

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 9, 1987

The third meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 9, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 41: Senator Pinsoneault introduced SB 41, which addressed the public nuisance statute of Montana. He compared the public nuisance statute and the private nuisance statute which is embodied in Title 27. He said there were key words in Title 27 which made the two statutes very different from each other. The private statute in Title 27 talks about anything which is injurious; the public statutes talk of endangering. Senator Pinsoneault explained the private statute has wording which gives the right to one to take action against a perpetrator. The public statute doesn't give the same right. He explained SB 41 expands the public nuisance statute and makes it more of an utility to the rural community. He explained this bill would provide that 3 complaining persons is sufficient for the county attorney to bring an action. He told the Chairman he would turn the floor over to the proponents of the bill.

PROPOSERS: Ralph Wing Sr., Ronan, Montana, supports the bill because he lives 300 yards from a mink farm, which has a distinct odor to it. Mr. Wing said the odor is so bad in the summertime that one can not stand to be outside. He explained the operator of the mink farm informed him there would be no odor, but there definitely is one now.

Jim Westerman, Ronan, Montana, is a neighbor of Mr. Wing's and he also supports SB 41 because of the mink farm. He said waste from the minks smells like a dead animal. He told the committee that the county attorney said he could not enforce a public nuisance law on the mink farm because the group complaining is not defined as a "community" or a "neighborhood"; and a "considerable number of persons" has never been defined, as the law reads now.

Ronald Spade also from Ronan supports the bill because of the mink farm.

Senator Pinsoneault pointed out the number of persons used in the bill for bringing a complaint to the county attorney's office was selected arbitrarily after discussing it with the county attorney.

OPPOSERS: Shirley Ball representing the organization WIFE opposed SB 41

because she felt the smell of the mink's was the smell of money just like pigs are the smell of money to pig farmers.

Jo Brunner of the Montana Water Development Association and the Cattle Feeders Association was against SB 41 because she felt it was already too easy to go in and complain about feedlots and things such as that. She said the Montana Water Development Association has been involved in several complaints about irrigation systems and because of this she did not want it any easier to file a complaint or sue under the public nuisance law.

DISCUSSION FROM THE COMMITTEE: Senator Crippen asked Senator Pinsoneault why the county attorney did not define the complainants around the mink farm as a neighborhood. Senator Pinsoneault said the law does not define neighborhood and the county attorney must think of the business too in this kind of case. He said SB 41 would set more of a guidance system in these cases.

Senator Beck asked if mink farming is not defined as an agricultural operator, which would cause it to be exempt from this bill. Senator Pinsoneault felt mink farming was an unique endeavor, but not agricultural.

Senator Yellowtail asked Shirley Ball if her concerns were not already covered in Subsection 4 of the bill. She responded by saying she knew agriculture was protected, but she felt there was somewhat of a threat still.

Senator Halligan asked Senator Pinsoneault why there is a 10-12 month living requirement in the area before a person can complain. Senator Pinsoneault thought it gave one more time to evaluate the area.

Senator Yellowtail asked if there is an investigation into a complaint and if found guilty, would the business, like the mink farm, be shut down. Senator Pinsoneault said the county attorney would petition on behalf of the complainants and then have a hearing. He felt this would give the defending party a chance to debate the problem. He stated the bill is not for closing businesses.

Senator Pinsoneault closed the hearing on SB 41 by concurring with any changes the committee might bring forward for the bill's language.

CONSIDERATION ON SB 59: Senator Galt, the sponsor of SB 59 from District #16, told the committee the bill was a recommendation from the Joint Interm Subcommittee on Agricultural Problems. He explained the law now reads any agricultural land acquired by banks from foreclosure must get rid of it within 5 years, and this bill will change that to 15 years for the reason it will keep the distressed land off the market. He said one

disadvantage is young farmers won't be able to buy cheap foreclosed land so easily, but Senator Galt believed this was offset by the fact the people on the land now don't have their land value depreciated even more (see Exhibit 1, page 4).

PROPOSERS: John Cadby, Montana Bankers Association, supports SB 59. He gave the committee a written summary of why state chartered banks would benefit along with the owner of the land (see Exhibit 2, written testimony).

Phil Johnson, President of the 1st National Bank of Helena, supported SB 59 and supported John Cadby's testimony on the bill.

Senator Ted Neuman, District #21, felt the banks should have more flexibility in the foreclosure area, and felt the banks would not speculate in land if this bill was to be adopted.

OPPOSERS: Jo Brunner, Montana Water Development Association, told the committee there were certain portions of the 1982 Reclamation Act that pertain to foreclosures on federal irrigation projects. In the act there are consequences that happen to excessive acreage owners holding land after the 5 years period. She gave an example of a bank foreclosing on several farmers on federal reclamation projects, and she thinks it is not clear whether or not one bank can foreclose on one or more projects. She continued by saying the acreage excess allowed by the owner has only 5 years to sell off the excess acreage conceded by the law. If they do not sell it off, then they must pay the full cost of the water delivered to those lands. She felt the committee should be aware of the cost and how much less the cost is when the owner is in compliance.

Jack Heyneman is the Chairman of Northern Plains Resource Council and he is opposed to SB 59 (see Exhibit 3, written testimony).

Terry Carmody, Montana Farmers Union, opposed the bill because the protection of depositors of banks to keep banks out of speculation is taken away in this bill. He felt it would encourage bankers to foreclose because land value is bound to rise again, and he didn't want them foreclosing on good operators.

DISCUSSION FROM THE COMMITTEE ON SB 59:

Senator Yellowtail asked Mr. Cadby if we can really pretend we are going to disguise the fact agricultural property is declining in value. John Cadby said if the bankers hold on to the land for a substantial period of time, and land value does stabilize, one would be able to sell it at a fair market value, and it is not hitting the banks' capital.

Senator Crippen asked if commercial real estate was held by a bank longer than 5 years. John Cadby told Senator Crippen he did not think

so. Senator Crippen asked why did the bill single out agriculture land. Mr. Cadby replied the subcommittee only discussed agricultural land.

