAL AMERICA?

If we choose not to fight, the trend toward corporate and institutional ownership of our land, which has already started, will become the basis of Montana's agriculture industry. Montana already has enough experience with the type of social and economic injustice we get when out-of-state corporations own our assets.

Right of first refusal is likened to the right of an employee to be rehired if a plant that had been closed because of poor economy is reopened at a later date. To the people in the labor movement, that is a basic right which we fought for decades to secure for working men and women. We believe that Montana's farmers and ranchers deserve that same right.

Senate Bill 142 is not a give-away. It does not create additional costs for the lending institution that is selling the property. It does not cost the state anything. The original owner can only purchase the property if he or she can arrange financing.

We urge you to vote for Senate Bill 142. A vote for this bill is not only a vote for our family farmers and ranchers, but it also is a vote for rural America. It tells the people of this state that even though our state and its financial problems have been forgotten by the federal administration, the legislators we elected here in Montana have not.

We hope you agree with our position and vote for Senate Bill 142. Thank you.

WITNESS STATEMENT

EXHIBIT #5
DATE Nov 13, 1997
SB 142 - Sen. Cook
Hedding

NAME GEORGE T. BENNETT BILL NO. SB-142
ADDRESS 111 N. Main, P. O. Box 1705, Helena 59624 DATE _____
WHOM DO YOU REPRESENT? Montana Bankers Association
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: See attached.

TESTIMONY OF MONTANA BANKERS ASSOCIATION

IN OPPOSITION TO SENATE BILL 142

FORECLOSED AGRICULTURAL LAND - RIGHT OF FIRST REFUSAL

By: George T. Bennett, MBA Counsel

The Montana Bankers Association, representing state and national commercial banks in Montana, opposes Senate Bill 142.

The bill purports to grant to the "immediately preceding owner" of "agricultural land" a right of first refusal as to lease or sale by certain specified lenders if they have "acquired the right to dispose of agricultural land through foreclosure of a mortgage or trust indenture on the land, whether by judicial proceedings or otherwise," or by execution of a judgment.

This bill in operation will create so many problems that it will work to the disadvantage of borrowers, lenders, and the public in general. Some of the problems presented by the bill are:

1. Discriminates Between Lenders And Against Persons Not Engaged In "Agriculture":

This bill, which would apply only to "agricultural lands" (and this raises questions) and only to certain professional lenders, will favor only those persons falling within the scope of the bill as owning agricultural lands, and thus discriminates against all other landowners who might use their lands as collateral for loans, shifting the costs incurred under the bill to those borrowers and to the public in general, and discriminates as between lenders.

2. Can Reward Mismanagement And Inefficiency:

The bill is based on the premise that the owner of agricultural lands has lost the same because of the present crisis in agriculture. This may not be the case. The party may have lost the property through mismanagement, and/or inefficiency, yet that same person is allowed a right of first refusal which is similar to an option to reacquire the property even though they may have demonstrated an inability to manage the property carefully, and also may not be creditworthy. Good managers in a free marketplace will be given a preference to lease or buy.

3. Right Of Redemption Adequately Protects Most Debtors:

Montana law presently allows a one year right of redemption which allows the debtor, by paying only the debt, interests and costs, to reacquire the property. This right of redemption which has existed in Montana law and in the law generally for many years, adequately protects most debtors where they have an opportunity to refinance or make other arrangements to reacquire the property and to operate it in the future.

4. Excludes From Coverage Certain Professional Lenders And Private Lenders:

Subsection (2) of Section 1 sets forth the lenders covered by the act. It uses such terms as "a mortgage company" and "a farm credit system lender," and then uses the catch-all phrase "or any substantially similar foreign entity." There is no precise definition for a "mortgage company" or of "farm credit system lender" or a "foreign entity." Excluded are savings and

loans, credit unions, some federal lenders, private lenders, and all entities that use contracts for deed or other similar security devices.

5. Discriminates Against Efficient Operators:

Agricultural lands are generally not sold for cash, but rather are sold on credit, and the creditworthiness of the prospective buyer is always a critical factor. Also, in connection with leasing of agricultural lands, the lessor will always look to see if the operator is efficient and will properly maintain the land in terms of irrigation, not overgrazing, and other factors. This right of first refusal to the "immediate preceding owner" puts on a par with an efficient operator, or a person with a good credit rating, someone who may not be an efficient operator, may have abused the land, or may be lacking in creditworthiness. A system which prevents agricultural lands from being returned to efficient operation in the hands of good managers works contrary to the best interest of the State of Montana.

6. Clouds Title To Agricultural Lands For Six Or More Years From The Date Of Foreclosure:

The bill, under Section 4, requires either the foreclosing party or the sheriff to advise the "immediate preceding owner" of his or her right of first refusal. The immediate preceding owner then must give notice to the holder of the foreclosed agricultural land, and must file such notice with the Clerk and Recorder, and, in addition, must give notice of any change of address. The right of first refusal applies to the first lease or sale until

the time for holding such real estate by a bank, under § 32-1-423(2) has expired. This statute (32-1-423(2)) presently provides a five year period which may be extended by the Department of Commerce, and applies only to state banks. Such special written permission from the Department of Commerce extends the time. Thus we have an open-ended time frame for exercise of the right of first refusal. What if the property is held by a national bank not subject to 32-1-423? Given all of these contingencies it is doubtful whether any purchaser of the property would accept the same absent a quiet title action in which it is determined that the right of first refusal has in fact been extinguished, waived, or otherwise no longer applies.

7. Problems In Identifying The "Immediate Preceding Owner":

Nowhere in the bill is the term "immediate preceding owner" defined. Agricultural lands can be owned in many ways. It can be held by a number of individuals as tenants in common or as joint tenants. It can be held by spouses or family. It can be held by a corporation, a partnership, or a trust. Also, the status of the parties may change. Persons die and partnerships, trusts and corporations are liquidated. The partners in a partnership may change. Stockholders in a corporation may change. The bill attempts to address this problem in a very incomplete and confusing manner by stating, page 4, line 5, "If the immediate preceding owner is an entity for which no single individual is ordinarily authorized to act, the notice shall also indicate the necessary transfer of authority that enables the individual

named to the notice to act." Again, in many cases only a comprehensive and expensive quiet title action would clearly establish that the land is no longer encumbered by the right of first refusal.

8. Problems With The Definition Of "Agricultural Lands"

The bill defines agricultural lands by applying the definition in § 15-7-202. However, this definition applies to any lands under 20 acres that are "actively devoted to agricultural use" if the lands produce not less than \$1,500 in annual gross income from raising livestock or crops, with an exception in the case of a crop failure due to intervening causes or "marketing delay." Also under the amendments made by the June 1986 Special Session (Ch. 35, Sp. L. June 1986) lands over 20 acres are deemed "agricultural" if not "devoted to a commercial or industrial use."

The bill in no way clarifies at what point in time the lands must be "agricultural" in nature. Is it at the time of the creation of the indebtedness? At the time of foreclosure? Or at some subsequent date? Suppose the holder of the "agricultural lands" decides to subdivide the lands and sell them as non-agricultural subdivided lands. Does the right of first refusal still attach? Would the right of first refusal attach to each subdivided parcel? Is there a built-in incentive to the holder of such lands to subdivide? Thus subdividable lands not used for commercial or industrial purposes, larger than 20 acres, would be covered.

9. Bankruptcy:

Does the bill apply to lands sold out of a bankruptcy "proceeding?"

10. Effective Date:

This bill is simply made applicable on passage and approval. Nowhere does it state what situations are affected. That is, does it apply to properties now held by one of the named lending institutions even though the foreclosure occurred a number of years ago and the right of redemption was not exercised? Does it apply to lands that are presently under lease? Does it apply to sales which have been arranged but not completed before the passage and approval of the act?

IN CONCLUSION:

This bill will prevent the return of agricultural lands to use by the most efficient farmers and ranchers; will increase the costs of credit; will cloud title to agricultural lands; and creates discrimination between borrowers and lenders.

The legislature should allow the marketplace to operate freely; if an efficient operator has lost agricultural lands through foreclosure, that person will be the most probable prospect for lease of the lands or possible purchase in the future. To mandate that a right of first refusal be extended in all cases to the former operator (if that is the way the bill operates), is to interfere with the free operation of the marketplace and to reward mismanagement and inefficiency.

Testimony before the Montana State House Agriculture Committee
on S.B. 142
March 13, 1987
by Farm Credit Services

The Farm Credit Services basic practice is to lease property back to the immediately preceding owner of land obtained through deeds in lieu of foreclosure or foreclosure action, unless there is a situation where the previous owner has not been properly maintaining the property and/or has been seriously uncooperative. Therefore, we are not opposing Senate Bill 142. However, since S.B. 142 does create significant impediments to the lease or sale of such acquired property, we wish to express several concerns to the Committee should they desire to mitigate these concerns through further amendment.

- 1) We have a concern about being required to lease property to a prior owner who cannot or will not properly maintain the condition of that property. In such a case it would seem there should be exception to the right of first refusal if the holder of foreclosed land can demonstrate that the property would not be properly maintained.
- 2) In sale situations the right of first refusal for a period of 60 days may eliminate some purchase offers particularly if a significant good faith earnest money deposit is required. Possibly the right of first refusal period could be shortened from 60 days to 30 days or the immediately preceding owner could be required to compensate the bidder for any opportunity costs (interest on monies that were required as a deposit as a condition of a bid).

While these concerns may not be viewed as substantial by non-lenders, they do adversely impact a single-industry lender already suffering economic distress due to the adverse financial conditions of many of its borrowers. However, in the case of individuals who reacquire property through foreclosure action, such concerns would be even more significant.

Testimony, Montana State S.B. 142

March 13, 1987

Page Two

We believe that Farm Credit Services' position of non-opposition with an indication to the committee of the impediments created for real estate property transactions is a responsible position, and we commend the draftors of the bill for their efforts in attempting to provide assistance to farmers and ranchers and at the same time drawing the bill tight enough to attempt to deal with lenders' concerns.



MONTANA
ASSOCIATION
OF REALTORS®

EXHIBIT #7
DATE March 13, 1987
SB 142
Meeting

EXECUTIVE OFFICE
910 HELENA AVENUE
HELENA, MONTANA 59601
TELEPHONE: (406) 443-4032
IN MONTANA CALL TOLL FREE
1-800-421-1864

SB 142

3/13/87

HOUSE AGRICULTURE COMMITTEE

The Montana REALTORS® are cognizant of the critical problems facing Montana's agricultural community. We must oppose SB 142, however, for the following reasons:

This bill, in effect, adds yet another 60 days to the one-year redemption period which already exists for property owners to redeem property which has been foreclosed. It does it in a way which may have serious impact on the sale of that foreclosed property to a subsequent buyer. The 60 day period does not begin until there is a buyer who has made an offer on that property -- at that point the former property owner has 60 days in which to meet that offer. This is so despite the fact that he has been unable to redeem that property for the last 365 days.

Under the terms of this bill, a prospective purchaser is unable to act - any transaction is stopped while the individual who has been unable to meet mortgage or tax obligations and, as much as five years after foreclosure, attempts to finance the repurchase of the property.

The purpose of the redemption period is to allow the defaulting owner the opportunity to do just that - redeem his property from foreclosure. If he has been unable to do that, how will he be able to purchase the property?

SB 142 diminishes the position of a bona fide purchaser, inhibits the negotiating process, and makes the property less marketable. In addition, it places an additional risk on lending institutions, thereby eroding the credit system and perpetuating the poor operator at the expense of the good operator.

The MONTANA ASSOCIATION OF REALTORS® recommends a DO NOT PASS on SB 142.

EXHIBIT #8
 DATE Mar. 13, 1987
SB 142 - Sen. Cecil
He
Wedding

WITNESS STATEMENT

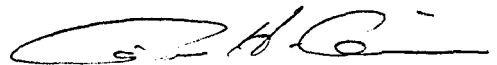
NAME Tim Gill BILL NO. SB 142
 ADDRESS 4065 Floweiss Dr. Helena MT DATE 3/13/87
 WHOM DO YOU REPRESENT? Montana Livestock Ag Credit
 SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

As President of this entirely shareholder owned corporation I speak for over 800 Agricultural producers in Montana. I'm not sure our organization would even be included as the bill presently reads, but still believe it discriminates among lenders and particularly against the many remaining viable producers.

No matter what the support says, we can already see a reduction in R/E credit, and ~~there~~ this type legislation will leave our organization no alternative but to avoid any future R/E backed loans.



Rte. 71, Box 18
Chinook, MT 59523

EXHIBIT #8A

DATE March 13, 1987

SB
H.R. 142 - Sen Cecil
Skedding

84
Warren H. Ross
Donald T. Ross
406-357-2746

ROSS 8-7-RANCH, INC.

COMMERCIAL HEREFORDS SINCE 1887

S.B. 142 is one of several bills that have been introduced this session which would compromise agricultural loan contracts. This Bill would limit the lenders chance of getting legitimate lease or purchase bids.

I feel S.B. 142 gives to the borrower the same relief that Chapter 12 provides without the restrictions of filing for bankruptcy. A highly leveraged person, who is making all of his payments and cash flowing could demand that his land debt be written down or he would voluntarily give up title and then use this Bill to step back in and reclaim it. I don't believe an individual should be able to unilaterally change the terms of the contract. This Bill addresses only the uncooperative borrower - the legitimate borrower, who is a good operator and making an honest effort to meet his contracted responsibilities, will find most lenders willing to work out any reasonable plan. It is in the lenders best interest to keep the borrower on the place if he is trustworthy and a competent operator.

The additional restrictions being legislated that compromise the lenders ability to service and administer agricultural contracts (loans) will and are adversely affecting the availability and terms of credit for our legitimate operators. Our people are having trouble getting needed loans - not because of a lack of available funds - but because

Ross - page 2

lenders are not sure that they can or will be able to insure the safety of the depositors money used to make agricultural loans. Most commercial lenders in Montana are less than 55% loaned when good business levels would suggest 65% to 70%.

If you feel that this Bill must be put on the books I would respectfully suggest it at least be amended in Section two, line eight, strike the words or otherwise. This would require legal foreclosure and preclude the individual from unilaterally implementing its provisions. In section five - recording required - set the fee for filing of the notice at \$100.00. This would maybe preclude nuisance or spite filings.

Warren Ross
Chairman, MS6A
Ag Credit Committee



P. O. Box 1679
Helena, Montana 59624
(406) 442-3420

EXHIBIT #9
March 13, 1987
SB 142 - Ben Galt
Weeding

March 13, 1987

We are opposed to SB 142 because of the adverse effects that it could have on the agriculture borrower who is struggling to obtain operating funds.

The Agriculture Economics Department of North Dakota has done a study of laws in that state that protect delinquent farm borrowers, showing that these laws have cost the state's lending institutions \$172.2 million dollars. The result of this is that it has caused the other borrowers the problems of (1) lower capital availability, (2) higher interest rates, and (3) stiffer requirements by the lending institutions.

I am enclosing a copy of that report with my testimony.

We believe that SB 142 would adversely effect those of us in Montana Agriculture who are trying to maintain creditability with our lending institutions, and we strongly urge that you reject this bill.

Carol Mosher

Everyone Pays for \$172 Million Loss

Study Shows ND Laws Hurting Farm Lenders

North Dakota laws that protect delinquent farm borrowers have cost the state's lending institutions \$172.2 million and are causing nondelinquent farm borrowers to pay higher interest rates, according to a study by the agricultural economics department of North Dakota State University.

