

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on January 14, 1991,
at 1:00 P.M.

ROLL CALL

Members Present:

Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Betty Bruski (D)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused: None

Staff Present: Doug Sternberg (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 3

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10, advised that Senate Bill 3 would remove the sunset provision that would have terminated the Agriculture Counseling Program on July 1, 1991. This would allow the program to stay in place. It is his opinion that it is a worthwhile program and especially needed in view of the drought in eastern Montana, and because the FMHA moratorium on farm foreclosures expired as of January, 1991. He believes the fact that there have only been two productive years out of the past 10 or 11 years has been very hard on people. A high rate of two and three-year delinquencies on payments of FMHA loans has developed. Financial prospects do not look any brighter in the near future, and he feels this program is necessary and people need somewhere to turn. It will be especially critical in view of the fact FMHA is the lender of last resort and such a high rate of delinquencies exists in the northeast corner of the state.

Proponents' Testimony:

LINDA NELSON, Representative from House District 19, appeared to offer support of SB 3. She stated when this program was funded by the Legislature and developed by the Department of Agriculture in 1986, she took the training to become a volunteer peer counselor. She traveled throughout northeast Montana visiting with distressed ranchers and farmers who called the hot line. Mostly her job was to listen and then channel them to the help they needed. She gave examples of the situations she encountered. Through private individuals they found help for these people and it cost the Department of Agriculture very little. She believes this is not an expensive program, and is a humanitarian program worth keeping in place.

JOHN ORTWEIN, representing the Montana Catholic Conference, stated the Bishops of Montana have indicated to him that the greatest stress they find as they travel throughout their Dioceses is among people in the agricultural communities. As members of the Montana Association of Churches, the two Dioceses have helped in the sponsorship of the Agricultural Assistance Program. He urged support of SB 3 and the continuation of the program. (Exhibit No. 1)

MARY LOU HEIKEN, Rural Ministry Coordinator for Montana Association of Churches, stated she coordinates the peer counselors for Agricultural Assistance Program. Ms. Heiken furnished written testimony setting forth her observations and also statistics regarding use of the program, and she read her testimony to the committee (Exhibit No. 2).

DALE FOSSEN, a farmer from Joplin, advised he wished to testify in support of SB 3. He stated he has been active in the peer counseling program through the Ag Assistance Program since 1986, Montana Association of Churches, and Montana Farm Counseling Coalition since its inception. He also served on the Governor's Advisory Board that worked with the Department of Agriculture when the program first began. It is his belief agriculture today is too complex and too dependent upon the political whims of a select few. They need a way to fight back, and he believes SB 3 provides that need. He stated this program might appear insignificant, but it provides much more than appears on the surface. They learn that others care about them, and self-worth is promoted. He said the success of the program cannot be measured in dollars. The program has built a reputation for honesty and integrity, especially with the financial institutions, according to Mr. Fossen. He believes SB 3 will provide the cooperation between the private sector and the public sector and illustrate that the legislature cares about agriculture in Montana. He urged support of SB 3. (Exhibit #8)

JOANN FORSNESS, hot line coordinator for Women Involved in Farm Economics, stated she has been involved in the program since 1985. She provided figures that indicate the number of FMHA

delinquencies in the state at 22.5%. She told of a study which tracks people who leave or lose their farms. This study indicates a large number of these people did not get jobs, provide their own support or pay taxes, at least for a number of years. She pointed out that the Fiscal Note indicated peer counselors will receive \$5.00 per hour, plus expenses at state rates. She stated peer counselors never have, nor do they wish to be paid. The Fiscal Note also states mediators will be paid \$20.00 per hour, plus expenses. According to Ms. Forsness, mediators have been paid \$12.50 per hour, and feel that is adequate. She also referred to Item 8 and stated she did not believe the number given for FMHA mediation requests (100) was accurate, adding that she believed it would be higher. She requested the committee's support, and furnished written testimony and figures for the committee's inspection (Exhibit No. 3).