Senator Crippen asked Phil Johnson how long can a bank keep a loan in default before a bank is required by its charter to take legal action to collect. Mr. Johnson said it depends on the communication between the bank and the borrower. He felt premature foreclosure on real estate without a negotiating period, in which it could have been determined that the borrower and the bank had another avenue, could be grounds for a law suit. Senator Crippen asked if banks are foreclosing on loans, would this bill decrease this and give the banks some time in working out loans. Mr. Johnson responded that the bill would give the banks a longer time to resolve the issue of the value of the asset, and a longer period to write it down. He felt it would stop the banks from putting land on low market blocks.

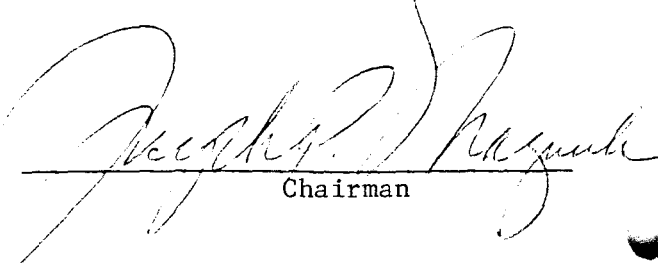
Senator Mazurek asked why the committee picked 15 years for the holding of the land by the bank. Senator Galt said that the bill was originally drafted with 10 years but the subcommittee amended it to 15 years.

Senator Pinsoneault asked if it makes sense for the one being foreclosed on only to get one year right of redemption, while the bank gets 15 years to do something with the land. Mr. Cadby said he did not know what advantage it would be to add more time for that person. Mr. Johnson felt the bill's main issue after foreclosure was minimizing the effect of land being dumped on the market with respect to the operating farmer and not the foreclosed farmer.

Senator Yellowtail asked Mr. Johnson if we are reagricultural value of Montana. Mr. Johnson said if the state had one segment of banks and insurance companies dumping land on the market, it would put great pressure on market value of land below that even of the productive value of land; and this is what needs to be minimized.

Senator Galt closed by saying banks don't want to be stuck with land; and he would answer any questions at the executive meeting.

The meeting was adjourned at 10:50 a.m. No Executive Action was taken because of the State of the State Address being given at 11:00 a.m.


Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 9th

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	f		
<u>Senator Bruce Crippen, Vice Chairman</u>	f		
<u>Senator Tom Beck</u>	f		
<u>Senator Al Bishop</u>	x		
<u>Senator Chet Blaylock</u>	x		
<u>Senator Bob Brown</u>	x		
<u>Senator Jack Galt</u>	x		
<u>Senator Mike Halligan</u>	f		
<u>Senator Dick Pinsoneault</u>	f		
<u>Senator Bill Yellowtail</u>	f		

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

SENATE AND HOUSE COMMITTEE _____

DATE 1-9-87

NAME

RESIDENCE

SUPPORT

OPPS

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ronald Spade DATE: 1-9-87
ADDRESS: 3005 North Crow Rd Roman Mt
PHONE: 676 5767

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: 326

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

**POLICY AND PROGRAM OPTIONS TO ADDRESS
THE ECONOMIC PROBLEMS OF AGRICULTURE
IN MONTANA**

**Research
Report**



Montana Legislative Council

Prepared by
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POLICY AND PROGRAM OPTIONS TO ADDRESS
THE ECONOMIC PROBLEMS OF AGRICULTURE IN MONTANA

Prepared for the Joint Interim Subcommittee
on Agricultural Problems

By Tom Gomez
Staff Researcher

Montana Legislative Council

September 19, 1986

Introduction

This paper outlines options for possible new policies and programs to address some of the economic problems in Montana agriculture. These options were selected based upon the suggestions received from members of the Joint Interim Subcommittee on Agricultural Problems, as well as other state legislators.

The paper is designed to be a working document that may be used by the Joint Interim Subcommittee on Agricultural Problems in its deliberations. It contains information to assist the Subcommittee in deciding an appropriate course of action for dealing with the state's agricultural problems. The paper discusses seven proposed options, and presents issues that should be addressed in considering these options. The paper also provides information on related policies and programs adopted in other states.

Options

Below is a discussion of the seven proposed options for addressing the problems of Montana agriculture.

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OPTION #1: Amend state banking regulations to allow prudently managed banks to amortize loan losses on a multiple year basis as a means of enabling banks to preserve their capital and to maintain their capacity to extend credit to agricultural borrowers.

Explanation: This option would give state-chartered banks a longer period of time in which to charge off agricultural loan losses. Under existing state law, a bank carrying a bad agricultural loan must collect on the loan, put the loan into good banking condition, or charge the bad loan out of its books. See 32-1-455, MCA.

In the case where the loan is nonperforming, there are certain regulatory consequences. If the loan is classified as a loss or recognized as a loss, then such loss must be immediately charged off against the bank's available capital. These charge-offs for loan losses can potentially erode the capital structure of the bank, reducing the capacity of the bank to extend credit to borrowers. If the bank's capital falls below a minimum required under banking regulations, the capital of the bank may be deemed to be impaired, and the bank could be subject to disciplinary action that may lead to closure of the bank. See 32-1-455, 32-1-502, and 32-1-506, MCA.

Thus, the primary objective of this option would be to prevent the deterioration of bank capital during this period of heavy agricultural losses in banking. In addition, the option is intended to

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provide the regulatory flexibility needed to encourage banks to accept the greater risks associated with agricultural loans and to work out debt restructuring plans with problem borrowers.

Comment: The proposed option could stabilize bank capital by allowing banks to preserve their capital. Moreover, by helping the banks preserve their capital, this option could enable banks to continue making agricultural loans. However, it is not clear to what extent this proposed option might result in increased agricultural credit or financial relief for farmers.