The study also indicates that state credit laws are only of short-term benefit to the delinquent borrowers whom they are designed to protect.

"Delinquent farm borrowers usually benefit from a deferral or partial repayment, but not sufficiently to alter the financial course of their farm business in the future," says Cole Gustafson, one of the NDSU agricultural economists who did the study.

"At the same time," says Gustafson, "the laws which allow deferrals and partial repayments do have a significant negative impact on many people: interest rates offered to nondelinquent farmers are 1.5 percentage points higher than if such laws did not exist."

As a result of these higher rates, Gustafson says, farm borrowers who wish to maintain profit margins must assume riskier investments as well as riskier methods of production - and both of these increase the likelihood that they too will become delinquent borrowers.

Other effects of the state's agricultural credit laws, according to the study, include:

ding to the study: lower capital availability in North Dakota, higher charges for financial services, and stiffer loan requirements by lending institutions.

David Saxowsky, agricultural economist at NDSU, says that state laws protect debtors by delaying lenders in the collection and disposal of collateral, and also by limiting the amount that creditors can collect.

Of the \$172.2 million that impact such laws have had on lenders, the study attributes \$23.9 million to collection delays before collateral is acquired and \$62.2 million to delays after it is acquired. It attributes \$60.4 million to concessions made in negotiated settlements to avoid legal proceedings. Finally, it attributes \$25.7 million in debt that cannot be collected because North Dakota law limits deficiency judgments.

"In most states," says Saxowsky, "it is possible for a lender to foreclose, to regain control of the foreclosed property in a relatively short time, and afterwards to sue for deficiency payments if proceeds from the sale did not fully pay the debt. In North Dakota this is not the case."

On the contrary, he says, in North Dakota a buyer can request that terms of the original contract be rewritten in his favor, and in most cases can expect the creditor to agree. If the creditor refuses, the buyer may first delay or refuse payments, then hold possession of

\$23.9 million
Collection delays before acquisition of collateral

\$62.2 million
Liquidation delays after acquiring collateral

\$25.7 million
Uncollectible due to limit on deficiency judgments

\$60.4 million
Concessions in negotiated settlements

\$172.2 million
NDSU Ag Communication

Economic impact on North Dakota credit institutions of delayed and partial repayment of agricultural debt, based on delinquent loans as of July 1, 1986 and negotiated settlements from January 1, 1985 to July 1, 1986.

the land for at least one year after the creditor starts legal proceedings to regain it.

During this entire period the debtor may continue to farm the land, but is not required to make any payments on it or pay any taxes on it.

In the end, says Saxowsky, the creditor will get the land back, but

no more than that. The costs of a jury trial, of lost income from the land during the period of litigation, of back taxes not paid by the debtor - all this must be borne by the creditor.

In addition, points out Saxowsky, the lost value of the land can never be recovered by a seller who sold land when it was

valued at \$1,200 an acre and must take it back when its value has decreased to \$700.

Mortgagee in Escrow

EXHIBIT #10
DATE March 13, 1987
→ SB 142 - Sen. Aoi
Meeting

DEPARTMENT OF STATE LANDS
TESTIMONY FOR SB 142
House Agricultural Committee
(March 13, 1987, Room 317, 1:00 p.m.)

After reading SB 142 it was uncertain to the Department of State Lands how the Bill would affect school trust lands that are currently being leased for agricultural purposes. At the present time many of these leases are mortgaged by the lessee. On occasion the mortgage companies will foreclose on the mortgage and therefore, they may become the lessee of record. During the last year or two, this has become quite common. Oftentimes this is accomplished by placing an assignment, signed by the lessee, in escrow, and upon foreclosure, the assignment is presented to the Department of State Lands. The Department must generally then approve the assignment.

SB 142 seems to say that the state land must be offered to the former lessee by the mortgage company. However, under current state law governing the management of state lands, the mortgage company can not allow the former lessee to farm the land unless there is an approved assignment or sublease from the Department. SB 142 does not seem to account for this requirement as presently written. SB 142 seems to cause confusion as to which party is the actual lessee of record, and it places the leasehold in a tenuous position. Therefore, in order to keep the two sets of laws consistent, the Department offers this amendment to exempt school trust lands.

Amendment to SB 142; Third Reading - Blue Copy

1. Page 2.

Following: line 24

Insert: "(4) This section does not apply to agricultural land if such land is owned by the state pursuant to Montana's Enabling Act (Act of February 22, 1889, ch. 180, 25 Stat. 676)."

EXHIBIT #11

DATE 3/13/87

SB 321

Sen. Greg Jerguson

Mr. Chairman----

And I speak for the Montana Agriculture Coaliton at this hearing today. The Montana Agriculture Coalition has met several times on the bill that we are hearing today, SB³²¹~~32~~, and with other agriculture interests. During those discussions it was decided to support portions of SB ~~322~~ 321 concerning the mediation process. Our organizations feel strongly that such an avenue be open to our people who for various reasons find themselves being removed from the businesses.

We do not want this bill to die, we feel that agriculture has contributed in the past and will continue to contribute in the future to the well-being of the State of Montana. Our industry is the very heart of Montana and we find it disheartening that so little consideration is given to that industry.

The Montana Agriculture Coalition supports voluntary mediation. Not one organization supported the "right to mediate" The Coalition supported at least a portion of the cost of that mediation to be carried by the farmer^{ncher} requesting the mediation, or participating in the mediation.

We recognize that this process today and our support of these portions of SB³²¹~~322~~, is only the beginning of a hard battle. We recognize that after today it is conceivable that we may have opposing views of amendments and implementation of the bill/law. But as of today, this is the stand of those members of the Agriculture Coalition who are participating in this 1987 Montana State Legislative Session. Those organizations are as follows: The Montana Farm Bureau

The Montana Farmers Union

Montana Women Involved in Farm Economics

Montana Grange

M Montana Cattlemen

Montana Stockgrowers

Montana Cattlewomen

Montana Cattlefeeders

Montana Dairymen

Montana Grain Growers

Montana

Thank you



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

EXHIBIT 12
DATE 3/13/87
SB 321
Sen. Greg Ferguson

TESTIMONY OF DON JUDGE ON SENATE BILL 321 BEFORE THE HOUSE AGRICULTURE COMMITTEE,
MARCH 13, 1987

Mr. Chairman, my name is Don Judge 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 mediation is fair to both the borrower and the lender. It is a right that organized labor fought for years to obtain. Mediation is a system that provides an equal position for each party involved to work from. In fact, mediation language is now common in many bargaining agreements.

Settlement through mediation is less costly than litigation. The social and economic costs to the individuals involved and the communities in which they reside is considerably less when farmers and creditors resolve problems before a crisis occurs. And most importantly, it may just help keep Montana's farmers and ranchers in business.

Organized labor realizes that if our state is to recover from the economic problems we are in, we must have a viable agriculture industry. Agriculture is, after all, the largest industry in Montana. The industries that service agriculture create jobs for many other people in Montana's cities and towns.

Organized labor also understands that Montana's economic problems have not been caused by the people of our state. Instead, the policies that are being so devastating to our economy emanate from Washington, D.C.

High real interest rates, low commodity prices, convoluted and mis-directed trade policies, and the lack of operational credit, all of which have contributed to the current depression in agriculture, are all the product of the federal government. However, the fact that our problems originate outside of Montana and that solutions to those problems must be found at the national level, does not lessen your responsibility to do everything possible to minimize the negative impact.

Senate Bill 321 is a step that you can take to help resolve the problems facing agriculture in Montana. We hope you agree with our position and vote for Senate Bill 321.

EXHIBIT 13

DATE 3/13/87

SB 321

Sen. Greg Jergeson

WITNESS STATEMENT

NAME Phillip B. Johnson - Director MBA. BILL NO. SB321

ADDRESS P.O. Box 1709 Helena, Montana DATE 3/13/87

WHOM DO YOU REPRESENT? Montana Bankers Association

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We support this legislation only in its present amended form. We do not support mandatory mediation and would not support any amendments to that effect.

NORTHERN PLAINS RESOURCE COUNCIL

EXHIBIT 14

3/13/87

SB 321

Sen. Greg Jorgeson

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

Testimony in support of SB 321
House Agricultural Committee 3/13/87

Chairman, members of the committee. For the record, I'm Robbie Green. I ranch along the Tongue River near Miles City. I am testifying on behalf of the Northern Plains Resource Council in support of SB 321.

As initially proposed, SB 321 provided for the right to mediation. The Senate amended SB 321 to voluntary mediation. Certainly voluntary mediation is desirable in that it brings together two willing parties. The obvious problem with voluntary mediation however, is that not all the cases which should be mediated are mediated - specifically those cases where a breakdown in communication has occurred. Because voluntary mediation fails to address those cases, NPRC asks the committee to amend SB 321 back to its original form - the right to mediation. I'd like to pass out these amendments to the committee. Furthermore, I'll address the right to mediation in my testimony.

Mediation introduces a neutral third party into the debtor and creditor discussions and helps to generate alternative plans. This comes at a time when the relationship between the debtor and the creditor may have deteriorated to the point that communication has broken down.

A mediator may advise, counsel, and assist the parties on ways to come to an agreement, but may not tell them how to conduct their business. An independant mediator also isolates the lender from liability. All decisions must be made by the debtor and the creditor themselves. Mediation is not arbitration - no settlement can be imposed without the consent of both parties.

The right to mediation helps reduce litigation, foreclosures, and bankruptcies by providing a last resort action to be employed when all other attempts to resolve disputed farm credit problems have been exhausted by debtors and creditors, and adverse legal actions for debt collections are necessary and impending.

NPRC does not expect the Right to Mediation to solve all the problems between debtors and creditors. At the very most, perhaps an agreement can be reached. At the very least, tensions can be eased.

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 creditors and debtors; about two-thirds of the cases in mediation have resulted in agreements between creditor and debtor..

Recently, the Omaha district Farm Credit Services testified in support of the Right to Mediation. Charles Caldwell, assistant-general counsel for Farm Credit Services, said "Farm Credit Services has operated in a mandatory mediation environment in Iowa for the past 8 months. We have found mediation to be effective in re-establishing communications in cases where this has become a problem between the borrower and creditor. We have also found that the assistance of an objective third party - a mediator - can be very helpful to a borrower and creditor in reaching a mutually agreeable solution to their dispute."

Opponents to this legislation say that SB 321 will dry up credit. I'd like to point out that availability of credit is primarily influenced by profitability. During good years, credit is easily available. During lean years, credit is more difficult to obtain.

Opponents also claim that SB 321 creates a moratorium on foreclosures. That is not true. SB 321 simply provides for a 45 days mediation period. That period may be extended, if and only if, both parties believe that further mediation would be effective.

Mediation, in fact, creates a better business climate. Successful mediation will keep farmers and ranchers in business, thus benefiting the entire community. The success of locally owned and operated businesses is directly dependent on local 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.

NPRC urges the committee to amend SB 321, to reflect its original intent of Right to Mediation, and to pass that amended version out of committee.

My name is Roy Patte. I am a farmer from Ryegate, Montana, and the President of Montana People's Action. We would like to enter several documents into the record of this hearing.

The first document is a memorandum from the Director of the Board of Governors of the Federal Reserve Bank, to officers in charge of examinations at each federal reserve bank. Rather than read the whole memo, I would like to briefly summarize its message:

1. That the problems facing agriculture are transitory in nature.
2. That under the circumstances, financial institutions may find that the most prudent policy is to stretch out payments and exercise forbearance.
3. That the Federal Reserve feels that such forbearance is in the public interest and should be encouraged.
4. That supervisory staff should be sensitive to this fact in conducting examinations and should refrain from criticizing bank management for exercising forbearance.

The second document which we would like to offer into the record of this hearing is a copy of testimony presented by the Farm Credit System before the State legislature of Nebraska. This testimony was presented by the General Counsel for Farm Credit Services-Omaha, and by the same organization's Vice President-Field Operations.

Again, I will summarize:

1. That Farm Credit Services-Omaha supports the concept of the Right To Mediation.
2. That their support is due to their positive experience with the Right To Mediation in Iowa.
3. That Farm Credit Services in Iowa has reached mediation agreements with 59% of their borrowers who were involved in mediation.
4. That mediation has been effective in re-establishing communication in cases where this has become a problem between the borrower and creditor.

Finally, I would like to offer a third document into the record. This is a brief survey of twelve state banks in Montana, compiled using documents available through government agencies charged with regulating banks. We do not have the supporting tables completed, but we will make them available as soon as possible to the members of the committee.

While the survey reveals some interesting aspects of the patterns of state banks' lending practice, ^{I am going to ask my staff to briefly present} the findings that are most relevant to today's hearing on mediation are as follows:

In conclusion, let me state the following:

1. The Federal Reserve Board of Governors has urged their member banks to practice forbearance and to negotiate debt for troubled farmers. They have stated that this is in the public interest.

2. Farm Credit Services, outside of Montana, has stated their support for the Right To Mediation.

3. Other states have recognized the value of the Right To Mediation and passed legislation to implement this program.

4. Our summary evidence reveals that state banks in Montana are not restructuring ag debt, while they are making efforts to restructure other debts.

5. That other states, which have the Right To Mediation, are restructuring a significant amount of ag debt, and lenders, farmers, and many others have nothing but good things to say about their programs.

Mr. Chairman, and members of the Committee, why do we have to drag the State of Montana, kicking and screaming, into 1987. This state needs a mediation process that works. Voluntary mediation has had a marginal success level at best.

We urge you to pass SB 321 and to strike the Akelstad amendments.

DISTRIBUTED BY: MONTANA PEOPLES ACTION
BOX 1105 Helena Mt. 59624

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551



EXHIBIT 15

DATE 3/13/83

S.B. 321

Sen. Greg Jorgenson

SR 83-15 (FIS)

DIVISION OF BANKING
SUPERVISION AND REGULATION

March 30, 1983

TO THE OFFICER IN CHARGE OF EXAMINATIONS
AT EACH FEDERAL RESERVE BANK

SUBJECT: Home Mortgage, Farm and Small Business Loans

The economic environment over the past several months has resulted in financial pressure on a rising number of bank customers, particularly certain farmers, small businesses and individuals.

* [These financial pressures are, at times, reflected by delinquent business and residential loans in the portfolios of the nation's financial institutions. [Some borrowers who are experiencing financial difficulties face the prospect of foreclosure on their homes and family farms, or the failure of their small businesses. Often these problems are transitory and the borrowers are able to resume payments when general economic conditions improve. Under such circumstances, the financial institutions may find that the most prudent policy is to stretch out payments and exercise forbearance rather than to take more precipitous action such as foreclosure and/or forcing a borrower into bankruptcy.]

As a supervisor of State-member banks and bank holding companies, the Federal Reserve does not wish its examinations or its supervisory actions to be pursued in a manner that discourages this type of forbearance. On the contrary, such forbearance is in the public interest and should be encouraged when it is consistent with safety and soundness considerations. It is requested, therefore, that you remind the Federal Reserve examiners in your District of the need to be particularly sensitive to these problems at this time and to refrain from criticizing bank management for exercising forbearance in the circumstances described. Moreover, in accordance with long-standing instructions, examiners should not recommend foreclosure or other precipitous action. Supervisory staff should also take these policies into account when dealing with the supervised institutions' boards of directors and when designing remedial action plans.