DOLLY VESTAL, a member of the Ag Assistance Program since its inception, referred to a recent article in the Great Falls Tribune with the headline "Wake Up". This is a discussion about a show being released currently called "Awakenings". She compared the trance-like state of the characters to the situation the farmers were in until the counselors came along to help them. She expressed concern as to what will happen if the help is taken away. She urged support of SB 3, and presented written testimony which she read to the committee (Exhibit No. 4).

CAROL MOSHER, representing the Montana Cattle Women, stated they would like to go on record as being in support of SB 3.

JOHN SHONTZ, representing the Mental Health Association, stated that the Agriculture Assistance Program is a unique service that is provided to people across the state that is not provided through the traditional mental health system. He hopes the program will continue to match unique people with abilities who understand agriculture to help people from that same industry. He strongly urged, on behalf of Mental Health chapters across the state, that the committee support this legislation.

JOAN FORCELLA, peer counselor for the Agriculture Assistance Program, presented her testimony which she read to the committee. The testimony, written in verse, set forth her observations and support of the Agriculture Assistance Program (Exhibit No. 5).

GEORGE PAUL, representing Montana Farmers Union, stated that his organization supports SB 3. He believed that rather than focusing on the sunset, the need for the program should be stressed. Indicators show that farm income will go down by 25% this year. He informed that Montana Farmers Union had been running a federally funded program out of its office to help people who had left the farm. That program is no longer available, and he advised they are still getting calls from people looking for assistance. He urged support of SB 3.

SUSAN BROOKE, representing the Montana Stockgrowers and Montana Woolgrowers, stated they would like to go on record in support of SB 3.

Opponents' Testimony:

EVERETT SNORTLAND, Director of the Department of Agriculture, advised that when the Agricultural Assistance Program legislative sunset was extended during the 1989 legislative session, the legislature asked for and received a commitment to the legislature that the program would terminate July 1, 1991. He acknowledged the problems agriculture faces, but stated these are not unlike similar difficulties faced by other Montana business. The assistance program was intended and supported as a temporary program to help during a critical period. He stated the Department remains consistent with that position and the commitment made to the 1989 legislature, and therefore the Department does not support SB 3. He presented his comments in written form (Exhibit No. 6).

Questions From Committee Members:

Senator Jergeson asked Mr. Snortland if the position of the Department of Agriculture would be more favorable if another extension of the sunset was requested.

Mr. Snortland replied that he thinks the program is a good one which works. He feels that the mediation and counseling was a demonstration project to show folks there is another method to resolve the problems of debt and related areas besides litigation. The agriculture situation is deplorable, especially in eastern Montana. He indicated there is also a fairness issue to be considered since other business people are having problems. He noted that a program such as this builds up a level of constituency and it will grow and remain part of government. He believes limited resources restricts the number of programs. He added that Senior Corps of Retired Executives (SCORE) provides counseling. He also commented that counseling before the fact is better than after mediation is necessary.

Senator Williams pointed out that on the fiscal note federal funds are shown as about \$10,000 more than state funding. He asked if that was an accurate figure.

Mike Murphy from the Department of Agriculture stated that the figures are correct. Mr. Snortland added that at this point of time those dollars are still available, and will probably remain available throughout the next two years.

Senator Williams referred to Item 6 of the fiscal note. He asked if the average fee collected for mediation will come from the down-and-out farmer. Mr. Murphy informed that the fee is also charged against the creditors.

Senator Beck asked if the federal money received was a match of some kind. Mr. Murphy answered in the affirmative stating that it is a match. Senator Beck referred back to the fees paid to the counselors. He asked if some money could be taken out of the fiscal note since the counselors are volunteers. Mr. Murphy stated those dollars are included in the budget estimate, amounting to approximately \$10,000. He said that gets back to this being a temporary rather than permanent situation. It was considered if peer counselors should receive some stipends for their assistance, so that was included in this budget.