A major limitation of this option is that it does not address the problem of bad farm debt. Permitting banks to have a longer charge-off period for loan losses only postpones recognition of these losses. The losses would not appear in the bank's profit and loss statement or balance sheet, but would still exist.

Finally, because the loan losses are not fully recognized, the banks will tend to report an inflated capital level. This could result in problems with some federal banking regulators. There is an indication that while the Federal Reserve System and the Office of Controller of the Currency might accept this practice in some instances, the Federal Deposit Insurance Corporation might not.

However, it seems that a problem with federal regulators will arise only if a bank has incurred significant loan losses and has capital

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approaching the level of impairment. Hence, this option should be made applicable only to banks whose overall financial condition is sound and which is well-managed and showing no material or significant financial weakness.

Similar policies and programs: This year the South Dakota Legislature enacted a bill to permit the amortization of bank loan losses over a period of 15 years. Under the new law, a loan loss may be charged off over the 15 year period if the loan was classified in an amount not less than \$50,000 and if it was advanced as a business, commercial, or agricultural loan.

All other bank loans that are ineligible for amortization under the new law must be charged to the bank's capital reserve. The South Dakota law took effect July 1, 1986.

OPTION #2: Permit banks to hold foreclosed land for a longer period of time in order to preserve real estate values and to allow banks to stabilize their capital.

Explanation: This option would modify current restrictions on real estate which banks may hold. The present state law prohibits a bank from holding foreclosed real estate for a period longer than 5 years from the date of acquisition. The law reads in part as follows:

32-1-423. Real estate which banks may purchase, hold, or convey. (1) A bank organized under the provisions of this chapter may purchase, hold, or convey real estate which: . . .

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- (a) . . . ;
 - (b) . . . ;
 - (c) is conveyed to it in satisfaction of debts previously contracted in the course of its business;
 - (d) it purchases at sales under judgments, decrees, or mortgages held by the bank.
- (2) Real estate acquired in the manner set forth in subsections (1)(c) and (1)(d) of this section may not be held longer than 5 years from the date of acquisition, unless special written permission to do so is granted by the department. The real estate shall be carried on the books of the bank for an amount not greater than its cost to the bank, including costs of foreclosure and other expenses of acquiring title.

The purpose of the law presumably is to prevent bank speculation in real estate. Hence, the law permits banks to engage in only those real estate transactions that are considered necessary for the bank to carry on its business and to protect itself against loss on loans that have been issued.

The proposed option would alter the current state restrictions in order to allow banks to retain foreclosed real estate for more than 5 years. The rationale for this option is twofold. First, it would help maintain real estate values by keeping foreclosed farmland off the depressed real estate market. Second, this option would enable banks to improve the stabilization of their capital because banks would not be forced to sell foreclosed real estate at reduced market values that would result in a financial loss to the bank.

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Comment: There is a serious need that is addressed by this option. That need is to prevent a further decline in farmland values. Farmland values in Montana have fallen precipitously in recent years. According to the U.S. Department of Agriculture, the average value of farm real estate per acre in Montana dropped 16% between 1981 and 1985. This decrease in land values followed a 48% increase in farm real estate values that occurred between 1977 and 1981.

Maintenance of values for farm and ranch land is important because the value of real estate is used as collateral for agricultural loans. Allowing banks to hold foreclosed real estate for a longer period could help stabilize farm real estate values and could be of benefit to agriculture in Montana. Furthermore, this option might improve the capital of banks, although real estate is not a favored capital asset in banking.

Nevertheless, this option could defeat the original purpose of the law that restricts the power of banks to hold real estate, which purpose was to prevent speculation in real estate by banks. To avoid real estate speculation by banks, consideration should be given to a moderate extension of the period in which banks may retain foreclosed real estate.

Similar policies and programs: Iowa recently enacted a law to extend the length of time a financial institution can hold foreclosed land. Details of the law were not available, although the law was

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reportedly enacted to protect farmland values during a time of numerous farm foreclosures in Iowa.

OPTION #3: Revamp the Montana Beginning Farm Loan Program to make it a viable program to assist beginning farmers and ranchers in obtaining loans for the purchase of agricultural land and property.

Explanation: This option seeks a redesign of the Beginning Farm Loan Program so that it will serve the needs of individuals seeking to enter agriculture in Montana. This redesign is considered necessary because of serious questions about the continued viability of the program as it is presently structured.

The Beginning Farm Loan Program is a tax-exempt bond program designed to provide low-interest loans to beginning Montana farmers and ranchers for the purchase of land, agricultural improvements, and depreciable property used in the operation of a farm or ranch. Under the program, applications for agricultural loans must be approved by the Montana Agricultural Loan Authority and a participating financial lender. If a loan application is approved, the Montana Agricultural Loan Authority may issue a bond to fund the loan. The lender purchases the bonds, and the Montana Agricultural Loan Authority uses the bond proceeds to purchase the bank's note that is then assigned as collateral for repayment of the bonds. The tax-exempt status of the bonds enable the lender to offer a lower interest rate to the agricultural borrower.

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Since its inception in 1983, the Beginning Farm Loan Program has been plagued with problems that continue to hamper its operation. The main problem is that the program is dependent upon the use of federal tax-exempt industrial revenue development bonds. During the first year of the program, federal legislation placed restrictions on the use of the tax-exempt bonds. Because of this, bond counsel would not offer a clean opinion on the state's issuance of bonds, and the program was delayed until certain program changes could be made to comply with the federal requirements.

During 1984-1985, two loans were approved and bonds were issued totalling \$193,000. Following issuance of these bonds, new problems were created with partial passage of federal legislation to eliminate the tax-exempt status of bonds used for the program. This legislation cast uncertainty over the Beginning Farm Loan Program.

The federal legislation is still pending with new amendments that would allow use of tax-exempt bonds for agriculture, but only through 1989. After 1989, the favorable tax treatment of these bonds will be eliminated.