A handwritten signature in dark ink, appearing to read "John E. Ryan".

JOHN E. RYAN
Director

LEGISLATIVE BILL 664

EXHIBIT 15 ^{#6}

DATE 3/13/87

SB 321

Sen. Greg Jorgenson

MY NAME IS CHARLES M. CALDWELL. I AM ASSISTANT GENERAL COUNSEL FOR FARM CREDIT SERVICES-OMAHA, AND AM HERE TODAY TO SPEAK IN SUPPORT OF THE PASSAGE OF LB 664.

FARM CREDIT SERVICES HAS OPERATED IN A MANDATORY MEDIATION ENVIRONMENT IN IOWA FOR THE PAST 8 MONTHS UNDER A LAW THAT IS QUITE SIMILAR TO LB 664. WE HAVE FOUND MEDIATION TO BE EFFECTIVE IN RE-ESTABLISHING COMMUNICATIONS IN CASES WHERE THIS HAS BECOME A PROBLEM BETWEEN THE BORROWER AND CREDITOR. WE HAVE ALSO FOUND THAT THE ASSISTANCE OF AN OBJECTIVE, PROPERLY SKILLED THIRD PARTY -- A MEDIATOR -- CAN BE VERY HELPFUL TO A BORROWER AND CREDITOR IN REACHING A MUTUALLY AGREEABLE SOLUTION TO THEIR DISPUTE.

THERE ARE FOUR SPECIFIC POINTS EMBODIED IN LB 664 ON WHICH I WANT TO STRESS OUR SUPPORT:

1. WE SUPPORT THE CONCEPT OF MANDATORY MEDIATION AS THE FOCUS OF LB 664. CONCURRENTLY, WE ARE NOT AT ALL OPPOSED TO THE PROVISIONS FOR VOLUNTARY MEDIATION AND BELIEVE IT IS USEFUL TO PROVIDE THIS AVENUE AS WELL. HOWEVER, WE ALSO STRONGLY SUPPORT THE RIGHT OF A CREDITOR TO "DEMAND" RELEASE FROM MEDIATION, AS SPECIFIED IN SECTION 12 OF THE BILL, IN THOSE CASES WHERE THE DELAY REQUIRED FOR MEDIATION WOULD CAUSE THE CREDITOR IRREPARABLE HARM.
2. WE BELIEVE THAT MANDATORY MEDIATION SHOULD ONLY APPLY PROSPECTIVELY. WE DO NOT BELIEVE IT WOULD BE PRACTICAL OR REASONABLE TO APPLY MANDATORY MEDIATION RETROACTIVELY AND INTERRUPT OR DELAY LEGAL PROCEEDINGS ALREADY IN PROCESS.

5. CREDITOR HAS RIGHT TO REQUEST A MEDIATION RELEASE AFTER A MEDIATION SESSION IF AGREEMENT CAN NOT BE REACHED.

6. MARCH 1, 1992 TERMINATION DATE.

IN SUMMARY, FARM CREDIT SERVICES-OMAHA SUPPORTS THE CONCEPT OF MANDATORY MEDIATION AS PROPOSED IN LB 664.

LEGISLATIVE BILL 664

MY NAME IS GALE D. CAMERON AND I SERVE AS VICE PRESIDENT-FIELD OPERATIONS SUPPORT FOR FARM CREDIT SERVICES-OMAHA. DUE TO PRIOR BUSINESS AND PERSONAL COMMITMENTS I AM UNABLE TO APPEAR IN PERSON, BUT WOULD LIKE TO SHARE WITH YOU MY COMMENTS IN REGARD TO LB 664. FOR YOUR INFORMATION, I DID WORK EXTENSIVELY WITH THE FARM MEDIATION TASK FORCE IN HELPING TO DEVELOP THE RECOMMENDATIONS SUBMITTED BY THE TASK FORCE TO THE LEGISLATURE IN RESPONSE TO LR 3.

FARM CREDIT SERVICES-OMAHA IS SUPPORTIVE OF THE CONCEPT OF MEDIATION and LB 664 AS INTRODUCED. OUR SUPPORT IS BASED IN PART ON THE EXPERIENCE WE HAVE GAINED WITH MANDATORY MEDIATION IN THE STATE OF IOWA DURING THE PERIOD OF JUNE THROUGH DECEMBER, 1986. DURING THIS PERIOD OF TIME, WE HAVE FILED AND/OR BEEN INVOLVED IN OVER 2,500 MEDIATION CASES. IT IS MATERIAL TO NOTE THAT OVER 1,000 OF THESE CASES WERE DUE TO THE IOWA LAW BEING APPLIED RETROACTIVELY. AS PROPOSED, LB 664 WOULD BE APPLIED PROSPECTIVELY, WHICH IS AN IMPORTANT ISSUE.

BASED ON THE NUMBER OF MEDIATION SESSIONS HELD AND RELEASES OBTAINED, FARM CREDIT SERVICES IN IOWA HAVE REACHED AGREEMENTS OR AGREEMENTS ARE PENDING WITH 59% OF THE DEBTORS. I BELIEVE THIS REPRESENTS POSITIVE SUPPORT FOR THE CONCEPT OF MANDATORY MEDIATION IF PATTERNED AFTER THE IOWA LAW OR LB 664.

KEY ELEMENTS OF LB 664 WHICH WE SUPPORT ARE:

1. IMPLEMENT THE LAW PROSPECTIVELY.
2. \$40,000 THRESHOLD FOR MANDATORY MEDIATION.
3. 49-DAY TIMEFRAME FOR MEDIATION.
4. DEBTOR HAS RIGHT TO WAIVE MEDIATION.

5. CREDITOR HAS RIGHT TO REQUEST A-MEDIATION RELEASE AFTER A MEDIATION SESSION IF AGREEMENT CAN NOT BE REACHED.

6. MARCH 1, 1992 TERMINATION DATE.

IN SUMMARY, FARM CREDIT SERVICES-OMAHA SUPPORTS THE CONCEPT OF MANDATORY MEDIATION AS PROPOSED IN LB 664.

DATE 3/13/87

SB 321
Sen. Greg Jergeson

Introduction

The statistics in this survey were compiled using information which is provided by state and federal agencies which are charged with the responsibility of regulating banks.

Information from twelve state banks, covering the years 1985-1987, was used to compile the information contained in this survey. Of these twelve banks, ten of them serve communities of 3,500 Montanans or less.

National banks are not included in the survey, primarily because information about these banks is more difficult (and costly) to obtain.

Summary of Findings

The following facts constitute the significant findings of this survey. Please note that these findings apply only to the twelve state banks surveyed.

1) Agricultural debt in "non-accrual" status decreased significantly from 1985 to 1986. The total of agricultural debt carried by the twelve lenders which was classified as "non-accrual" decreased from \$2.667 million in 1985 to \$1.84 million in 1986.

2) The majority of "non-accrual" (non-performing) loans are not agricultural loans. The total volume of "non-accrual" agricultural debt, as a percentage of the twelve lenders' total "non-accrual" debt, went from 67% in 1985, to 41% in 1986. This means that if, in fact, credit in Montana is drying up, it is due more to non-performing loans that are not agricultural.

3) Banks are restructuring debts, but not agricultural debt. In 1985, the twelve banks surveyed restructured 29% (\$368,000 worth) of non-agricultural debt without restructuring any agricultural debt. In 1986, the same banks restructured 15% of their non-agricultural "troubled" debt, and again, failed to restructure any of their agricultural debt in "non-accrual" status.

4) In many cases, banks have lent more money to their officers and directors than they have made agricultural loans. Six of the twelve banks which were examined as a part of this survey exhibited a historical pattern of lending to their directors and officers. These six banks had a larger dollar amount of loans out to "insiders", in both 1985 and 1986, than their dollar amount of loans which were made and secured by farmland.

We are currently compiling tables to support these conclusions. Copies of this summary, along with the supporting tables will be provided to members of the House and Senate Agriculture Committees as soon as they are completed.

March 13, 1987

NORTHERN PLAINS RESOURCE COUNCIL

EXHIBIT 11
DATE 3/13/87
SB 321
Sen. Greg Jorgenson

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

Testimony in support of SB 321
House Agriculture Committee 3/13/87

Mr Chairman, members of the committee. My name is Bill Milton and I represent the Mushellshell Agricultural Alliance, a grassroots group of farmers, ranchers, and townspeople concerned with sustainable economic development in the Mushellshell region. MAA is an affiliate of the Northern Plains Resource Council.

I would like to submit the following press release from the Center for Rural Affairs concerning the direct relationship between mandatory mediation and lower rates of Chapter 12 Bankruptcy filings. IN SIX Midwestern States.

SB 321 in its original form provided the right to mediation for both farm lenders and borrowers. Equally concerned agricultural organizations have taken opposing positions on this bill due to different perceptions of the bill's potential impact on credit for all ag borrowers. This recent press release from the Center appears to confirm that mandatory mediation can in fact reduce Chapter 12 filings thus improving the agricultural credit climate.

Thank you.



NEWS



CENTER FOR RURAL AFFAIRS

Post Office Box 405
Phone (402)846-5428

Walthill, Nebraska 68067
Population 900

For Immediate Release

March 5, 1987

For more information contact:

Jerry Hansen or Gene Severens; (402) 846-5428

EXHIBIT #17
DATE Mar. 13, 1987
SB 321- Sen.
Greg Jorgeson

MEDIATION REDUCES CHAPTER 12 BANKRUPTCIES

Nebraska's farmers are filing Chapter 12 bankruptcies at a rate 2 1/2 times that of Iowa farmers according to data collected by the Center for Rural Affairs. The Nebraska rate of 2.2 per thousand farmers far exceeds Iowa's .87 rate per thousand. This difference exists despite very similar degrees of financial stress in the states' agricultural sectors.

Since the Family Farmer Bankruptcy Act (Chapter 12) became law several months ago, 132 Nebraska farmers and ranchers have filed for this type of bankruptcy. This is the highest number of Chapter 12s filings among six upper midwestern states. Among the six states--South Dakota, Nebraska, North Dakota, Kansas, Iowa and Minnesota--only South Dakota's 3.24 per thousand farmer rate of Chapter 12 filings exceeds Nebraska's rate.

"Bankruptcy is seen as the last resort by farm debtors, but when other available options are exhausted farmers will go the extra mile to save their farms," according to Jerry Hansen of the Walthill-based Center for Rural Affairs. "So far the number of Nebraska farmers in Chapter 12 is relatively small, but with continuing economic problems and few alternatives under state law Nebraska farmers will increasingly seek Chapter 12 reorganization protection," he added.

Both Nebraska and South Dakota are considered to have harsh legal climates with few alternatives to bankruptcy or foreclosure. Two of the six states, Iowa and Minnesota, provide mandatory mediation as an alternative,

and among the six states their rates of Chapter 12 filings (.87 and .55 per thousand farmers respectively) are the lowest.

The two other states, Kansas and North Dakota, have voluntary mediation, and their filing rates are .95 and 1.03 per thousand farmers, respectively. "While voluntary mediation is better than no mediation, it appears from this data that mandatory mediation works much better to resolve disputes outside the expensive and time consuming court procedures required by bankruptcy and foreclosure. Voluntary mediation is much like a voluntary speed limit--it simply won't work very well," Hansen stated.

Nationwide lenders have voiced concern about the effects of the new bankruptcy code. In Nebraska both the Independent Bankers Association and the Nebraska Bankers Association have expressed similar concern.

These same groups gave testimony opposing a mandatory mediation bill recently introduced in the Unicameral. In other states mediation has proven to be a valuable alternative to both bankruptcy and foreclosure. In Iowa for example the Iowa Bankers Association, which initially oposed that state's mandatory mediation legislation, now supports both the concept and the results of their state imposed mediation process.

"As long as Nebraska law does not provide alternatives to bankruptcy and foreclosure, our farmers and ranchers will undoubtedly continue to lead the Midwest in Chapter 12 filings. The harsh climate created by current state law forces the use of the Chapter 12 federal protections."

"Nebraska farmers and lenders deserve an alternative to bankruptcy. A carefully structured alternative exists. LB664 now before the Unicameral would greatly reduce the need for court action and protect the rights of both debtors and creditors," Hansen concluded.

Chapter 12 Bankruptcy Data

State	Number of Farmers*	Number of Chapter 12s filed	Number of 12s per thousand farmers**	Type of Mediation
S. Dakota	37,148	120	3.24	None
Nebraska	60,243	132	2.20	None
N. Dakota	36,431	37	1.03	Voluntary
Kansas	73,315	69	.95	Voluntary
Iowa	115,413	100	.87	Mandatory
Minnesota	94,382	52	.55	Mandatory

*1982 Census of Agriculture Data

*As of February 17-20

Comparison of Chapter 12 Bankruptcy
Filings, Number of Farmers, Filings Per 1,000 Farmers
and Mediation Requirements

State	Number of Chapter 12 Bankruptcy Filings	Number of Farmers	Chap. 12 Filings/1,000 Farmers	Mediation
South Dakota	120	37,148	3.23	None
Nebraska	132	60,243	2.19	None
North Dakota	37	36,431	1.02	Voluntary
Kansas	69	73,315	0.94	Voluntary
Iowa	112	115,413	0.97	Mandatory
Minnesota	52	94,382	0.55	Mandatory

SOURCE: Center for Rural Affairs, Walthill, Nebraska.



EXHIBIT #18
DATE 3/13/87
SB 321
Sen. Greg Jensen
Jensen

March 13, 1987

Ms. Meg Nelson
Montana Northern Plains Resource Center
Box 858
Steamboat Building
Helena, Montana 59624

Dear Ms. Nelson:

I am writing to express my support for Senate Bill 321 as it was originally proposed -- mandatory mediation of farmer creditor disputes. As an experienced administrator and mediator, I have found that mandatory mediation is a positive approach to resolving problems. The Iowa program has processed 5000 cases since the initiation of mandatory mediation in July 1986. Over 2000 cases have reach some form of settlement, and the service enjoys considerable support throughout the state.

Despite the fears associated with mandatory mediation, most creditors and farmers have found the process to be very useful. Additionally, the service has received the endorsement of the following groups:

Iowa Bankers Association
Omaha Farm Credit Administration
Farmer's Home Administration
Federal Deposit Insurance Corporation
Farm Bureau
Farm Unity Coalition
Interchurch Forum.

The support of these groups has led to an active program that is helping farmers and creditor develop solutions that would not be possible in a court of law. These groups have also discovered that mandatory mediation can be beneficial for farmers and creditors alike -- while many believe that this law helps farmers, it has certain benefits for creditors including reduced legal fees, reduced usage of Chapter 12 filings, increased accountability by farmers, and reduced levels of tension that allows farmers and creditors to reach a solution.

In testifying in support of this legislation, I would urge that Montana move forward with a mandatory bill, as the experience in Iowa, Wisconsin, and Kansas suggests that a voluntary bill will not create the desired result because very few cases will be processed. Secondly, I would urge that the mediation service function on a neutral basis, and that it cannot be administered by any group that is advocate for farmers. Finally, it is extremely important that the mediators are trained by a reputable mediation group. The training should not be less than thirty hours, and follow-up evaluations should be done after the training is completed. If you have any questions, feel free to contact me.

Sincerely yours,

A handwritten signature in cursive script, reading "Micheal L. Thompson".