Senator Swift stated he had the same question regarding Item 4 of the fiscal note where it shows \$20.00 for the cost, but the testimony indicated \$12.50. He asked which is the correct figure. Mr. Murphy indicated that at this point in time the mediators are paid \$12.50 per hour; however, again the temporary or permanent situation comes into play. Mediators in the private sector are paid \$50.00 to \$100.00 per hour, and from that standpoint it was believed if this was to be a permanent program, those mediators should be paid a reasonable rate for their services.

Senator Swift pointed out to Senator Nathe that there was no signature on the fiscal note. He asked if that is indicative of the fact that the sponsor does not agree. Senator Nathe indicated he felt it was too high and therefore did not sign it. He believes that if SB 3 passes, it will have to go to the Appropriations Committee.

Senator Swift noted that one of the handouts indicated the average of delinquencies is somewhere near 20% as of September, 1990. He asked Senator Nathe if he agreed with that figure. Senator Nathe said he could not speak for other parts of the state, but he did know that in the northeastern corner the figures were correct.

Senator Koehnke asked for permission to request Bek Meredith to provide information pertaining to the bill. Ms. Meredith stated she works for the House of Representatives and cannot provide testimony but could answer questions. She stated she worked for the Ag Assistance Program from December, 1988 to November, 1990. Senator Koehnke asked her about how many calls she had taken. She advised that in 1989 there were approximately 245 requests from FMHA for mediation. Mediations also incorporate the work of the peer counselors and the financial consultants to help people prepare for their mediations and help them make the transition for whatever the end result may be. All the facets of the program were used more than in the past.

Senator Jergeson asked if she saw any reduction in the need, given the current economic situations in rural Montana, for this particular program. Ms. Meredith advised that she sees a greater need.

Senator Rea stated that the only opposition appears to be because of partiality for one group of people. He asked why is it that fertilizer dealers cannot avail themselves of peer counseling. She responded by stating that the network of this program has been in place since 1986 and in the past year if a fuel dealer or implement dealer had asked for assistance, they also received help. Senator Rea asked if that would be an added financial burden, but she stated it just increased the volume number. She stated they have taught people to keep better records, and to get professional help at certain points be they a producer or a businessman.

Senator Devlin asked Mr. Fossen if he sees a day forthcoming when this program will not be needed. He asked if the program might get so firmly entrenched and expanded that it might be around forever. Mr. Fossen stated he understands the committee's caution. He stated he does not see an end to the help they can provide, but he does not see an expansion as the Department of Agriculture indicated. He pointed out that they are helping people other than agriculture producers.

Senator Devlin asked if all the fees indicated in the fiscal note are being paid. Mr. Murphy stated that figure is based on historic information consistent with fiscal year 1990. Mr. Murphy stated that figure could be used for the dollar/dollar match. He stated they cannot use all the peer counseling and other administrative expenses to match with federal money since the federal money is intended for mediation. About 75% of the cost of the program can be matched with federal money.

Senator Jergeson asked if the federal matching money could be available to any private group, or is it only available to a mediation service offered by the Department. Mr. Murphy informed that if the governor certified an agency to provide mediation services, the matching federal funds would be available. Senator Jergeson calculated that by removing the program from the Department of Agriculture to some other group, it would be reduced to about a \$43,000 program. Mr. Murphy stated that was probably fairly accurate.

Senator Beck asked who is paying the fees - the creditor, the banker or the borrower. Mr. Murphy advised that the majority of fees are being paid by the creditors, but they are being pro-rated and a bill will be sent to each participant. Senator Beck wondered if that was a "bargain" for the financial institution and the borrower in most instances, and could the fee be raised to help offset some of the expense of the program. Mr. Snortland pointed out that technically the program is for distressed farmers and ranchers, and that the problem in collections has been with the farmers and ranchers. He said that the fee they hope to collect and that actually collected progressively gets out of balance.

Senator Devlin asked if information would be available as to how other states handle this problem, and how many neighboring states have this program in effect. Mr. Murphy stated that information would be available. He added that 15 other states participate.