As a consequence of these problems, the Beginning Farm Loan Program has sustained large operating losses. According to a recent legislative audit, the program has incurred a net loss of \$31,203 for the fiscal period ending June 30, 1986. In addition, the audit revealed that total program liabilities exceed total assets by \$128,618. Furthermore, because of the problems associated

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with the program, the Beginning Farm Loan Program has borrowed \$197,294 from the state general fund. However, no repayment has been made for these borrowed funds. Therefore, there is serious doubt that the Beginning Farm Loan Program can continue in existence.

Comment: The Beginning Farm Loan Program is unlikely to succeed as it is presently funded. It is believed that between \$3 and \$4 million in loans must be granted each year if the program is to be self-supporting, but present factors will inhibit development of the program.

The pending federal legislation provides a limited benefit to banks that must purchase the bonds issued to finance beginning farm loans. Moreover, the current economic conditions of agriculture in the state might discourage persons from entering farming. As a result, there may be few qualified applicants for loans under the program. Hence, the program might be of little value.

However, according to the Montana Department of Agriculture, there may be a continued, real need for the Beginning Farm Loan Program. The Department has indicated that it has received over 1,500 inquiries regarding the program during the past two years. In addition, the Department has indicated that nearly half of all agricultural producers may have need to transfer ownership of their land in the next 10 to 15 years, and the availability of capital to facilitate this transfer to a new generation of farmers is in doubt.

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Similar programs and policies: It is not known how other farm states plan to continue operation of similar programs to assist beginning farmers. Therefore, there are no examples that can be studied.

Nevertheless, a possible approach to provide financing for the Beginning Farm Loan Program might be to adopt the funding mechanism proposed under Senate Bill 425 and Senate Bill 426, which were debated in the 1985 Legislature.

Senate Bill 425 would have provided for allocation of 25% of all revenue deposited in the coal tax fund for investment in banks with the agreement that the banks would in turn provide loans under the Beginning Farm Loan Program and the Agricultural Loan Guaranty Program.

A companion bill, Senate Bill 426, would have authorized an assessment on agricultural products to fund the capital reserve account of the Montana Agricultural Loan Authority. The capital reserve account is a fund that is used for the payment of principal, interest, and a redemption premium on bonds sold by the Montana Agricultural Loan Authority.

There was significant support for SB 425 during the 1985 legislative session. The bill was approved on a 33-17 vote on third reading in the Montana State Senate. However, it was ruled that passage of SB 425 required a 3/4 vote, and SB 425 failed to advance to the Montana House of Representatives. It is believed by legal counsel

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that this ruling was in error and that SB 425 only required a majority vote in order to receive passage. Because SB 425 failed, SB 426 was indefinitely postponed and died in the process. Both proposals may warrant renewed consideration by the 1987 Legislature.

OPTION #4: Authorize creation of a marketing division in the Montana Department of Agriculture, which will promote Montana agricultural products in both foreign and domestic markets, and assist producers and marketers in dealing with potential buyers, trade representatives, and government agencies.

Explanation: This option would provide for the establishment of a marketing office within the Montana Department of Agriculture. Currently, there is no formally constituted division in the Department to assist in the marketing of agricultural products. However, the Department is engaged in some marketing activities. These activities include market research, participation in trade shows, and assistance to producers and others who seek to market agricultural products.

By and large though, the Montana Department of Agriculture carries out its marketing activities without much state financial assistance. It has received sufficient funds for only one full-time equivalent employee. The director of the Department does, from time to time, work to promote Montana agricultural products, and he meets with foreign trade delegations whenever they

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visit the state. But, the amount of time he can devote to marketing activities is limited and these activities conflict with his main responsibility as head of a state administrative agency.

The option being proposed has as its purpose the development of a coordinated state marketing effort to boost the sale of Montana agricultural commodities. Underlying this option is the belief that it is no longer sufficient to grow good crops, but rather, it is necessary to compete for market outlets for such crops. This option is based upon a realization that agricultural trade would provide economic benefits for the entire state, but would especially improve the state's agricultural economy.

Therefore, this option would propose that the state provide for an adequately staffed and funded program to give assistance to those in agriculture who seek help in marketing their agricultural products, either in foreign or domestic markets. Such assistance could include marketing, market research, trade promotion, agricultural exhibits, facilitating private trade efforts, and responding to foreign trade inquiries.

Comment: It is important to note that agricultural marketing in Montana is conducted in a somewhat fragmented manner. Agricultural marketing is carried out by the Montana Pork Research and Marketing Committee, the Montana Beef Council, the Montana Wheat Research and Marketing Committee, and the Montana Department of Commerce, in addition to the Montana Department of Agriculture.

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The marketing effort of these four agencies is limited and disperse, with much of the marketing being performed by commodities groups, national agricultural organizations, and other private parties.

The Montana Pork Research and Marketing Committee concerns itself only with the promotion of pork and pork products. It spends its funds chiefly to conduct promotional programs with the National Pork Producers Council, and provides information on a variety of matters relating to pork production and markets for pork. The Committee does not carry out its own marketing effort. Indeed, the Committee is prohibited from setting up its own research unit or marketing staff to carry out research, promotion, and marketing of pork. It is required to contract with national organizations and public or private groups to perform its marketing and research functions.

The Montana Beef Council conducts a similar limited marketing program. Under the program, the Montana Beef Council provides funds to the Beef Industry Council of the National Livestock and Meat Board to support the national beef promotion programs. Eighty percent of all program funds are allocated to the national promotion programs. The remaining 20% is spent for in-state programs.

The Montana Wheat Research and Marketing Committee also has a limited marketing function. This function is to provide for research and marketing for wheat and barley grown in Montana. Like the Montana Pork Research and Marketing Committee, the

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Montana Wheat Committee does not primarily engage in its own research and marketing activities. Rather, the Committee provides for research and marketing mainly by entering into contracts and agreements with public and private organizations. The Committee is not allowed to employ researchers, professionals, or scientific personnel to perform its marketing and research function, except under contract.