Micheal L. Thompson
Executive Director

WITNESS STATEMENT

3/3/47
SB 321
H. H. H. H.

NAME Jayce Jayce BILL NO. 3-21
 ADDRESS Winterville, N.C. DATE 3-13-57
 WHOM DO YOU REPRESENT? Mr Co Agricultural Committee
 SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

In the interest of fair dealing we support a bill that would provide for an opportunity to resolve difficulties between a rancher and his banker in order to eliminate the possibility of foreclosure



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION
HELENA, MONTANA 59620-0201

TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
DIRECTOR KEITH KELLY
FOR THE HOUSE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE
ON SENATE BILL 321
FRIDAY, MARCH 13, 1987
HELENA, MONTANA

Chairman Compton and members of the committee. The Montana Department of Agriculture supports Senate Bill 321 as ammended in the Senate, providing for voluntary agricultural debt mediation.

The adversities facing our agriclutrual producers have not disappeared and may, in fact, continue to impact the farm/ranch, rural communities, and the overall economy of our state for some time to come. Recent studies leave serious doubt as to whether or not we are even at the bottom of the slide. Continued land devaluation and inadequate cash flow compound the magnitude of the financial stress affecting agricultural producers and lenders alike.

Voluntary debt mediation offers an excellent opportunity for both producer and lender to sit down with a neutral third party to negotiate workable alternatives to foreclosure. The existing debt mediation program offers an excellent alternative to other courses of action such as Chapter 12 bankruptcy.

Several mediation cases conducted through the existing voluntary program have resulted in creative and positive outcomes, allowing

An Affirmative Action/Equal Employment Opportunity Employer

the producers to continue in agriculture and avoid very costly litigations, etc. The various financial institutions represented in the state have, for the most part, been very willing to work with the volutary mediation program and have encouraged participation whenever possible.

Activities that reduce the financial stresses in agriculture will help to mitigate the forces that are causing the downward pressure on the agricultural economy and eventually improve longterm recovery for agricultural producers and the state of Montana. For these reasons, the Montana Department of Agriculture supports Senate Bill 321.

In testifying in support of this legislation, I would urge that Montana move forward with a mandatory bill, as the experience in Iowa, Wisconsin, and Kansas suggests that a voluntary bill will not create the desired result because very few cases will be processed. Secondly, I would urge that the mediation service function on a neutral basis, and that it cannot be administered by any group that is advocate for farmers. Finally, it is extremely important that the mediators are trained by a reputable mediation group. The training should not be less than thirty hours, and follow-up evaluations should be done after the training is completed. If you have any questions, feel free to contact me.

Sincerely yours,

A handwritten signature in cursive script, reading "Micheal L. Thompson".

Micheal L. Thompson
Executive Director

EXHIBIT 19DATE 3/13/47SB 321

WITNESS STATEMENT

Sen. Greg. Jergeson

NAME Jayce Jaramio BILL NO. 321
ADDRESS Grubbs, Mt. DATE 3-13-47
WHOM DO YOU REPRESENT? Ma Co Agricultural Committee
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION
HELENA, MONTANA 59620-0201

EXHIBIT #20
DATE 3/13/87
SB 321

TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
DIRECTOR KEITH KELLY
FOR THE HOUSE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE
ON SENATE BILL 321
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An Affirmative Action/Equal Employment Opportunity Employer

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Activities that reduce the financial stresses in agriculture will help to mitigate the forces that are causing the downward pressure on the agricultural economy and eventually improve longterm recovery for agricultural producers and the state of Montana. For these reasons, the Montana Department of Agriculture supports Senate Bill 321.



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION
HELENA, MONTANA 59620-0201

EXHIBIT # 20 A
DATE 3/3/87
SB 321
Sen. Greg Jergeson
TELEPHONE:
AREA CODE 408
444-3144

KEITH KELLY
DIRECTOR

March 12, 1987

Memorandum

TO: Senator Greg Jergeson

FR: Keith Kelly
Director

RE: Suggested Amendments to Senate Bill 321 on Voluntary
Debt Mediation

The following new sections are proposed as amendments to
Senate Bill 321.

New Section - Fees to Support Program The department may
charge a fee from the participants in a debt mediation to
partially offset program costs.

New Section - Appropriation and Spending Authority. The
department has \$25,000 per annum appropriated to it from the
general fund for the purpose of administering the mediation
program. The department shall have a total spending
authority of \$50,000 per annum for the purpose of
administering the program. This sum shall include the
general fund appropriations of \$25,000 per annum and \$25,000
per annum in fees collected within the program.

jd/ibm/jergeson



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION

HELENA, MONTANA 59620-0201

TELEPHONE:
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authority of \$50,000 per annum for the purpose of
administering the program. This sum shall include the
general fund appropriations of \$25,000 per annum and \$25,000
per annum in fees collected within the program.

jd/ibm/jergeson

Rep Duane Compton (Chairman)

I would like you to support SB 321

Right to mediation, SB142 Right of 1st Refusal

It would reduce foreclosures and bankruptcies.

Thank you

Ken Jorgensen
Box 38
Lambert mt,
59243

To: House Ag Committee

I am in favor of bill HB ³²¹~~322~~ +
hope it will pass. One Party should
have right to request: so things could be
Worked out for both Parties

Thank you
Kenneth D Turner
Box 406
Neskwa, Mont 59248
Phone 746-3335

EXHIBIT 24
DATE 3/13/87
~~SB~~ 321

To: House Ag Committee

I believe HB ³²¹ ~~132~~ should be
passed. I also feel that it
should be so that one party
could have the right to request
it. This would help to bring
about communication, and
keep a bad situation from
getting worse.

Thank you
Melvin Novak
Nashua, N.H.
59242

Ph 785-2381

#25
EXHIBIT 3/13/87
DATE _____
#25B 321

Ronald Garwood,
HC 81 Box 215
Nashua, MT 59248

755-4781

To the House Agriculture Committee,
My name is Ron Garwood and I'd like
to give written testimony to you today.
I'm asking you to please pass House
Bill 321 (The Right to Mediation). We as
farmers are going through tough times now
and we need all the help we can to survive.
We need the Right to Mediation here in
Montana. Right now if we were being
foreclosed on by a banker we wouldn't have
a chance if a banker didn't want to
negotiate. If HB 321 was in effect,
~~and~~ we the farmers or ranchers would have
a chance to work things out.
Please pass HB 321.

Sincerely
Ronald Garwood

ENCL 26
DATE 3/21/87
HB SB 321

Chairman Duane Compton
House Agriculture Committee

March 12, 1987

I support SB 321, Right to Mediation, because it would help to reduce foreclosures and bankruptcies. This would help the employment situation by keeping people on their farms. Family farmers and ranchers spend money in our small towns and help keep them going. What's going to happen if farmers are foreclosed on?

Todd Chamberlain
Box 107
Culbertson mt.
59218

Todd Chamberlain
Culbertson

Chairman Duane Compton
House Agriculture Committee

March 11, 1987

Chairman and members of the committee:

We are presenting this written testimony in support of SB 321, Right to Mediation.

Most responsible independent bankers are aware that there has to be a readjustment of many agricultural loans, including loan write-downs and interest rate reductions. If a troubled borrower can cashflow with a reduced interest rate now, he might be able to pay a higher interest rate in the future when his situation is improved. Otherwise the lender might be faced with foreclosure or bankruptcy.

Currently the Farm Credit Services District 12 operates on a 3% margin (the percentage points with which the interest rate charged to borrowers exceeds the cost of money to the lender). Other lending institutions still try a 5% margin -- with the price of wheat around \$2.50 this is excessive. What is to be gained by forcing a farmer through foreclosure? Right to Mediation would provide the benefit of increased mutual trust between the borrower and the lender.

Sylvia Harmon
Dean Harmon
Bainville, 769-2127
Sylvia Harmon
Dean Harmon
Bainville

EXHIBIT 28
DATE 3/13/87
~~SB~~ SB 321

March 11, 1987

Chairman Compton and members of the Committee:

I am sending this written testimony in support of SB 321, Right to Mediation.

Any banker I've talked to shudders at the thought of foreclosure. Isn't the potential loss of a farm worth a brief period in which the two parties step back, analyze the situation on neutral ground and maybe iron-out their differences? The lender is not bound to an agreement he doesn't like.

In an increasing amount of contractual relations mediation is employed to conciliate between two parties in often emotionally-charged situations. Mediation is an accepted social response to potentially adversarial relations between two parties in a contract. In some states both partners must talk to an impartial counselor before proceeding with divorce. Union contracts provide for mediation and grievance procedures. The whole legal system employs this kind of process, where two parties to a contract meet with a neutral third party before going to court.

I strongly urge you to support this bill.

Sincerely,

Robert P. Wilson
Bannock
406-769-2534

Robert P. Wilson

EXHIBIT 29

DATE 3/13/87

~~HB~~ SB 321

Circle, Montana
March 10, 1987

Duane Compton, Chairman
State Capitol
Helena, Montana

Dear Mr. Compton:

Being in agriculture, I urge you
to support S.B. 321 - right to mediation.
Thank you!

Sincerely,
Dloyd R. Springer

Chairman Compton and members of the Committee:

We ranch near Bainville and are presenting this testimony on behalf of the Big Muddy Resource Council. We strongly support SB 321, Right to Mediation and SB 142, Right of First Refusal. These bills would give farmers and ranchers going broke a straw to clutch at -- and maybe help them survive.

We need SB 321, Right to Mediation and not voluntary mediation. If lenders and borrowers agree to negotiate, they don't need a mediation program. When two people are at odds, it is a great idea to have an impartial, trained third party to help them get together and try to resolve their differences.

We hear that some big banks are arguing that this bill would dry up credit. This has no merit whatsoever. It's ridiculous. If people are going bankrupt, credit's already dried up. Why wouldn't a banker want to help stabilize a borrower's situation and keep collecting interest payments on his loan? What is the alternative? Bankruptcy? Foreclosure?

With SB 142, we would like the time a borrower has to file the right of first refusal notice with the clerk and recorder extended from three days to three weeks. It takes 20 years to go broke, so why can't you have a few weeks to file your notice?

We strongly urge you to vote in favor of SB 321 and SB 142.

Bob Nyquist
Rueh m Nyquist
NC 58, Box 38
B. al. cont. 59



Circle, Montana
RR 367 Box 9
March 12, 1937

EXHIBIT 31

DATE 3/13/37

SB 321

Deane Compton, Chm.
Senate Ag. Committee
Helena, Montana

Dear Mr. Compton,

I have been in the ranching
farming business for forty
years and it distresses me
greatly to see our small farms
and small towns gradually
wither & dry up.

I would appreciate a "yes"
vote on SB 321 - the right to
mediation (not voluntary)
and also a "yes" vote on
SB 142 - the right to first refusal.

Thanking you for your
consideration

Sincerely,
Jean Becker

EXHIBIT 32
DATE 3/13/87
~~SB~~ SB 321

March 12, 1987

House Agricultural Committee
House of Representatives
Capitol Station
Helena, MT 59601

ATTENTION: Duane Compton, Chairman

Re: SB 321

Dear Sir:

My name is Charles Yarger. I am a farmer and rancher from Eastern Montana.

I am writing to urge your support of SB 321. The Right to Mediation Bill as it was introduced in the Senate is a much better bill than the ammended version passed by the Senate.

The original bill provided a meaningful mechanism for both the lender and borrower to work out differences. Mediation, if allowed to function properly is a much better alternative than foreclosure by the lender and Chapter 12 bankruptcy by the borrower.

The only way legitimate mediation will be accomplished is by passing the bill in its original form.

I urge your support.

Sincerely,



Charles Yarger

Chairman of the House Agriculture Committee

EXHIBIT 33

DATE 3/13/87

LSB 321

I am writing this to request your support of SB 321. As the bill is currently amended giving only optional mediation it will be in my opinion of more limited value than the original intent of the bill - Right to Mediation. With this in mind it would be my hope that the Committee will find the superior value in right to mediation and return to the bill its original potential.

The potential value of this bill in my estimation is to lend stability to already troubled communities. By allowing for a forum for sometimes otherwise non-negotiable members of a debtor-creditor relationship it has been demonstrated in other states that a higher rate of successful debt work out solutions have resulted because of this process.

I appreciate your thoughtful consideration and the challenges you all face in these complicated times.

Thank you,

Jerry Schilling - Farmer
Box 147

Circle, MT 59215

485-2479

EXHIBIT 34

DATE 3/13/87

~~SB~~ SB 321

Circle, Mont

March 10, 1987

Ag Committee members,

I am urging you to support SB 142 and also SB 321. I believe these two bills are very important in keeping some of our farmers in business.

I do not think they will hurt the value of agricultural land or dry up credit for ag borrowers.

Mediation between lender & borrower should definitely take place before foreclosure is considered.

Thank you.

Sincerely
Glenn Haller

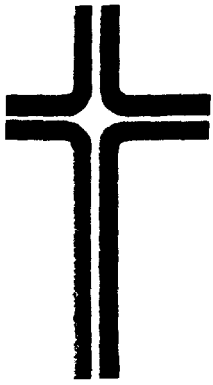


EXHIBIT # 35
DATE 3/3/87
SB 321

FROID-EBENEZER LUTHERAN PARISH

FROID and McCABE, MONTANA

Post Office Box 16

Froid, Montana 59226

Office (406) 766-2268

March 11, 1987

Rep. Duane Compton
Chairman, House Agriculture Committee

Chairman:

My name is Rev. Susan Honn. I am a Lutheran pastor in Froid, Montana. I am concerned about Senate Bill 321, Right to Mediation.

When farmers and ranchers are in financial trouble, the whole agricultural community is affected and suffers along with them. Businesses, schools, and churches are all closely tied to what is happening to the land and those who farm and ranch. When faced with overwhelming bills, interest, and limited choices - I think it is vital that farmers and ranchers have the right to an impartial mediator to attempt to salvage their business and way of life. We seem to accept this type of mediation for employers and employees in strike situations. Is this rural crisis any less an important area to apply mediation? I would think all parties concerned - banks, businesses, consumers, towns, and farmer/ranchers - would benefit from mediation that might find solutions other than foreclosure or bankruptcy for our troubled economic situation.

Thank you for considering this. I urge you to vote in favor of SB321, Right to Mediation.

Yours very truly,

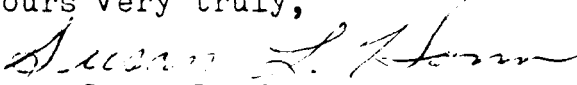

Rev. Susan L. Honn



EXHIBIT 36
DATE 3/13/87
SB 321

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59601

March 13, 1987

CHAIRMAN COMPTON AND MEMBERS OF THE HOUSE AGRICULTURAL COMMITTEE:

WORKING TOGETHER:

American Baptist Churches
of the Northwest

American Lutheran Church
Rocky Mountain District

Christian Church
(Disciples of Christ)
in Montana

Episcopal Church
Diocese of Montana

Lutheran Church
in America
Pacific Northwest Synod

Roman Catholic Diocese
of Great Falls-Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
MT-N.WY Conference

United Methodist Church
Yellowstone Conference

Presbyterian Church (U.S.A.)
Glacier Presbytery

Presbyterian Church (U.S.A.)
Yellowstone Presbytery

I am Mignon Waterman and I am representing the Montana Association of Churches.

