

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

March 18, 1987

Representative Duane W. Compton, Chairman, called this hearing to order at 1:00 p.m. in room 317 in the Capitol, Helena.

ROLLCALL

All members of the committee were present except Rep. Gay Holliday who was excused, and Rep. Harriet Hayne who was absent. Mr. Tom Gomez, researcher, was present.

This was to be an EXECUTIVE SESSION

SENATE BILL 321

Rep. Rapp-Svrcek moved SB 321 BE CONCURRED IN; Rep. DeMars seconded the motion.

Rep. DeMars moved the Aklestad amendments added in the Senate, which provided for voluntary mediation be stricken, and mandatory mediation be reinstated. This would be require all the stricken language that is shown in the third reading copy of the bill to be reinstated. Rep. Rapp-Svrcek seconded the amendment motion.

Rep. DeMars explained it is not the small local banks, it is the big banks who don't want mandatory mediation. You don't get to work with a loan officer out of Minneapolis, but they are making the decisions on how you are running your farm. This was the testimony given by a vice president of the Farm Credit System out of Omaha, just like we are out of Spokane. They are supportive of this concept of mediation. Out of Omaha they have been involved with over 2500 mediation cases in Iowa and have pending agreements with 59%. This is a big problem in his area and maybe all over Montana. Neither of his banks has any problem with the mandatory requirement. The problem is with the big banks and corporations.

Rep. Giacometto is opposed to the proposed amendment. It will help certain people but this is hurting agriculture as a whole. According to the testimony we have received from all the main ag organizations, they are opposed to mandatory mediation, and if this would help ag as a whole they would be behind it. The Stockgrowers, The Woolgrowers, Montana Grain Growers, the Montana CattleWomen, and the Cattle Feeders are opposed to mandatory mediation. He is opposed to making it

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

March 11, 1987 - Page 2

mandatory.

Rep. Koehnke agrees. He thinks if it were changed back to mandatory, if it isn't killed in this committee, it will be killed on the House floor. He is very familiar with this. The largest town in his district is 1200 and all the rest are ag people. Nobody is asking for this. You can't talk to the land bank about this. He doesn't want this.

Rep. Ellison remarked that you can lead a horse to water but you can't make him drink. He thinks that applies here.

Rep. Patterson said he would not support this mandatory amendment. He did support the bill. He talked to the bank in his district and a larger corporation bank in Miles City and both of them told him mandatory would make an adverse situation more adverse. Banks are concerned about Chapter 12 that is already on the books at the federal level. He would have to oppose the mandatory part of this.

Rep. Bachini asked if under the mandatory mediation the parties would be sharing any cost or whether the state is going to carry that. Mr. Gomez explained the New Section 17 on page 14, lines 3-7 says 'The department shall assess and collect fees to defray the costs of mediation; all parties to mediation shall contribute equally to the payment of the costs of mediation.' Rep. Bachini asked if both the person and the state will share the cost. Mr. Gomez said not the state, the parties to the mediation. There is a cost to the state under mandatory mediation as shown on the fiscal note.

Rep. Campbell said he didn't understand what kind of mediators you could get for \$20 an hour. He thinks there are a lot of holes in this bill and it would require a lot of work to get it straightened out. If all that stricken language is put back in, it leaves a lot of questions unanswered.

Rep. Keller said some of the bigger banks and maybe insurance companies are probably harder to get to mediation. By putting mandatory back in we are also going to be pushing it onto the smaller banks, and the ones in his area are saying it will make it tougher for the next farmers to get a loan. He would oppose this amendment.

Rep. Koehnke added there must be well over a dozen downtown businesses in one block area in Townsend that have gone bankrupt or are broke. Some are SBA loans and some are local bank loans. They are not asking for voluntary or mandatory mediation. He doesn't think this is fair.

Rep. Cody commented that in talking with her agriculture

community, they are fearful that if mandatory mediation is reinstated, the legislation will be killed because the Senate very definitely said they will not accept mandatory. She thought it would be better to have something in place so that two years down the road these folks can come back in and show us that this voluntary mediation is not working. It would be better to have something on the books rather than killing the whole thing.