The Montana Department of Commerce also conducts an agriculture-related marketing program, which is founded in the Business Assistance Division. This program, though, does not generally serve the needs of most agricultural producers. The program does not concentrate on the development of markets for raw agricultural commodities. Instead, to the extent that marketing assistance is provided in an area related to agriculture, the program is mainly concerned with the promotion and marketing of value-added or processed agricultural goods.

Thus, what seems to be needed is a broad program of assistance for the marketing of all agricultural commodities and products, especially a program that would provide coordination of all current marketing efforts in agriculture. Establishing such program with the Montana Department of Agriculture might be both logical and consistent with previous legislative policy.

The Montana Department of Agriculture is the constitutionally mandated agency responsible for protecting, enhancing, and developing all agriculture in the state. With respect to marketing, the

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Legislature has already determined that the Department should have a primary marketing role. Existing statutes provide that the Montana Department of Agriculture should coordinate marketing in the state and endeavor to develop new and improved systems of marketing. The problem, then, seems to be that the Department simply requires more funding to properly carry out a marketing program and it needs increased authority to eliminate overlapping and duplication of marketing effort among other agencies.

It must be pointed out that, without some improvement in agricultural marketing, Montana's agricultural markets may be eroded because other states and foreign nations are aggressively marketing their agricultural products to expand their share in the marketplace.

The state has received a clear indication from the Japanese that this could be a problem for Montana. During a 1985 trade mission to Japan, an official of a large Japanese trading company asked Montanans how they expected to trade with Japanese companies when they visit the country only once every two years and when they make no effort to learn about Japan and its language. The Japanese official said that competition is stiff for business in Japan, and 26 states had conducted trade missions to Japan in the first half of the year. Some of the states maintained offices in Japan to follow up on trade leads. The message should be clear. Montana is at a clear trade disadvantage because it lacks an adequate marketing program.

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Similar policies and programs: A variety of states have established programs to promote agricultural products in their state. The clear leader in agricultural market development is Minnesota. In one year, the state's total commitment to export trade, in both the state agriculture and commerce agencies, went from two people and a budget of \$176,000 to 31 people and a budget of \$6.65 million. With this change, Minnesota created the Minnesota Trade office. This agency is located in the state department of agriculture and has two main divisions: an International Trade Division, which promotes manufactured products and services, and an Agricultural Marketing Division, which promotes Minnesota agricultural products both domestically and internationally. In addition, Minnesota has an Export Information Office, which gathers and disseminates information about Minnesota products, foreign trade leads, and international trade organizations.

Some other examples of state agriculture marketing programs are these:

Wisconsin has created a Center for International Agribusiness Marketing to promote the export of state agricultural and agribusiness products in foreign markets.

Kansas has established the International Wheat and Livestock Program at Kansas State University to assist producers in marketing livestock products overseas and to assist foreign buyers.

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Texas has developed an export trade program to expand overseas markets for state agricultural products. Texas, however, is trying to identify new export markets and unserved niches in existing markets. The state has also hired trade experts with trade experience and language skills for specific regions of the world. The state uses federal embassies and Foreign Agricultural Service offices as trade offices overseas.

OPTION #5: Redirect university agricultural research and extension services to the primary purpose of 1) increasing net farm income, 2) reducing the overall production costs of farming, 3) promoting sound agricultural resource management, 4) expanding demand for farm products, and 5) developing new agricultural markets.

OPTION #6: Require the university agricultural experiment station to accelerate research on the development of a sawfly resistant, solid stem wheat, and to make wheat research a top program priority.

Explanation: Options 5 and 6 are based upon concerns regarding program priorities and direction within the state-supported university agricultural research and extension agencies. The mission of the state's land grant college-based research and extension system has

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long been the development and dissemination of new knowledge and information to improve agriculture in Montana. However, there are now concerns about how this mission should be accomplished during a time of financial distress in agriculture.

There are several key concerns that have been expressed regarding the program priorities and function of the university research establishment. These concerns specifically pertain to the Montana Agricultural Experiment Station and the Montana Cooperative Extension Service.

The first major concern is that the emphasis of state agricultural research has been primarily to serve production maximizing research goals. In other words, it is believed that, by and large, agricultural research tends to concentrate on increased yields, frequently in the name of efficiency, but without regard to the need for profitability. Also associated with this concern is a sense that production research has contributed to current financial problems in agriculture, mostly because such research tends to require higher capital inputs, which have resulted in farm debt, and because increased production has resulted in an oversupply of agricultural products that has undercut commodity prices and created other diseconomies.

According to this concern, increasing net farm income and reducing the capital requirements of farming should be the first priority in agricultural research, and production research should support these purposes.

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Another main concern is that state agricultural research overly emphasizes the modification or control of nature and that research generally promotes reliance upon costly commercial chemicals, fertilizers, and other synthetic inputs. This concern holds that agricultural research concentrates too much on biotechnology, genetic manipulation, development of hormones and growth stimulants, and testing for the chemical tolerance of crops. These concerns speak to a need for better agricultural resource stewardship and the long-term sustainability of our human, economic, and natural resource base.

Still another concern regards the opportunity for increased profitability that might be obtained with additional marketing research and research into quality and end-product utilization of agricultural commodities. This concern emphasizes that the problem of declining sales and profit in agriculture must be addressed through university marketing research, development of innovative marketing strategies, and research to make our agricultural products more competitive in the marketplace, and to expand demand for these products.

A fear associated with this concern is that the state is failing to maintain its competitive advantage in agricultural markets and that the state's agricultural producers may soon lose their ability to find markets for their products.

The final concern relates mainly to option #6. This option would require that greater measures be

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taken to deal with wheat infestation and to provide for research to protect and improve the state's wheat industry. Specifically at issue is the adequacy of state research to control sawfly problems in the prime wheatland of Montana. Also at issue is the lack of an adequate wheat breeding program. The perception is that not enough is being done by the university agricultural experiment station to find ways to halt the devastation of the wheat crop by the sawfly. It is believed, according to this view, that what must be done is for the university to develop a sawfly resistant, solid stem wheat.