Mediation can open communication between lender and borrower. They can begin to listen to each other and be more objective. Mediation can be a useful tool to the restructuring of loans which is probably the most productive way to protect the lender's investment and to keep the borrower on the land.

Agriculture is the number one industry in Montana. If you save agriculture, hundreds of small businesses and many rural communities will survive.

Both lenders and borrowers are losers in a foreclosure. As we have seen with the voluntary mediation process that has been used successfully in Montana, through mediation, both borrower and lender can be winners.

Montana Association of Churches supports the voluntary mediation provided in SB321.

WITNESS STATEMENT

We have a Dairy in Polson

NAME Jeriann Wilson, (James H Wilson) BILL NO. 321
ADDRESS RT 1 box 174 Polson MT 59860 DATE 3-13-87
WHOM DO YOU REPRESENT? MPA
SUPPORT X OPPOSE _____ AMEND NO Amend me

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: SB 321 Right to mediation - it just gets the borrower + lender to the table. The mediator does not arbitrate. The borrower can take an obviously viable plan to the table + the lender can indeed turn it down. SB 321 just gets them to the table.

I feel it is desperately needed to help insure the continuation of the family farm as we know it.

Farmers who are closed upon, are referred to, by lenders as inefficient managers. Inefficient managers were out of the picture 10 or 12 yrs ago for the most part.

My husband works (ave) 12-15 hrs a day, our personal living is less than minimum wage. Governor Schwinden told my husband + hers to do what he did and get a part time job to support their farms. That tells me just exactly how little he thinks of Montana's industry.

Farmers walk a thin line - it takes just one act of God, too much or too little rain, hail, or an early frost to make a lender call a good manager a "inefficient manager".

No lender truly interested in saving the family farm could possibly be against SB 321. In my opinion a lender against SB 321 is afraid of files revealing acts of bad faith on their part and being liable for them as well he should be. There would be justice for the farmer too! We must do everything possible to save the MPA operation, the family farm

because it is not just a job description - it is a way of life.

Please vote for SB 321, please vote to strike the AKlestead Amendments so it can have a chance to work for borrowers and lenders - as in other states.

Thank you.

Gerriann Wilson
Polson Mt.

Jean Hough
Box 69
Broadus, Montana 59317

EXHIBIT 38
DATE 3/13/87
SB 321

3-11-87

Dear Susan Compton,

I'm writing to urge you to do
all you can to support my move-
ment to turn SB 321 from voluntary
mediation to right to mediation
between borrower and lender.

I don't believe it will dry up
any more financing potential, because
even now, lenders have plenty of money
to lend but are reluctant to loan
to even good operators in agriculture.

Thank you for your effort &
commitment to the difficult task
of guiding our State in these difficult
times.

Please don't forget the farm &
ranch heritage of Montana. It really
needs loyal friends now.

Thank you.

Jean Hough



Montana Catholic Conference

EXHIBIT 3A
DATE 3/31/87
SB 321

March 13, 1987

CHAIRMAN COMPTON AND MEMBERS OF THE HOUSE AGRICULTURAL COMMITTEE:

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.



EXHIBIT # 40
DATE 3/13/87
SB 321

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

Mr. Chairman and members of the House Ag Committee:

My name is Dave Siegle. I am a dairy farmer from Glendive. I am 35 years old, married and I have 4 children. I regret that I cannot attend the hearing today due to prior business and personal commitments. I would like to share with you my comments on SB 321, Right to Mediation, from my own experience and on what mediation has done for me.

Our farming operation was financed with the local PCA. A couple of years ago they went into liquidation. At the time, finding other financing was very short in our community. I strongly feel that if it had not been for our efforts in keeping in close contact with the PCA in liquidation, our two year effort in finding financing would have been in vain. Because of keeping in contact with the PCA, they were sincere in working with us.

I have seen too many instances, personally, that where communication has broken down between the borrower and the lender, nothing is resolved but a big headache for everyone involved.

I sincerely believe that a right to mediation program with a

neutral third party would help defuse many volatile situations. Not everyone is capable of doing their own mediation and the impartial mediator would help that. Not everyone will be a winner with right to mediation, but not everyone will be a loser.

I strongly urge all of the members of the House Ag Committee to support SB 321 as right to mediation. If any of the representatives have questions they would like to ask me, they are more than welcome to contact me:

Dave Siegle
Cracker Box Route
Glendive, MT 59330

486-5750

WITNESS STATEMENT

NAME Mary Kee BILL NO. SB 321
ADDRESS Roundup, Mt DATE 3-13-87
WHOM DO YOU REPRESENT? Montana People's Action
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr Chairman, committee members, My name is Mary Kee of Roundup, Mt & I am a member of Montana People's Action. I am here in support of SB 321 as originally written with the right to mediation. I applied for voluntary mediation and the Farm Credit System refused to mediate.

I urge to support the amendment to restore SB 321 to its original form

Thank you

Mary Kee

WITNESS STATEMENT

NAME

Buttons Mathias

BILL NO.

SB321

ADDRESS

Columbus Mt.

DATE

3-13-87

WHOM DO YOU REPRESENT?

WPRC

SUPPORT

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

In mediation, we must start to solve the problems of both production agriculture and Ag Lenders. Both are in a crisis.

If production ag & ag Lenders were ~~mediation~~ practicing mediation, we would not be here in support of this bill. There would also not be the rash of bank faith suits or the great increases in Bankruptcy.

Thank you.

Buttons Mathias

WITNESS STATEMENT

NAME Al Verschoof BILL NO. 321
 ADDRESS Ronan, Mt. DATE 3-13-87
 WHOM DO YOU REPRESENT? M PA
 SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mediation strikes terror in the hearts of Bankers, I wonder why. In North Dakota where they don't have the right to mediation Farm Credit System has offered a 180,000 acres on Wall Street for 4.9% and at the market value of the assets today. In other words land at 8⁰⁰ per acre. If they had given this same consideration to the farmer on the land he would have still been a viable operator and still turn revenue into the State funds. This same will happen here and in some cases it already has.

Al Verschoof

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

March 12, 1987

Mr. Chairman and members of the House Ag Committee:

My name is R'Delle Gibbs. I am a rancher from Glendive. I would like to testify in favor of the "Right to Mediation" because I believe, in the tense atmosphere of foreclosure proceedings, a third uninterested party could be of great value. We all know that when a lender and borrower get to this point, a lot of hurt feelings and very strong positions are involved. A third, well-qualified person, may be able to out a solution besides the foreclosure that would be more advantageous to the lender and borrower, or at least help the borrower to face the inevitable in a more cooperative manner, assured that all possible solutions had been explored.

I urge all the members of the committee to support SB 321-Right to Mediation. Thank you.

JOHN CHRYSTAL
Chairman of the Board
and
Chief Executive Officer
515-245 2413



Bankers Trust

March 11, 1987

Montana House of Representatives
Attention: Ag Committee
State Capitol
Helena, Montana 59601

Gentlemen:

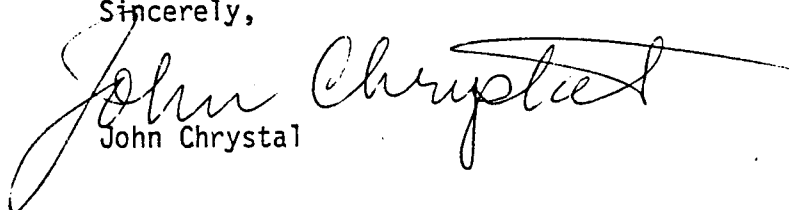
You have asked about the farmer-creditor mediation law passed last year in Iowa and the result.

I can tell you that I am a past Superintendent of Banking and past President of the Iowa Bankers Association. I am currently President of the Independent Bankers Association of Iowa.

The mediation service is well accepted by the banking community now, even though they were somewhat afraid at first. We did not provide farmer preparation money at first and that slowed the process. Now we are curing that problem. The farmers seem willing but not eager for mediation, but like it when actually participating.

I would urge Montana to use Iowa's law as a model, but warn you that a lot of success rests with the choice of director. That person must be professional and a teacher.

Sincerely,



John Chrystal

JC:dk

EXHIBIT 45

DATE 3/13/87

SB 321

Sen. Greg Jergeson

EXHIBIT 46
DATE 3/13/87
SB 321
Sen. Greg Jorgeson

SB-142 & SB-321

Mr. Chairman and Members of the Committee:

The number of farms going out of business and the availability of ag credit has been discussed at length these past 2 months. We thought a few facts would give you a more accurate picture of the situation.

First the number of farms stabilized this past decade at about 23,000 (Exhibit A & B). The rate of attrition is now lower than any previous period during the last 50 years. In 1986 about 200 farms went out of business or about 4 per week, which is less than 1% of the total.

A survey by the Montana Department of Agriculture shows the overall farm debt to asset ratio fell for the third consecutive year to 23.4% (Exhibit C). Further, the number of delinquent operating loans dropped from 33.3% to just 14.2%.

Also of interest, PCA's share of ag operating debt has dropped from 38.7% two years ago to just 11.5% today. Banks on the other hand are still holding about 50% of the ag operating debt, and increasing their share of farm real estate loans.

A survey by the Federal Reserve Bank in Minneapolis showed a growth in farmers earnings for the first time in three years in the upper Midwest (Exhibit D). Higher prices, crop yields and lower costs and interest rates caused the rise in earnings. Land values, however, continue to decline. This survey also concluded more real estate loans were shifting from the Farm Credit System to banks.

A national study by the American Bankers Association (Exhibit E) showed total ag related loans by banks decreased in 1985 and 1986 (Exhibit F). Delinquency and loss rates on ag production loans increased substantially during the same period (Exhibit G). Montana has the highest percent (8.08% on Exhibit H) of non performing loans as to all loans and second highest (51.81% on Exhibit I & J) non-performing loans to capital ratio.

The Sheshunoff report (Exhibit K) reveals an 80% drop in earnings for Montana banks during the first nine months of last year. We ranked 47th in the nation in total earnings and 48th in non-performing loans. Loan growth was a -4.2% loss compared to a +2.9% growth for the nation.

In conclusion, these statistics show some slight improvement in ag debt, but it is still a serious problem. There are still over 23,000 farms and ranches who need capital to survive. In spite of loan delinquencies and loss in earnings, banks are still major providers of ag credit in Montana.

Right of first refusal, mandatory mediation or any other legislation which impairs your hometown banker's ability to recover money deposited at your bank that has been loaned out to a farmer or which creates additional costs that must be passed on to the other farm customers of the bank, or which destroys the incentive to make an ag loan in the first place is certainly not good for you or Montana's farmers and ranchers.

<u>Year</u>	<u># of Farms in Montana</u>	<u># Increase/ Decrease</u>	<u>Increase/ Decrease</u>
1925	50,000	--	
1930	55,000	+5,000	10% increase
1935	52,000	-3,000	5%
1940	44,500	-7,500	14%
1945	40,400	-4,100	9%
1950	37,200	-3,200	8%
1955	34,800	-2,400	6%
1960	31,700	-3,100	9%
1965	28,400	-3,300	10%
1970	26,400	-2,000	7%
1975	23,400	-3,000	11%
1980	23,800	-400	2% increase
1985	23,800	+0	0%
1986	23,600	-200 *	1%

Percentages rounded off

Note: Example 1975 had 11% fewer farms than 1970.

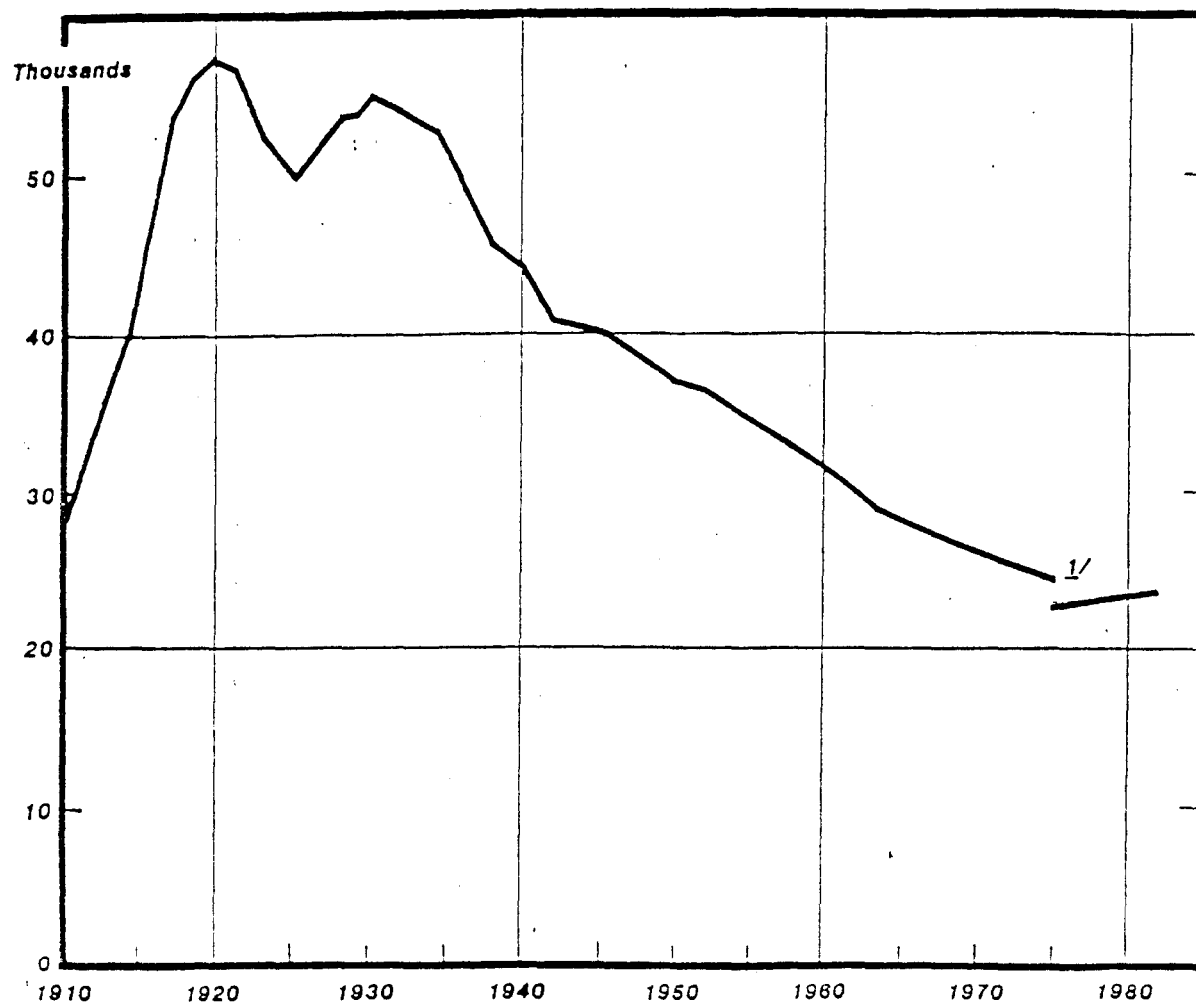
Conclusions:

1. * Average of 4 farms lost per week between 1985 and 1986.
2. More total farms operating today than 11 years ago.
3. Farm attrition stabilized in past decade.
4. Current rate of attrition lower than anytime after 1930.

SCOURCE: Montana Agricultural Statistics Service

NUMBER OF FARMS

1910 - 1982



1/ Definition changed--from 1975 and on, a farm is defined as an operation with an annual sale of \$1,000 or more.