Rep. Bachini was approached by one of the proponents of mandatory mediation who thought that without mandatory mediation you had nothing. However, he feels that if it goes back to mandatory, it will die in the House.

Rep. Koehnke said it would be necessary to mediate with the local representatives of the Minneapolis lending institutions. Rep. DeMars said that would be fine if the local representatives had some authority, but they don't have any now.

Rep. Rapp-Svrcek stated he has had letters from all over Montana and his district asking for mandatory mediation. It has been shown that Chapter 12 bankruptcies have decreased where the right to mediation is in place. That is a protection for the banks. Without mandatory mediation you have nothing because you can't get a lender to the table and that is what this right to mediation is about. A recent survey of 12 Montana banks, ag banks, locally owned banks across the state and one large national chain bank showed in 1985 these 12 banks restructured a total of \$368,000 in bad debt and not a single dime of agriculture debt was restructured. In 1986 these same banks restructured almost \$400,000 of bad debt and still not a single dime of agriculture debt was restructured. If you add the one chain bank, the total comes to \$1.2 million restructured, but not any agriculture loans were rewritten. In these same banks from 1985 to 1986 the total of bad agriculture loans compared to the total of bad debt decreased from 67% in 1985 to 41% in 1986. This shows that banks are willing to restructure commercial loans and real estate loans, but they are not willing to even talk about doing it in the agriculture sector, and yet at the same time it is the ag loans that are decreasing their draining on those banks. This clearly shows that voluntary mediation is not working and we need to bring those banks to the table. Have to have a way to get these lenders to the table.

Rep. Giacometto commented that the bad part about this is that it will make them come to the table. There is nothing binding there. When you tell somebody they have to go somewhere whether they want to or not, they are going to be less agreeable to come up with mediation to restructure a

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 18, 1987 - Page 4

loan when they have somebody carrying a club over them. He had received a copy of the same survey Rep. Rapp-Svrcek had. This type of legislation which North Dakota has has cost the borrowers \$172 million in the last two years because of increased charges. It might be working but people are paying for it, too.

Rep. Cody advised she had people calling her who would prefer to have voluntary mediation in the statutes rather than lose the bill on the right to mediation. At least there would be something in place and they will be able to come back to this body in two years and say this is the way it is. Mr. Kelly, speaking as neither an opponent or proponent, said the training program was started in June and the program began in July of 1986 after the training was finished, so it has been running for about 9 months. The program is in place right now.

The rollcall vote to Do Pass the Amendment to reinstate mandatory mediation failed with Reps. Compton, Jenkins, Campbell, Cody, Ellison, Giacometto, Holliday, Keller, Koehnke, Patterson, Poff voting No; and Reps. Bachini, Corne', DeMars, Hansen, Rapp-Svrcek voting Yes; Rep. Hayne was absent.

Rep. Compton said there is another proposed amendment to SB 321 put in by the agriculture department, exhibit #1, to appropriate \$50,000 from the general fund to the department of agriculture for the biennium, to June 1989 for the purpose of providing mediation services that would apply to SB 321 with voluntary mediation. Rep. Bachini moved this amendment be adopted; it was seconded by Rep. DeMars.

This amendment has not gone through the appropriations committee. Rep. Jenkins asked if this \$50,000 would come from the fees that the DOA collect from mediation? Mr. Keith Kelly explained that at the meeting with the combined House and Senate legislative groups, both sides of the aisle, the original bill that was in this committee had a \$300,000 appropriation. Out of that particular bill there was about \$100,000 of general fund money to do the mediation. At a meeting with both bodies and with all the agricultural groups giving and taking, the proposal resolved at that time would allow \$25,000 per year of general fund money, and the authority to charge fees of \$25,000 per year, so part would be paid for by fees and part by the state if persons could not afford to pay any fees. The state might have to pay 60% of this one and 20% of another.

Rep. Ellison remarked the bill says you can collect fees, but it does not say from whom nor what percentage will be collected - from both parties, equally, or what? Mr. Kelly

answered that may vary. The discussion was that if you had very destitute people, mediation may be 90% paid by the public monies. In a case where mediation may have successfully resolved (just people at loggerheads) maybe the banks would pay 50% and the farmer 50%; or it could be a case where it was perceived somehow of being a harrassment type thing, perhaps then, the Northern Plains people thought, the people requesting the mediation ought to pay the whole amount. There is no set formula on how that would be - it would vary on a case by case basis. That is where it was left.