Part of this concern is that the state simply does not have a good wheat breeding program. Therefore, it is proposed that wheat research should be a priority in the state's agricultural research program.

Comments: There seems to be considerable substance to the concerns that have been expressed. An evaluation of the research priorities for the Montana Agricultural Experiment Station reveals that: (1) there is no research to expand export markets, (2) relatively little research is conducted to expand demand for farm products or to improve efficiency in the marketing system, (3) substantial research does exist to protect crops from damage by insects, diseases, and other hazards; however, only moderate research is directed toward control of insects affecting field crops, and (4) research to decrease real production costs is fundamentally linked to increased production and other yields-related research.

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Table 1, which appears on page 25, presents a summary of expenditures for agricultural research conducted at the Montana Agricultural Experiment Station. These expenditures are reported according to major research project goals, as classified under the National Current Research Information System (CRIS).

As can be seen from Table 1, there was no expenditure in fiscal year 1985 for research in the area of export marketing under Goal VI. In addition, only 2.6% of all research expenditures was dedicated to improving marketing systems, as provided under Goal V. Furthermore, only 4.6% of all research was in Goal IV, which is to expand the demand for farm products by improving products and processes and enhancing product quality.

Clearly, the main emphasis of research at the Montana Agricultural Experiment Station lies in research to fulfill Goals II and III. Research in these two categories accounts for almost three-fourths of all research expenditures (73.8%). Research in these categories are (1) Goal II: to protect crops and livestock from insects, disease, and other hazards, and (2) Goal III: to produce an adequate supply of farm products at decreasing real production costs.

An additional breakdown of research projects within each research category shows the specific focus of the university's main research effort. This information is summarized for projects in Goals II and III and appears on pages 26 and 27.

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This summary indicates that research in Goal II mainly focuses on ways to (1) control diseases and nematodes of field crops and range, (2) control weeds and other hazards affecting field crops and range, and (3) control diseases of livestock and other animals. Research in these three areas accounts for three-fourths of all expenditures in Goal II. Less emphasized in this area of research is work to control damage from insects and other infestation affecting field crops and range.

The projects in Goal III are concentrated in two major areas, as is shown in Table 3. Over 67% of all expenditures for research in Goal III is in these two areas. Research in these two main areas is for (1) the improvement of biological efficiency in the production of field crops, and (2) the improvement of biological efficiency in the production of livestock, poultry, and other animals.

Based upon the CRIS research classification system, this type of research seems to emphasize increased yields to meet foreign and domestic needs. Moreover, this research does not have the reduction of total costs as its purpose. Rather, this research is defined as research to decrease cost per unit of production with the primary objective of providing adequate supply of farm products to allow for expansion of exports and increased consumption.

A decrease in the average per unit costs of production is not the same as a reduction in the total costs of an operation at minimal input

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levels. The distinction is both important and fundamental. Research to reduce average per unit costs generally seeks attainment of greater productive efficiency that is achieved through application of greater inputs, the use of more machinery, and the employment of expensive production methods. Per unit costs may be lower; however, total overall costs may be higher. Further scrutiny of research under Goal III may be justified.

Concern about the direction of agricultural research also extends to the Montana Cooperative Extension Service, which is the university's research outreach program. In addition, however, there seem to be other concerns which relate to the extension service's work priorities and its overall purpose.

The work priorities of the Montana Cooperative Extension Service seem to provide a serious basis for concern. At a time when the state's agricultural producers have requested farm management and financial planning assistance to help them survive a financial crisis in agriculture, the Montana Cooperative Extension Service has allocated 24.7% of all its resources to 4-H and youth services. This is revealed in a summary of the extension service's work priorities, which appears on page 28. It must be asked whether this is an appropriate work priority, one for which the state has appropriated \$4.5 million.

Another concern regards the mission of the Montana Cooperative Extension Service. The problem is

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that there are no state statutes which either establish the Montana Cooperative Extension Service or define the agency's purpose. As a result, it seems that the Montana Cooperative Extension Service lacks a clearly focused mission to serve the state's farmers and ranchers. It might be fitting for the Legislature to provide the Montana Cooperative Extension Service greater program direction, as well as a carefully defined purpose.

Similar policies and programs: In 1984, Minnesota undertook a serious examination of state agricultural policy. At the conclusion of this process, Minnesota developed a specific proposal to refocus agricultural research and extension services in a new direction for reasons similar to those underlying Option #5.

In July 1985, the Washington State Legislature created the International Marketing Program for Agricultural Commodities and Trade Center (IMPACT) at Washington State University. Under the IMPACT program, university research has embarked upon work to address international marketing problems and to boost sales of state agricultural products.

A recent article in the monthly journal of the Council of State Governments strongly recommends that states should direct educational outreach and research toward marketing and other means of improving opportunities for profitability in agriculture. The article indicated that, for too long, state land grant colleges and extension services have emphasized production at the expense of financial management.

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Table 1

FY '85 Agricultural Experiment Station Research Program by Goals
(including grants, contracts, and LARRL).

Goal	Expenditures	Percent
I - Insure a stable and productive agriculture for the future through wise management of natural resources.	\$ 1,667,032	14.7%
II - Protect forests, crops, and livestock from insects, diseases, and other hazards.	2,972,791	26.1%
III - Produce an adequate supply of farm and forest products at decreasing real production costs.	5,419,820	47.7%
IV - Expand the demand for farm and forest products by developing new and improved products and processes and enhancing product quality.	518,533	4.6%
V - Improve efficiency in the marketing systems.	301,542	2.6%
VI - Expand export markets and assist developing nations.	0	0.0%
VII - Protect consumer health and improve nutrition and well-being of the American people.	58,381	0.5%
VIII - Assist Americans to improve their level of living.	108,045	1.0%
IX - Promote community improvement including development of beauty, recreation, environment, economic opportunity, and public services.	322,585	2.8%
Total	\$11,368,729	100.0%

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Table 2

FY '85 Projects in Goal II: Protection from Insects, Diseases, and Hazards.