SOURCE: Montana Department of Agriculture

Montanans pay debts while fleeing FCS

By T.J. GILLES

Tribune Agriculture Editor

Montana farmers and ranchers used last year's good crops, livestock sales and federal payments to reduce their debt loads and delinquency levels — while continuing to bolt from the Farm Credit System, a state Department of Agriculture survey concludes.

The survey conducted by Montana Ag Statistics during November and December indicate that "we've shown an improvement in the agricultural balance sheet of Montana," state Agriculture Director Keith Kelly said.

He said livestock producers benefited from better prices last year and many continued to cut into their base herds to pay off some debt.

In addition, federal farm-program payments also were used to pay off debt last year, reducing debt-to-asset ratios and repayment delinquency rates.

Yet 45 percent of those surveyed reported a net income loss in 1986, with heavier losses in the eastern part of the state.

Figures from 1985 showed an average \$15,000 per farm net loss, despite the infusion of an average of \$2,000 in federal money.

Kelly said the state's ag economy underwent "an entire restructuring" during 1986 with "a fairly substantial catching up of delinquency on loans" and an overall reduction in producers' debt-to-asset ratios.

Ratios improved somewhat in the northcentral, central, eastern and southwestern areas while deteriorating in the northwest and southcentral parts of the state, the survey summary said.

The overall debt-to-asset ratio, which averaged 27.3 percent a year earlier and 23.2 percent in 1984, has dropped to 21.4 percent. The higher the debt-to-asset ratio, the less viable a farm tends to be.

The average Montana farm had \$133,171 in debt (the lowest since 1960) and \$653,736 worth of assets — lowest since 1978.

Straight livestock farms had the lowest debt-to-asset ratio, 13.1 percent, down three points from a year earlier.

Grain-only farms were next-best, with debts averaging 22.1 percent of assets — the only category of farm to show an increase in debt-to-asset ratio, up from 20.6 percent a year earlier.

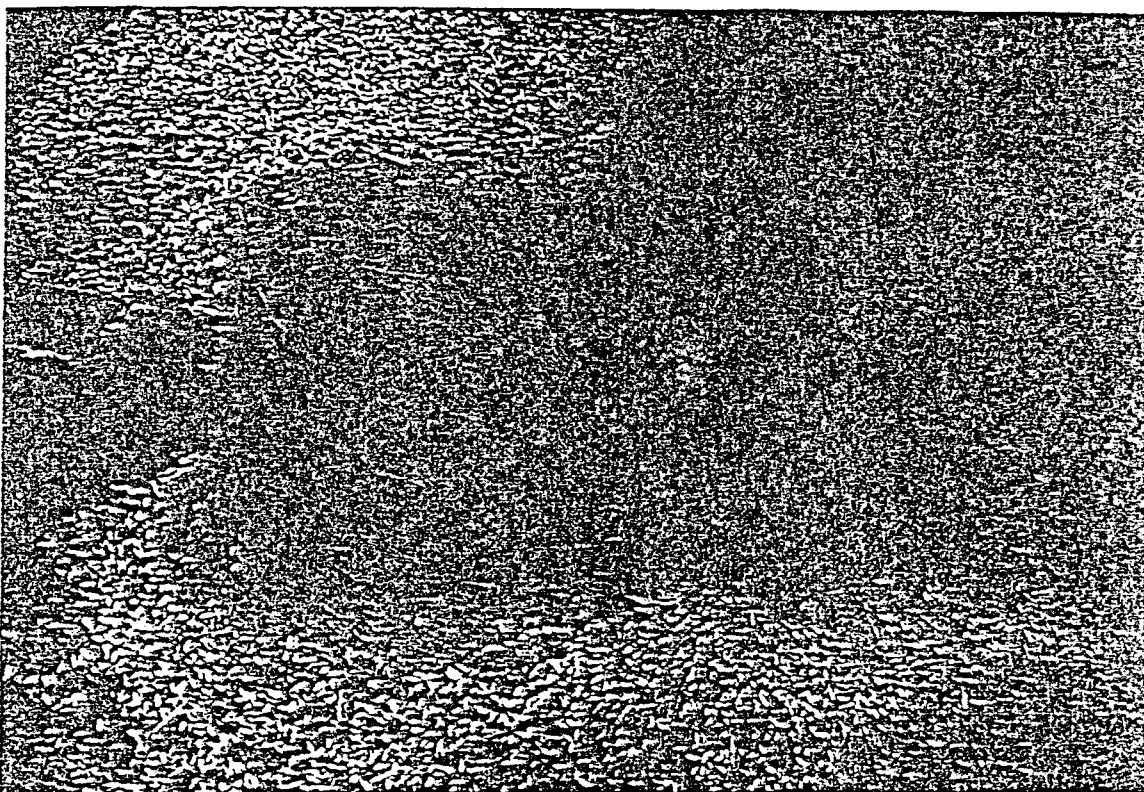
Mostly livestock farms had the highest ratio — 27.9 percent debt against assets (down from 31.2 percent a year earlier); and mostly crops farms had a debt-to-asset ratio of 25.9 percent (down from 34½ percent).

Farmers 25-44 years of age had the highest ratios — more than one-third of their assets were covered by debt — while those 45-54 years of age made the biggest debt payoffs, reducing their debt-to-asset ratio from an average of 32.9 percent in 1985 down to 25.5 percent late last year.

A year earlier, about one-third of Montana's farm operating loans were delinquent, he said, but the delinquency rate has been reduced to just 14.2 percent.

Cash grain operators had the lowest delinquency rate in operating loans — 13.7 percent to livestock producers' 14 percent.

While one in four real-estate loans



Richard Mousel Photo

A return of decent crops, federal subsidies and livestock sales all were put into debt retirement last year as Montana farmers and ranchers recouped most of the financial position they had lost during the big drought year of 1985, a government survey says. This wheat photo, by Richard Mousel of Fort Benton, won an honorable mention in the agricultural division of the Tribune's annual color photography contest.

Kelly: Surviving farms return to 1984 conditions

While the latest Montana ag financial survey seems to indicate great improvements from a year earlier, Agriculture Director Keith Kelly says that in reality farmers' financial shape has merely returned to 1984 levels.

That's despite about a 25 percent drop in land values and a 20 percent reduction in the state's cattle numbers since 1984, he said.

And he said the survey procedure

and follow-up calls indicate that at least 200 — and perhaps 300-600 — farms have quit the business over the past year. "We have to acknowledge that there are some farmsteads out there that nobody's there to answer the phone, to fill out the survey," Kelly said.

An American Bankers Association survey indicated Montana may be losing about 10 farms weekly, but Kelly said it's likely the attrition

rate is at least double that figure.

Kelly noted that "1984 was not a good year" for Montana agriculture as that first year of severe statewide drought saw the smallest grain crops in 25 years and stockmen began reducing herds as forage became dear. The drought continued in 1985, a year of abandoned fields, record crop-insurance receipts and single-digit grain yields that were the worst since the 1930s.

Kelly said survey results show that "if you survived the 1985 wreck, you're back to where you were in '84."

The survey, which cost \$5,000, was begun in 1984 but may not be back next year. Survey expenses — the ag department contracts with Montana Ag Statistics for the work — were part of a farm counseling appropriation bill that was killed recently in the Legislature.

were delinquent in 1985, 13.4 percent of real-estate loans now are behind their payment schedules.

The report said livestock producers had the lowest delinquency rates on real-estate loans, 11.1 percent, while 15.1 percent of real-estate loans of cash grain operators were delinquent.

The mostly livestock farm class had the highest delinquency rates — 23.6 percent on real estate and 17.7 percent on operating loans.

Those in the 25-34 age group had the highest operating loan delinquency rates, 19.7 percent, while those at least 55 years old had the lowest delinquency, 10 percent.

Real-estate delinquencies were highest (22.6 percent) among farmers 35-44 years old and lowest (5.6 percent) among those over 65.

More than one quarter of operating loans were delinquent for farms 2,000-2,999 acres, the highest rate. For farms 3,000 acres or larger, the

operating delinquency rate was around 7 percent.

The survey also documents a capitalization flight from Production Credit Associations to commercial banks, insurance companies and individuals.

In 1984, PCAs held 38.7 percent of the state's ag operating debt, according to the surveys. More than 55 percent of PCAs' business left within a year, giving PCAs just a 17.6 percent share of the operating-loan paper in 1985, Kelly said, and "now, it's just 11½ percent."

Most of that slack has been taken up by "individuals and others." From 1984 to 1985, the amount of operating loans held by this category multiplied 4½ times to grab 13.6 percent of the market.

They now hold 25 percent of ag's operating-loan paper, the survey said.

The federal Farmers Home Administration saw its biggest volume

growth in 1985, picking up 29 percent more operating loan volume than the previous year to take 8.1 percent of the total. That grew to 9.3 percent of the total last year, according to the survey.

The FmHA, federal "lender of last resort," has been phasing out its direct loan programs in favor of guaranteed loans issued through private lenders.

Commercial banks now hold half the non-real estate ag credit, down from 56 percent a year earlier.

Federal Land Banks continue to be the major real-estate ag lender, holding 38½ percent of the paper, compared to 41½ percent two years earlier.

Commercial banks increased their share of real-estate loan volume from 10.5 percent to 13.5 percent, while the FmHA share grew from 13.4 percent to 16.7 percent. Individuals' share of real-estate volume backed off from 25.2 percent to 22½

percent.

Farmers with zero debt accounted for 23 percent of the sampling, up from 20 percent a year earlier.

Some 13.9 percent of those surveyed said they had been turned down when applying for loans, but half said they secured financing elsewhere.

A year earlier, 15.6 percent said they had been turned down and 47 percent of these were able to secure funds elsewhere.

Some 51 percent of those surveyed said the believed they'd continue farming until retirement. Forty-seven percent of the respondents were at least 55 years old. Of those who said they'd leave farming earlier, 66 percent cited financial reasons.

About one dollar in five earned by the respondents came from off-farm income, the survey said.

Percentages ranged from 43 for farms under 500 acres to just 4 for farms over 10,000.

GREAT FALLS TRIBUNE
Great Falls, MT 59403
(D-38,056, S-43,997)
FEB 15 1987

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Bankers expect repayment as earnings rise

By T.J. GILLES

Tribune Agriculture Editor

Bankers in the upper Midwest report an upswing in farmers' earnings during the final quarter of 1986, according to a survey by the Federal Reserve Bank of Minneapolis.

The survey of 90 banks in Montana, the Dakotas, Minnesota and upper Wisconsin said 43 percent of respondents reported fourth-quarter farm earnings were larger than a year ago and only 17 percent said earnings were smaller.

"This is the first time in more than three years that more bankers

report earnings growth than report a decline," wrote research economist Stanley L. Graham.

The improvement in earnings reflects both increases in gross incomes and reductions in operating costs, he said.

"The rise in gross earnings comes from higher livestock prices, higher crop yields reinforced by government price support payments and advance government payments on the 1987 farm program," Graham said in the bank's quarterly ag credit conditions survey.

"In the fourth quarter, compared

to a year earlier, farmers got higher prices for hogs, calves and feeder cattle and higher yields for a variety of crops. ... In Montana, higher yields partly reflect ample moisture, which signals the end of a prolonged drought."

Graham also said bankers say farm operating costs declined because of government programs removing land from production and the added benefit of "lower prices for feed, fertilizer and fuel; lower cash rents; and lower interest rates."

Short-term fixed rates averaged 11.66 percent during the quarter, about a quarter of a point lower than in September and 1.5 points below a year earlier.

Credit conditions at rural banks improved in the Ninth District as farmers "were mainly not spending their earnings as much as using them to pay off debt. ... The bankers also seem to expect farmers to continue to emphasize debt reducing over spending when deciding what to do with their earnings."

Some 21 percent of bankers surveyed said farm loan repayments

were slower than usual for the fourth quarter, which Graham said is "the smallest percentage reporting slow repayment in the last seven years."

Forty-two percent of respondents said demand for farm real-estate loans was greater than usual, which Graham said "reflects a continuation of the shifting of real-estate loans from the Farm Credit System to commercial banks."

Although some bankers reported that some farmers are planning to replace farm equipment or invest in other long-delayed expenditures, some 76 percent said up to half their farm customers already are loaned up to their debt limits — eight percentage points above the level of one year earlier.

The survey also indicated that land values continued to decline during the quarter, as they have since the Fed began including land values in its surveys three years ago.

During the fourth quarter, values of irrigated land dropped by 3.8 percent, dry cropland values went down 4.4 percent and grazing and pasture land went down 6.1 percent in value.

Patricia Lorenzen of the bank

said no dollar land-value figures or state-by-state values are compiled.

U.S. Department of Agriculture estimates say land values peaked in 1981 and 1982, but the Ninth District did not begin surveying values until 1984.

Based on quarterly changes since the final quarter of 1983, irrigated land values in the district have fallen by 42 percent, non-irrigated land by nearly 50 percent and grazing and pasture land nearly 60 percent.

Graham said the continuing drop in land values in the face of higher fourth quarter earnings can be explained two ways: "One is that bankers' estimates of land values may be reflecting investors' belief that the upturn in farm earnings will not be permanent. ... The other explanation is less pessimistic: Bankers' land value estimates may simply not yet take into account the recent farm earnings upturn."

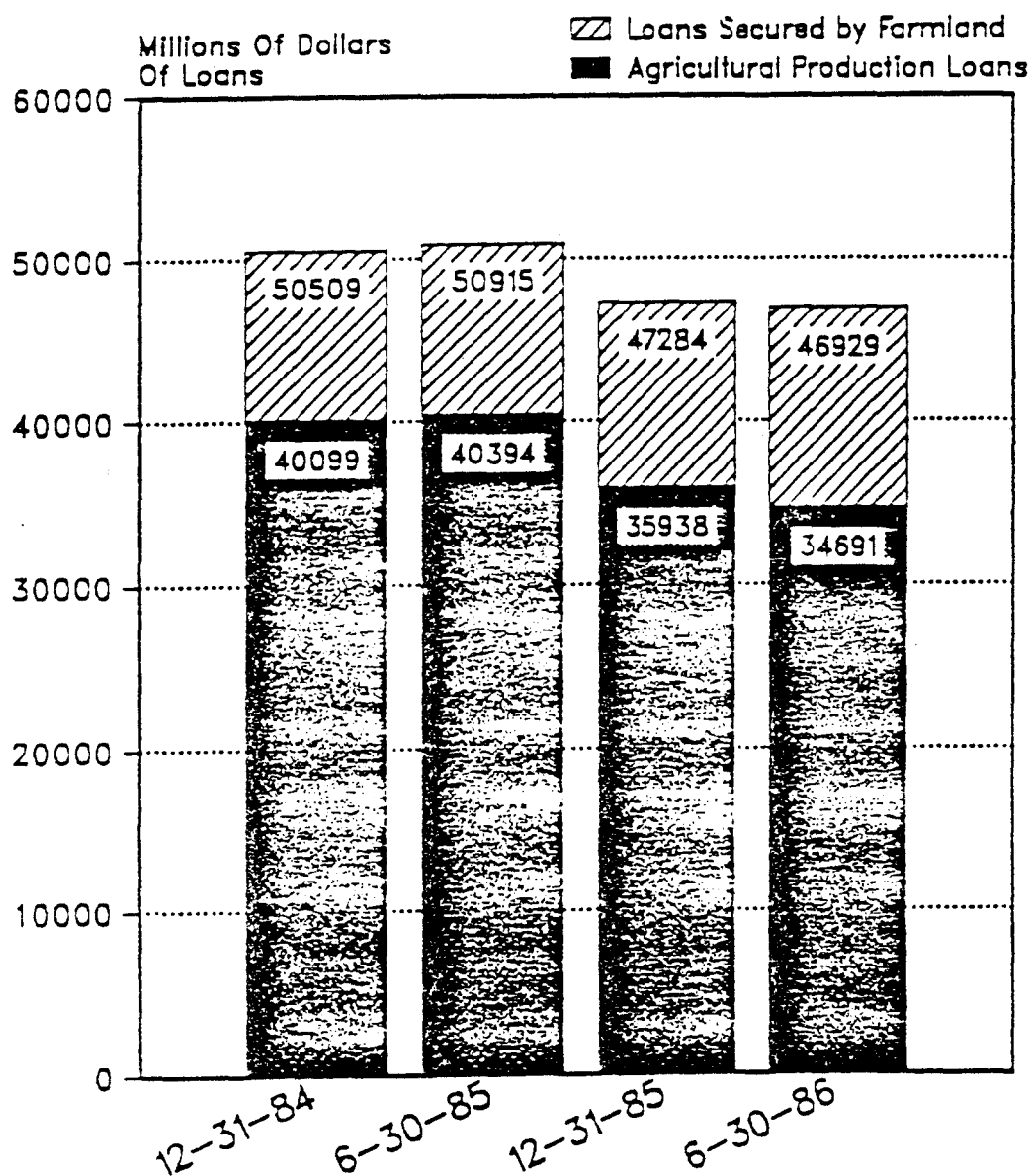
Two-thirds of bankers surveyed said demand for farm debt refinancing during the last quarter — and expected demand during the first quarter of 1987 — seem to be about normal.