The motion to adopt the amendment for \$50,000 general fund money to be transferred to the DOA for the purpose of mediation was unanimously adopted by all those present.

Rep. Bachini moved that HB 321 BE CONCURRED IN AS AMENDED. Rep. Corne' seconded this motion.

Rep. Ellison remarked it was mentioned that some people would prefer to have nothing than to have this bill. He wondered if they thought it would be better to come back later for mandatory mediation. Rep. Bachini restated the man he had talked to very adamantly felt that without mandatory, the bill was nothing. Rep. Cody mentioned one man had called her on one day told her mandatory was necessary, and called her again the next day and thought voluntary was at least something.

Rep. Giacometto was afraid appropriations would not fund this program. He would rather see the link loan and the marketing programs that also cost some money go through rather than this, and there might not be enough money for all these agriculture programs. He can't support this because he is afraid money would be lost to another area that is more important.

Rep. Cody stated it is our obligation to show the rest of the people on the floor of the House that agriculture is our number one industry and we better do something about losing it. Little by little we can make some inroads into this process that has been going on for 20 years or more.

Rep. Giacometto agreed with Rep. Cody, and he agrees with Rep. Koehnke that it is necessary to start treating agriculture like any other industry. He doesn't want to see a bill come in next time for a huge amount of money to mediate small businesses that are going under. He doesn't think the money is being spent appropriately.

Rep. Rapp-Svrcek wants to start treating agriculturre as an industry as well, but the lenders are not doing so. Lenders

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 18, 1987 - Page 6

are treating small business and commercial industries one way, but they aren't treating agriculture the same way.

Rep. Jenkins stated the banks in his area have rewritten ag loans and have mediated with the agriculture lenders. He said during the last 6 months it has been shown that mediation was turned down by 8 borrowers and only 2 lenders.

Rep. Patterson summarized that all this would basically do is allow spending authority. If the DOA did not need the full dollar amount, it would revert back to the general fund after a year. He is not too much concerned about the money being appropriated. It provides spending authority up to a certain limit, and if less is spent, it reverts to the general fund.

The BE CONCURRED IN AS AMENDED motion was adopted with all members voting Yes except Reps. Giacometto and Rapp-Svrcek who voted No. Rep. Hayne was absent.

ADJOURNMENT

There being no further business to come before this hearing, it was adjourned at 2:00 p.m.

Duane W. Compton, Jr.
Rep. Duane W. Compton, Chairman

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION

COMMITTEE

DATE Mar 18, 1987

BILL NO. SB 221

NUMBER _____

NAME	AYE	NAY	ABSTAIN
Rep. Duane Compton, Chairman		✓	
Rep. Loren Jenkins, Vice Chairman		✓	
Rep. Bob Bachini	✓		
Rep. Bud Campbell		✓	
Rep. Dorothy Cody		✓	
Rep. Richard Corne'	✓		
Rep. Gene DeMars	✓		
Rep. Orval Ellison		✓	
Rep. Leo Giacometto		✓	
Rep. Marian Hanson	✓		
Rep. Gay Holliday		✓	
Rep. Vernon Keller		✓	
Rep. Francis Koehnke		✓	
Rep. John Patterson		✓	
Rep. Bing Poff		✓	
Rep. Paul Rapp-Svrcek	✓		
Rep. Harriet Hayne		absent	

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Jo Lahti
Secretary

Chairman

MOTION: To reinstate all stricken material in blue bill -
would reinstate mandatory mediation

Motion failed.

STANDING COMMITTEE REPORT

March 18

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Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report SENATE BILL 321

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. DUANE W. COMPTON

Chairman

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

Rep. Ted Schye will carry SB 321 on the House floor.

Third

Blue

reading copy ()
color

EXHIBIT #1
DATE March 18, 1987
SB 321 - Len Heg
Jorgenson

AMENDMENT TO SB 321

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