<u>Research Problem Area</u>		<u>Expenditures</u>	<u>Percent</u>
1	Control of insects affecting forests.	\$ 0	0.0%
2	Control of diseases, parasites and nematodes affecting forests.	0	0.0%
3	Prevention and control of forest and range fires.	0	0.0%
4	Control of insects, mites, slugs and snails on fruit & vegetable crops.	8,756	0.3%
5	Control of diseases and nematodes of fruit and vegetable crops.	17,718	0.6%
6	Control of weeds and other hazards to fruit and vegetable crops.	40,326	1.4%
7	Control of insects, mites, snails and slugs affecting field crops and range.	330,750	11.1%
8	Control of diseases and nematodes of field crops and range.	613,637	20.6%
9	Control of weeds and other hazards of field crops and range.	754,005	25.4%
10	Control of insects and external parasites affecting livestock, poultry and other animals.	0	0.0%
11	Control of diseases of livestock, poultry and other animals.	827,763	27.8%
12	Control of internal parasites of livestock, poultry & other animals.	370,529	12.5%
13	Protect livestock, poultry and other animals from toxic chemicals, poisonous plants and other hazards.	0	0.0%
14	Protection of plants, animals and man from harmful effects of pollution.	<u>9,307</u>	<u>0.3%</u>

Total \$2,972,791 100.0%

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Table 3

FY '85 Projects in Goal III: Producing an adequate supply of products at decreased real production.

<u>Research Problem Area</u>		<u>Expenditures</u>	<u>Percent</u>
1	Genetics and breeding of forest trees.	\$ 0	0.0%
2	New and improved forest engineering systems.	0	0.0%
3	Economics of timber production.	0	0.0%
4	Improvement of biological efficiency of fruit and vegetable crops.	131,669	2.4%
5	Mechanization of fruit and vegetable crop production.	0	0.0%
6	Production management systems for fruits and vegetables.	4,951	0.1%
7	Improvement of biological efficiency of field crops.	1,596,579	29.5%
8	Mechanization of production of field crops.	46,621	0.9%
9	Production management systems for field crops.	385,477	7.1%
10	Reproductive performance of livestock, poultry and other animals.	502,907	9.3%
11	Improvement of biological efficiency in production of livestock, poultry and other animals.	2,048,490	37.8%
12	Environmental stress in production of livestock, poultry and other animals.	21,902	0.4%
13	Production management systems for livestock, poultry and other animals.	295,743	5.4%
14	Bees and other pollinating insects.	0	0.0
15	Improvement of structures, facilities and general purpose farm supplies and equipment.	97,287	1.8%

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Table 3 (Cont.)
FY '85 Projects in Goal III

<u>Research Problem Area</u>	<u>Expenditures</u>	<u>Percent</u>
16 Farm business management.	69,687	1.3%
17 Mechanization and structures used in production of livestock, poultry and other animals.	0	0.0
18 Non-commodity-oriented biological technology and biometry.	<u>218,507</u>	<u>4.0%</u>
Total	\$5,419,820	100.0%

Table 4

Extension Professional Staff Years (FTE's) by Work Priority. (FY '86 Update).

<u>Work Area</u>	<u>Staff Years</u>	<u>% Staff Time</u>
1. Agricultural and natural resources.	67.5	51.5
2. Community development.	5.2	4.0
3. Home economics.	26.0	19.8
4. 4-H & Youth Development	<u>32.3</u>	<u>24.7</u>
Total	131.0	100.0%

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OPTION #7: Provide for a state hunting/recreational fee access program as a means of: 1) allowing farmers to earn additional farm income by providing them an alternative use for their land, 2) controlling game damage on agricultural lands, and 3) promoting greater satisfaction of landowners for their contribution to wildlife habitat.

Explanation: This option is suggested as a possible means of addressing the critical need of many farmers for increased income from their land and to meet the demand for greater public access to open, private land for recreational and hunting purposes. This option also gives consideration to providing an alternative use for farmland and to allowing increased hunting as a way to control game damage on agricultural property.

The proposed option would improve recreational and hunting access to private farmland by allowing landowners to receive compensation for providing public access to their land. Under this option, such compensation could be provided by controlled fees or through a coupon system administered by the state. In any event, the state would assist in providing the public with information about available recreational and hunting access to private lands in Montana.

The option contemplates that some changes in the state's liability laws might have to be adopted. It is sensed that liability problems could impose an impediment to recreational and hunting access that is provided based on compensation to landowner.

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Comment: The proposed option may hold some promise for additional private revenue and increased benefits from an alternative use of farmland. If there is strong public demand for access to private farmland, farmers could earn income to supplement farm earnings. This income would be derived from the compensation allowed for providing increased public access. With so much negative feeling aroused because of game damage, farmers may gain increased satisfaction for maintaining wildlife habitat if they are compensated in the manner proposed. However, tradition may limit public acceptance of this option. The public may view access to land as a right by heritage even though such access is to private land. This perspective may be particularly held by hunting and sporting enthusiasts, who also must pay for hunting permits and licenses.

Furthermore, liability questions could complicate matters. According to some experts, while the economics exist for many small landowners to achieve greater revenue from recreational or sporting uses for their land as compared to income that might be earned by raising a crop, liability exposure could be too great to permit development of more increased access to private land.

Finally, it does seem that providing an alternative use of farmland could be very important at this time. Under the federal Conservation Reserve Program, which was enacted as part of the 1985 Farm Bill, as many as 3 million acres of agricultural land could be taken out of

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agricultural production in Montana. The program is intended to keep certain highly erodible lands out of crop and livestock production for 10 years. This land would be seeded into grass and planted with shrubbery. The land would be potential wildlife habitat. The proposed option would provide a permitted, alternative use for this land.

Similar policies and programs: In response to the farm crisis in the rural areas of the state, New Jersey enacted the Open Lands Management Act. The law provides \$250,000 in grants to landowners for improved public access, allows some protection against damage to property, and provides landowners additional immunity from liability.