MAJOR POINTS ON FARM BANK PERFORMANCE DURING THE FIRST HALF OF 1986

- o While total loans and leases increased steadily at FDIC-insured commercial banks, agriculture-related loans decreased from the end of 1984 to the middle of 1986. Loans to finance agricultural production decreased while loans secured by farmland increased. (See Table I.)
- o Delinquency and loss rates on agricultural production loans increased substantially from the end of 1984 to the middle of 1986. Similar figures for non-farm-related loans remained fairly stable over the same period. In the first half of 1986, 7.7 percent of farm loans and only 2.8 percent of non-farm loans were nonperforming. Net loss rates were 3.5 and 0.8 percents, respectively. (See Table II.)
- o In the first half of 1986, the six states with the highest delinquency and loss rates on agriculture-related bank loans were California, Colorado, Iowa, Minnesota, Missouri, and South Dakota. (See Table III.)
- o Over half of the farm banks have between \$5 and \$25 million of assets. Over forty percent have between \$25 and \$100 million. The number of farm banks has decreased from 4,909 at the end of 1984 to 4,802 in the middle of 1986. (See Table IV.)
- o Farm bank profitability has dropped dramatically since 1984, showing some improvement in the first half of 1986. The profitability of nonfarm banks of comparable size remained fairly stable over the same period and has been consistently higher than farm bank profitability. For the first half of 1986, the returns on assets and equity were 0.7 and 7.7 percents, respectively, for farm banks. For nonfarm banks, the same figures were 0.9 and 11.0 percents. Capital ratios for both groups have remained stable with farm banks consistently showing higher ratios. At the end of June 1986, farm banks averaged a 9.0 percent capital ratio while the nonfarm bank sample averaged 7.8 percent. (See Table V.)
- o Assets, equity, and loans have grown more slowly at farm banks than at nonfarm banks of similar size since the end of 1984. (See Table VI.)
- o Farm-related loans of both farm banks and similar-sized nonfarm banks have decreased since December of 1984. Farm-related loan portions have also decreased, albeit slightly. Loans secured by farmland have increased in both bank classes, increasing as a fraction of real estate loans in farm banks while decreasing in nonfarm banks. (See Table VII.)
- o The delinquency and loss rates on loans have increased for both farm and nonfarm banks of equivalent size from 1984 to the middle of 1986. In 1986, both rates were about twice as high for farm banks as for comparable nonfarm banks. (See Table VIII.)
- o The number of farm banks losing money decreased to 843 for the first half of 1986 from 882 for 1985. The number of farm banks with more past due or nonaccruing loans than equity capital increased from 208 to 319 over the same period. (See Table IX.)
- o The four states with the most farm banks and farm bank assets are Illinois, Iowa, Kansas, and Minnesota. The four states whose farm banks have the largest portion of the banking business are Iowa, Nebraska, North Dakota, and South Dakota. (See Table X.)
- o The six states whose farm banks are the most troubled by losses and nonperforming loans are Idaho, Minnesota, Wyoming, and, especially, Colorado and Montana. (See Tables XI and XII.)

CHART I

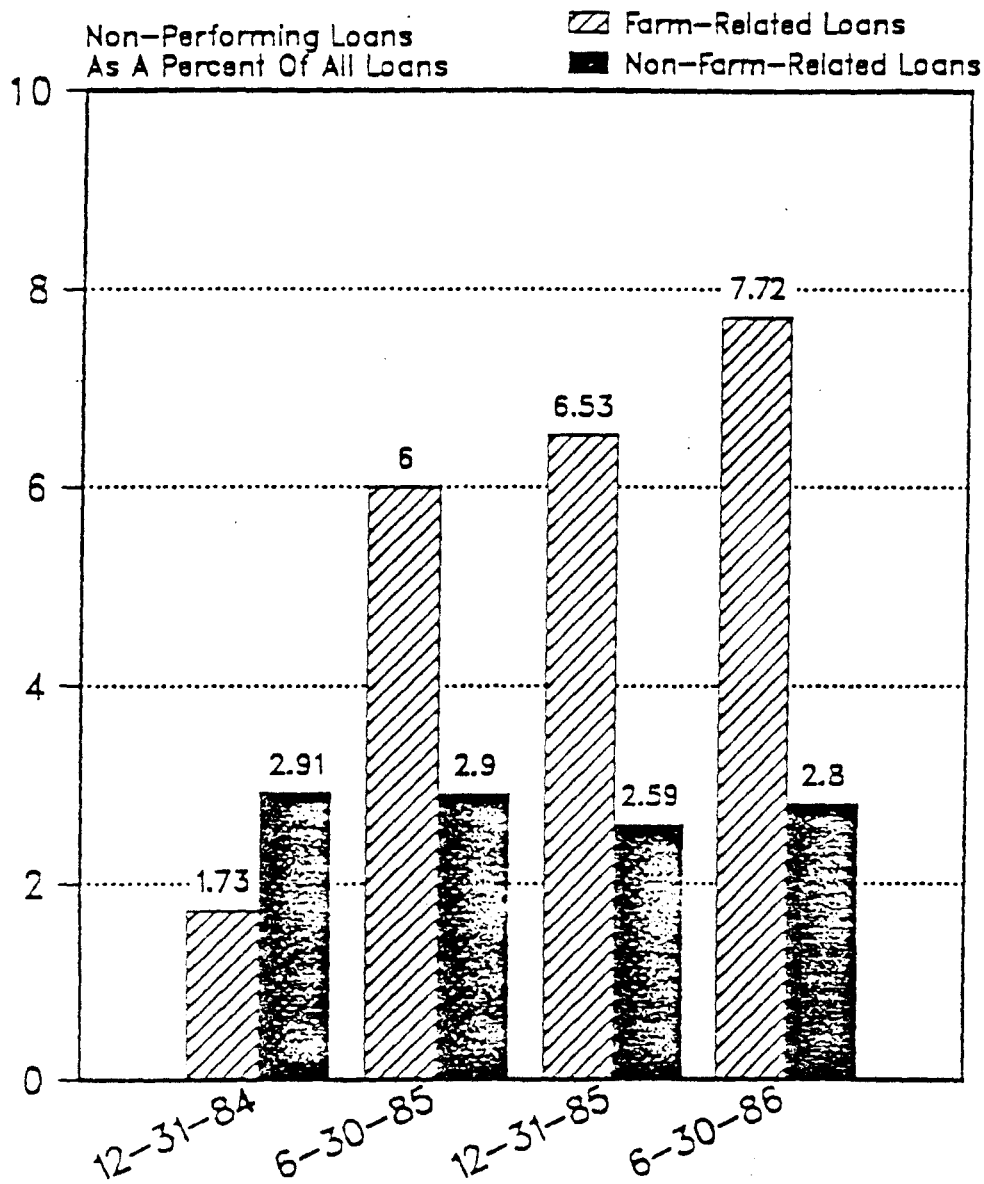
Agriculture-Related Loans At FDIC-Insured Commercial Banks



Data from Table I.

CHART II

Delinquency Rates on Farm And Non-Farm Loans At FDIC-Insured Commercial Banks



Data from "All Delinquent Loans" in Table II.

Note: "All delinquent loans" include loans whose payments are ninety or more days overdue and loans which are no longer accruing.

TABLE XII

PROBLEM LOANS OF FDIC-INSURED FARM BANKS BY STATE

June 30, 1986

State ¹	Number of Farm Banks Losing Money ²		Banks with More Nonperforming Loans than Capital ³		Nonperforming Loans at Farm Banks ³ (\$000,000)		Net Loan Losses at Farm Banks (\$000,000)		Nonperforming Loans as a Percent of All Loans ³		Net Loan Losses as a Pct. of All Loans		Provisions for Loan Losses as a Pct. of All Loans	
	No.	Rank	No.	Rank	Loans	Rank	Loss	Rank	%	Rank	%	Rank	%	Rank
ALAB.	2	24	0	--	13	28	2	29	3.21	24	.48	21	.33	29
ARK.	11	15	2	19	53	18	7	19	3.57	22	.44	23	.53	19
CAL.	1	29	1	24	16	27	3	25	6.32	8	.98	8	.46	26
COL.	23	9	11	10	125	11	22	9	7.32	2	1.28	3	1.25	6
FLA.	1	29	0	--	11	30	2	27	3.04	26	.60	18	.80	18
GA.	4	19	1	24	29	23	4	23	2.38	31	.33	29	.38	23
IDAHO	2	24	3	17	36	21	2	26	6.35	6	.42	25	.53	21
ILL.	62	6	13	8	292	3	53	2	4.16	19	.76	15	.90	14
IND.	16	14	7	13	113	13	17	10	3.16	25	.49	20	.50	22
IOWA	140	1	42	2	412	1	122	1	5.68	12	1.68	1	1.74	1
KANS.	88	3	36	3	220	6	50	5	4.78	16	1.08	5	1.30	4
KENT.	3	21	2	19	59	17	8	15	2.84	28	.39	28	.44	27
LOU.	6	18	7	13	64	16	8	16	6.34	7	.78	13	.33	16
MICH.	6	17	4	16	71	15	6	20	6.02	11	.55	19	.94	13
MINN.	106	2	47	1	322	2	52	4	6.21	10	1.00	7	1.22	7
MISS.	2	24	0	--	25	24	4	22	3.00	27	.46	22	.48	25
MO.	64	5	26	5	226	5	39	8	5.54	15	.95	9	1.16	9
MONT.	23	9	18	6	135	10	13	14	8.08	1	.76	16	1.27	5
NEBR.	82	4	32	4	238	4	53	3	5.59	14	1.24	4	1.46	3
N.M.	2	24	1	24	18	26	2	28	3.56	23	.42	27	.48	24
N.Y.	0	--	0	--	5	33	--	35	2.39	30	.01	35	.27	34
N.C.	1	29	0	--	2	35	--	32	1.23	34	.20	32	.88	15
N.D.	22	12	13	8	125	12	15	12	6.22	9	.77	14	1.09	11
OHIO	4	19	2	19	48	19	4	21	2.38	32	.21	31	.31	31
OKLA.	39	8	15	7	193	8	40	7	6.67	3	1.38	2	1.54	2
OREG.	3	21	2	19	13	29	1	30	4.24	17	.44	24	.32	30
PENN.	0	--	0	--	5	32	--	33	0.99	35	.03	34	.10	35
S.D.	20	13	11	10	108	14	16	11	6.38	5	.92	10	1.12	10
TENN.	3	21	1	24	36	22	7	18	4.17	18	.83	12	.82	17
TEXAS	47	7	11	10	198	7	46	6	3.64	21	.85	11	1.04	12
VIR.	0	--	0	--	7	31	1	31	1.39	33	.21	30	.29	33
WASH.	2	24	2	19	24	25	3	24	5.60	13	.65	17	.55	20
W.VA.	0	--	0	--	2	34	--	34	2.44	29	.17	33	.29	32
WISC.	23	9	5	15	145	9	15	13	4.02	20	.42	26	.49	23
WYOM.	10	16	3	17	46	20	7	17	6.51	4	1.05	6	1.19	3

¹ The states (including Puerto Rico) not included among the thirty-five ranked had less than six farm banks (as defined below).

² An FDIC-insured commercial bank is included here as a "farm bank" if more than seventeen percent of its loans and leases are loans to finance agricultural production or other loans to farmers (consolidated bank) or loans secured by farmland (domestic bank offices) and if it has no more than \$500 million of assets.

³ Nonperforming loans include loans past due ninety or more days and still accruing and nonaccruing loans.

Source: Consolidated Reports of Condition submitted to the Federal Deposit Insurance Corporation on June 30, 1986.

TABLE XI

PROFITABILITY AND STABILITY OF FDIC-INSURED FARM BANKS BY STATE^{1,2}

June 30, 1986

State	Return on Assets		Return on Equity		Percent of Farm Banks Losing Money		Capital Ratio		Nonperforming Loan to Capital Ratio ³		Percent of Farm Banks with More Nonperforming Loans ³ than Capital		Farm-Related Loan Percentage	
	%	Rank	%	Rank	%	Rank	%	Rank	%	Rank	%	Rank	%	Rank
ALAB.	1.54	2	15.19	3	5.26	27	10.17	3	13.04	31	.00	28	24.46	30
ARK.	1.19	10	12.10	12	11.00	23	9.84	6	16.88	25	2.00	25	29.94	17
CAL.	.75	22	10.20	17	14.29	18	7.31	34	59.51	1	14.29	5	23.91	31
COL.	.21	34	2.39	34	24.21	5	8.91	19	47.83	5	11.58	6	37.52	8
FLA.	.98	14	10.28	15	7.14	25	9.50	9	17.50	24	.00	28	24.76	28
GA.	1.36	4	13.83	9	4.60	30	9.85	5	13.48	29	1.15	27	27.72	22
IDAHO	.82	20	9.69	19	16.67	13	8.42	28	48.63	4	25.00	1	41.11	6
ILL.	.74	23	8.35	23	12.35	20	8.89	22	20.41	21	2.59	21	34.37	13
IND.	.89	18	10.33	14	11.03	22	8.58	26	18.08	22	4.83	19	29.58	18
IOWA	.17	35	2.03	35	26.42	1	8.61	25	28.45	16	7.92	15	44.42	5
KANS.	.53	24	5.88	24	19.78	10	8.97	17	24.86	17	8.09	13	45.60	4
KENT.	1.33	5	13.39	10	2.42	31	9.90	4	13.83	28	1.61	26	28.21	20
LOU.	.84	19	8.99	21	14.29	17	9.35	10	36.00	8	16.67	3	27.12	26
MICH.	.33	33	4.58	33	20.00	8	7.12	35	49.72	3	11.43	7	27.64	24
MINN.	.40	31	4.59	32	24.42	4	8.65	24	36.55	7	10.83	9	39.79	7
MISS.	1.27	7	13.85	8	4.65	29	9.14	14	16.76	26	.00	28	32.14	14
MO.	.45	28	5.36	27	19.81	9	8.43	27	30.48	13	8.05	8	35.93	10
MONT.	.37	32	4.66	30	25.27	3	7.98	32	51.81	2	19.78	2	36.99	9
NEBR.	.49	25	5.44	26	21.52	6	9.06	15	28.78	15	8.40	12	56.45	1
N.M.	1.00	13	10.84	13	13.33	19	9.22	12	21.77	19	6.67	18	28.08	21
N.Y.	1.48	3	14.41	5	.00	32	10.26	2	11.42	33	.00	28	27.67	23
N.C.	1.19	11	12.35	11	16.67	12	9.62	7	6.34	35	.00	28	22.09	32
N.D.	.91	16	10.24	16	14.86	16	8.90	21	32.47	12	8.78	11	46.61	3
OHIO	1.24	8	13.93	7	4.76	28	8.90	20	13.90	27	2.38	22	27.48	25
OKLA.	.46	27	4.97	29	18.84	11	9.32	11	32.69	11	7.25	17	34.57	12
OREG.	.42	29	5.16	28	21.43	7	8.17	31	30.27	14	14.29	4	26.04	27
PENN.	1.22	9	14.92	4	.00	32	8.20	29	7.87	34	.00	28	21.19	34
S.D.	.79	21	8.77	22	16.53	14	9.05	16	33.92	9	9.09	10	54.00	2
TENN.	1.27	6	14.17	6	6.25	26	8.96	18	21.70	20	2.08	24	24.64	29
TEXAS	.89	17	9.36	20	14.87	15	9.53	8	17.87	23	3.48	20	31.69	16
VIR.	1.18	12	15.33	2	.00	32	7.71	33	13.28	30	.00	28	21.31	33
WASH.	.48	26	5.35	25	11.11	21	8.17	30	41.93	6	11.11	8	35.55	11
W.VA.	2.10	1	20.32	1	.00	32	10.34	1	12.50	32	.00	28	19.77	35
WISC.	.94	15	10.15	18	9.66	24	9.21	13	23.32	18	2.10	23	31.93	15
WYOM.	.41	30	4.64	31	25.64	2	8.79	23	33.13	10	7.69	16	29.15	19

¹ The states (including Puerto Rico) not included among the thirty-five ranked had less than six farm banks (as defined below).

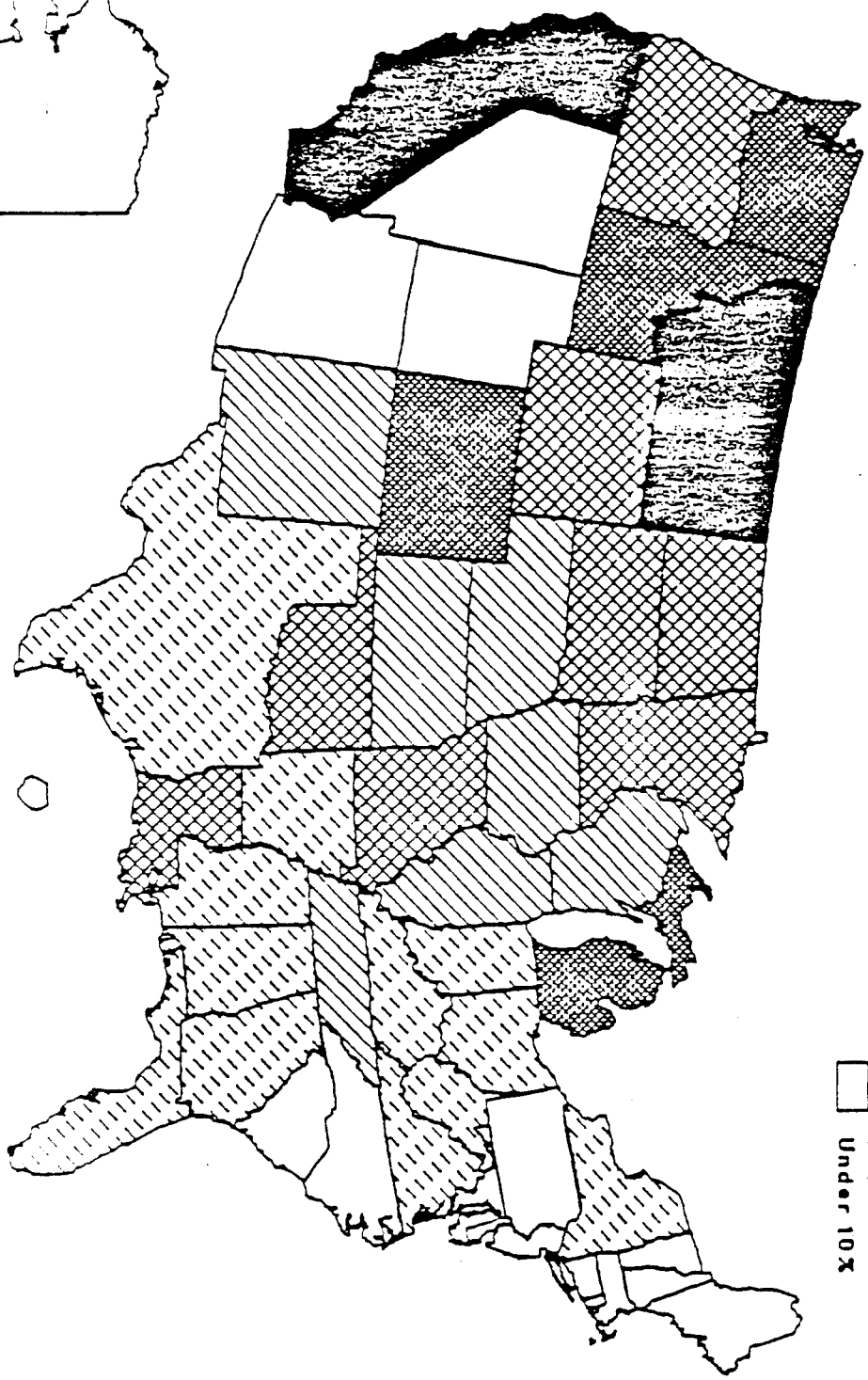
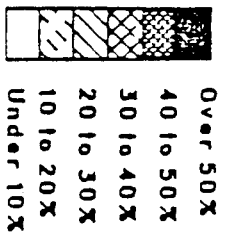
² An FDIC-insured commercial bank is included here as a "farm bank" if more than seventeen percent of its loans and leases are loans to finance agricultural production or other loans to farmers (consolidated bank) or loans secured by farmland (domestic bank offices) and if it has no more than \$500 million of assets.

³ Nonperforming loans include loans past due ninety or more days and still accruing and nonaccruing loans.

Source: Consolidated Reports of Condition submitted to the Federal Deposit Insurance Corporation on June 30, 1986.

CHART VII

Non-Performing Loans as a Percent of Total Equity Capital at FDIC-Insured Farm Banks



Data from Table XI

One Texas Center
505 Barton Springs Road
Austin, Texas 78704
(512) 472-2244

MONTANA BANK EARNINGS DECREASE 80 PERCENT

AUSTIN, TEXAS, February 12, 1987 -- Sheshunoff & Company, Inc., the nation's leading bank information and consulting firm, today reported that combined earnings for all Montana banks fell 80 percent to \$7 million for the first nine months of 1986 when compared with the same period last year. The data was released in Sheshunoff's latest Bank Quarterly Ratings publication.

Montana banks compared unfavorably to a national decrease in earnings of 4.26 percent, from \$14.2 billion to \$13.6 billion. Montana banks ranked forty-seventh in the nation in total earnings.

"The wide variations in earnings performance from state to state indicate that strong local and regional economies go hand in hand with high earnings, while weak economies result in higher amounts of nonperforming loans," said Alex Sheshunoff, President of Sheshunoff & Company, Inc.

Montana's level of nonperforming loans as a percent of total loans was 6.00 as of September 30, 1986. The state ranked forty-eighth in the nation in nonperforming loans, with three states having a higher percentage. On a national scale, nonperforming loans represented 2.9 percent of total loans. Only thirteen of the twenty-seven states east of the Mississippi River reported an increase in nonperforming loans, compared with twenty-three states in the West.

The state with the lowest level of nonperforming loans was New Hampshire with 0.91 percent, while the highest was Alaska with 9.09 percent. Nonperforming loans include nonaccruing loans and loans that are 90 days past due.

Montana banks reported -4.2 percent loan growth for the first nine months of 1986, compared with a national growth rate of 2.9 percent, and 1.65 percent in net charge-offs to average loans against the national rate of 0.67 percent. Total assets decreased by 1.3 percent, compared with a national increase of 2.4 percent.

One bank failed in Montana during all of 1986. In comparison, 145 banks failed nationwide during the year.

AMENDMENT TO SB 321

1. Title, line 9.

Following: "7"

Insert: "PROVIDING FOR PAYMENT OF FEES TO DEFRAY THE COSTS OF MEDIATION; APPROPRIATING MONEY;"

2. Page 14, line 14.

Following: line 13

Insert: "NEW SECTION. Section 2. Fees and expenses of mediation. The department may assess and collect fees to defray the costs of providing mediation services under this chapter.

NEW SECTION. Section 3. Appropriation -- expenditure of fees authorized. (1) There is appropriated from the general fund to the department of agriculture the sum of \$50,000 for the biennium ending June 30, 1989, for the purpose of providing mediation services.

(2) In addition to the appropriation contained in subsection (2), there is appropriated to the department of agriculture \$25,000 in available fees collected under [section 2] for each year of the biennium. Such fees must be applied toward the costs of providing mediation under this act.

NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 80, chapter 13, part 2, and the provisions of Title 80, chapter 13, part 2, apply to section 2.

Renumber: subsequent sections

AMENDMENT TO SB 142 Third reading (blue copy)
Requested by Rep. Ellison

1. Title, line 9.

Following: "PROVIDING"

Insert: "AN APPLICABILITY DATE AND"

2. Page 1, lines 14 and 15.

Following: "means" on line 14

Strike: remainder of line 14 through "15-7-202" on line 15

Insert: "real property that is principally used for the production of livestock, poultry, field crops, fruit, or other animal or vegetable matter for food or fiber"

3. Page 1, lines 23 and 24.

Following: "LENDER," on line 23

Insert: "or"

Following: "AGENCY" on line 24

Strike: remainder of line 24 in its entirety

Insert: "that"

4. Page 2, line 1.

Strike: "OR TRUST INDENTURE"

5. Page 4, line 21 through line 6, page 5.

Strike: section 5 in its entirety

Insert: "Section 5. Applicability. This act applies to agricultural land acquired by foreclosure or by judgment in satisfaction of debt after the effective date of this act."

Renumber: subsequent sections

AMENDMENT TO SB 142 Third reading (Blue copy)
Requested by Rep. Patterson

1. Page 2, line 10.

Following: "owner"

Insert: "if such owner has financial resources and farm management skills and experience to assure a reasonable prospect of success in the proposed farming operation. The offer to sell or lease land to the immediately preceding owner must be"

Amendment to SB 142; Third Reading - Blue Copy

Requested by Senator Weeding

6 x. Page 2, *line 25.*

Following: line 24

Insert: "(4) This section does not apply to foreclosed agricultural land if such land is owned by the state pursuant to Montana's Enabling Act (Act of February 22, 1889, ch. 180, 25 Stat. 676)."

VISITORS' REGISTER

AG, Livestock & Drug COMMITTEE

BILL NO. SB 321

DATE 3-13-87

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Mary Gallagher	MT P.A.	X	
Pam Marshall	MPA	X	
Anne Atkeson	MPA	X	
Terry Connolly	Mont Farmers Union	X	
Ed Kammerer	Self	X	
Regina Water	MT. Assoc of Chambers	X	
Ruby J. Kammerer	Self	X	
L. Brunner	Coalition Grassroots Independent M	✓	
Don Judge	MT STATE AFL-CIO	X	
Butters Mathias	NPRE.	X	
Richard Sidwell	self	X	
Tom Tully	NPRE	X	
Jim Fleischmann	MPA	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

AG, Livestock & Inv. Comm. COMMITTEEBILL NO. SB 321DATE 3-13-87

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JOHN CADDY	MT BANKERS ASSN	X	
ELROY LETCHER	MT COM & COOP	X	
Phil Johnson	MT Bankers Assoc (Only as voluntary)	X	
Carol Mosher	Mt. Cattle Ranch	X	
Mary Sue	MPA	X	
Lorna Frank	Mt. Farm Bureau	X	
Mark McElroy	NPRC	X	
Jeriann Wilson	Polson MPA	X	
Joan M Bennett	Polson MPA	X	
Warren H. Ross	MSHA	X	
Joyce Jennings	Ma Co Ag Comm.	X	
Susan Batte	Dyegate MPA	X	
Lay Batte		X	
Wanda Teejan	Mt Stockgrowers	X	
Kerry Jack	Mt Stockgrowers	X	
Phil Terschach	M P A	X	
Robert Green	NPRC	X	
Bob Stephens	Mt. Grain Growers	X	
Anne Black	NPRC	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

H6, Livestock & Drug COMMITTEE

BILL NO. SB 142DATE 3-13-87

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JOHN CADDY	MT BANKERS ASSN		X
Phil Johnson	" " "		X
George T. Bennett	" " "		X
ELROY LETCHER	12 DISTRICT FARM CREDIT		X
ELROY LETCHER	MT COUNCIL of CO-OPS		X
Mary Sue	MPA	+	X
Carol Mosher	Mt. Battle Women		X
Carann Wilson	Pohson NH.	X	
Joan M. Bennett	Pohson NH.	X	
Susan Batte	Rye Gate MPA	X	
Lay Batte	✓	X	
Jayne Janasard	Ma Co Ag. Comm.	X	
Mont. Grubbs	NPRC	X	
Joseph Moor	M.P.A.	X	
Barren H. Ross	MS GA		X
Tim Gill	Mont. Livestock Ag. Credit		X
Mous Teigou	MT Stockgrowers		X
Kerry Jack	MT Stockgrowers		X
Elmer Neeschock	Raven MPA	A	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Ag, Livestock & Irrigation COMMITTEE

BILL NO. SB 142

DATE March 13, 1987

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
BOB HELDING	MT. ASSOC. OF REALTORS		<input checked="" type="checkbox"/>
ROBBIE GREEN	NPRC	X	
Dee Mullan	Musselshell Ag Alliance	X	
Anne Beck	NPRC	X	
Mary Collette	MPA	X	
Anne Atkeson	MPA	X	
Lam Marshall	MPA	X	
Terry Gandy	Mont Farmers Union	X	
Mignon Waterman	mt assoc. of churches	X	
Carol Galberg	MT Land Title Assn		X
Syle Manley	Dept of State Lands	X	
Don Judge	MT STATE AFL-CIO	X	
Tom Tally	NPRC	X	
Jim Fleischmann	MPA	X	
Scott & Mithias	NPRC	X	
Richard Sidwell	self	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.