Wyoming has instituted a program to provide landowners compensation for hunting access to private land. Under the Wyoming program, licensed hunters who are granted access to the land must furnish the landowner a coupon following a successful kill. The landowner may redeem the coupon to receive compensation from the state.

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SENATE BILL 59

Mr. Chairman and Members of the Senate Judiciary Committee:

SB-59 simply allows state chartered banks to hold agricultural real estate for 15 years rather than 5 years following acquisition of the property by foreclosure or conveyance in satisfaction of debt to a bank. Presently, banks must dispose of this real estate within 5 years.

Banks forced to sell repossessed property they have acquired over the last few years could depress farm land values further. Land values have already dropped 40-50% over the last few years, and it will not benefit anyone to compound this situation.

For example, the Federal Land Bank now has a 3-tiered interest rate structure based on a loan to asset ratio. Their best rate of interest is available to those with the lowest ratio. If land values are depressed due to forced sales, farmers may find their land bank interest rates going up on their loan with the land bank.

Farmers could also be adversely affected when it comes time to get an operating loan wherein the appraised value of their land is a factor. It may restrict the amount of loan they would be able to receive, and the amount the bank would be able to lend.

A longer holding period could result in a better lease arrangement for the farm tenants wishing to lease the land. A 5 year maximum holding period typically forces a bank to restrict leases to a one or two year period. A 15 year holding period would allow the lender to provide a long term lease. Farmers who have deeded their property in lieu of foreclosure could lease the

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farm with an option to buy back the farm at the end of the lease period. Without a 5 year time restraint, banks would have greater flexibility to lease farms.

After a farm has been acquired, a bank must charge off the difference between the loan and the appraised value if the appraised value is lower. This loss is a direct hit to the banks capital or net worth. Banks who have acquired real estate over the last few year's and are now coming up against the 5 year deadline would be forced to sell at even lower land values causing additional losses which may ultimately contribute to the insolvency of a bank and its closure. 36 banks operated at a loss in 1985 and 1986, and all banks earnings have fallen 50% in 1986. Extending the holding period simply gives the bank a little more breathing room, and time to work out of its ag loan problems.

National banks may hold other real estate for up to 10 years. Colorado recently enacted a law allowing their state chartered banks a 15 year holding period. SB-59 would place Montana banks in a comparable position with these other banks.

Finally, this act only applies to ag land acquired by banks between 1982 and 1991, and terminates in 20 years. In other words, this is a temporary solution with the expectation that land values will come back in the future making it unnecessary for banks to hold the land for an extended period of time.

Mr. Chairman and members of the committee for these reasons we urge you to recommend a "do pass" on Senate Bill 59.

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CHAIRMAN, MEMBERS OF THE COMMITTEE - I'M JACK HEYNEMAN, CHAIRMAN OF THE
NORTHERN PLAINS RESOURCE COUNCIL. ^{As you know} A NORTHERN PLAINS IS A GRASSROOT MEMBERSHIP
BASED ORGANIZATION WORKING ON NATURAL RESOURCE AND AGRICULTURAL ISSUES. I'M
HERE TODAY ~~ON BEHALF OF THAT ORGANIZATION~~ TO TESTIFY AGAINST SB 59.

SB 59 WOULD RESULT IN BANKS HOLDING LAND VALUES AT AN ARTIFICIALLY HIGH
LEVEL. ^{As Sen Galt ~~was~~ supposed to} PROPPING LAND VALUES UP BEYOND THE PRODUCTIVE CAPACITY OF THE LAND
WOULD MAKE IT DIFFICULT, IF NOT IMPOSSIBLE FOR THE NEXT GENERATION OF FARMERS
AND RANCHERS TO ENTER AGRICULTURE. TYPICALLY AGRICULTURAL LAND GOES THROUGH³
A ~~4~~ PHASE CYCLE: A PHASE OF BEING PURCHASED; A PHASE OF BEING PAID FOR; AND A
PHASE OF BEING TRANSFERRED TO THE NEXT GENERATION. SB 59 WOULD BREAK THIS
CYCLE. AND ^{Since} ~~BECAUSE~~ SB 59 WOULD APPLY TO AGRICULTURAL LAND ACQUIRED BY BANKS
FROM APPROXIMATELY MAY 1982 UNTIL DECEMBER 1991 WITH THE TERMINATION DATE SET
AT JANUARY 2006, WE RUN THE RISK OF SHUTTING OFF AN ENTIRE GENERATION OF
FARMERS AND RANCHERS FROM ENTERING AGRICULTURE. *This is our main & compelling reason for object.*

WE ARE ALSO CONCERNED THAT SUCH LEGISLATION ^{could} ~~WOULD~~ GIVE ^{some unscrupulous} LENDERS MORE OF AN
~~AN~~ INCENTITIVE TO FORECLOSE, ~~RAATHER THAN ATTEMPT TO WORK THINGS OUT,~~ KNOWING
THEY COULD HOLD REAL ESTATE FOR 15 YEARS, THUS MAINTAINING THE BOOK VALUE OF
THEIR ASSETS.

⁰⁰
~~WHILE~~ WE SYMPATHIZE WITH THE BANKS NEED TO STABILIZE THEIR ASSETS, WE ^{but we}
BELIEVE THE DISADVANTAGES TO BORROWERS OUTWEIGH THE BENEFITS TO THE BANKS.

THE CURRENT LAW PROHIBITS BANKS FROM HOLDING FORECLOSED REAL ESTATE FOR A
PERIOD LONGER THAN 5 YEARS. PRESUMABLY, THE PURPOSE OF THIS LAW WAS TO PREVENT
BANK SPECULATION IN REAL ESTATE. NPRC BELIEVES THIS IS GOOD PUBLIC POLICY.
CONSEQUENTLY, WE GO ON RECORD AS SUPPORTING THE CURRENT 5 YEAR LIMITATION.

THANK YOU.

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EXHIBIT NO. 3

DATE Jan. 9, 1987

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