Senator Williams asked if those were operated through private industry. Mr. Murphy replied that they were operated through a combination of private industry, Department of Agriculture, or other departments.

Senator Beck commented that sometimes these programs do run their course. He asked Senator Nathe if he would be opposed to putting a sunset of 1993 on this bill. Senator Nathe stated that would be an option.

Senator Jergeson commented that as this program progressed, everyone was hoping the drought would break. However, it has lingered on in the northeastern part of the state longer than in other parts. He stated that in two years a reversal may be seen in which other parts of the state might be suffering from whatever natural disasters may occur. Agriculture will always face natural disasters that will cause financial problems for pockets of producers.

Closing by Sponsor:

Senator Nathe stated that this was a good discussion. In regard to the amount of money in the bill, he believes if the bill goes to the Appropriations Committee, it will be "cat and dog" bill. He believes the drought has accentuated a need for this bill. He commented that one of the few times he agreed with Jimmy Carter was when Carter said in a press conference that the only way to save the family farm was to pass a law to cut the horsepower of all the tractors by 50%. He said the drought has accentuated the hardship on the land. He added that very few farmers and ranchers are hard-nosed business people. In this technological explosion since 1969, the economic pressures of owning expensive equipment by those who did not have the assets, coupled with the drought, plus the reduction in the number of farmers, have brought on the problems. This program does offer them counseling and helps them realize there is life either off or on the farm, and helps them in a transitional period.

* * * * *

Chairman Jergeson announced that he had invited another department from state government to appear before this Committee for an information session.

By way of background, he stated that in 1987 the Montana Legislature passed the Montana Growth Through Agriculture Act.

In 1989 that particular program was moved to the Department of Agriculture. Chairman Jergeson stated he requested the Department of Agriculture to appear to provide information on the various grants and other allocations that have been awarded through the program for various projects around the state in the past two years, and to be available to answer questions from the Committee about whether or not those particular grants, programs and allocations may have met the intent of the Legislature.

Everett Snortland, Director of the Department of Agriculture, thanked the committee for the opportunity to provide the Senate Agriculture Committee with an update on the Montana Growth Through Agriculture Act.

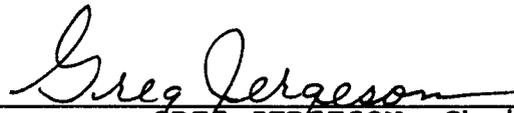
He introduced members of his staff who accompanied him:

Mike Murphy, Administrator of the Ag Development Division
Clyde Rooney
Carol Hanna
Yuan-Hsin C. Light

He presented the committee members with a packet of briefing papers concerning the Montana Growth Through Agriculture Act (See Exhibit No. 7.)

ADJOURNMENT

Adjournment At: 2:30 P.M.



GREG JERGESON, Chairman



DOROTHY QUINN, Secretary

GJ/dq

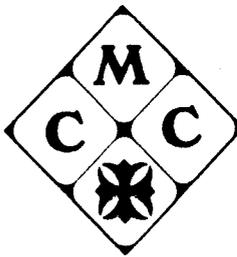
ROLL CALL
AGRICULTURE COMMITTEE

DATE 1/14/91

52nd
LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK	X		
SEN. BRUSKI	X		
SEN. DEVLIN	X		
SEN. REA	X		
SEN. SWIFT	X		
SEN. WILLIAMS	X		

Each day attach to minutes.



Montana Catholic Conference

SENATE AGRICULTURE
EXHIBIT NO. #1
DATE 1/14/91
SB 3

January 14, 1991

CHAIRMAN JERGESON AND MEMBERS OF THE SENATE AGRICULTURE COMMITTEE

I am John Ortwein representing the Montana Catholic Conference.

Both Bishop Curtiss of the Diocese of Helena and Bishop Milone of the Diocese of Great Falls-Billings have indicated to me that the greatest stress to be found among the people in their respective Dioceses are the people to be found in the agricultural community.

The two Dioceses are members of the Montana Association of Churches and as such have helped in the sponsorship of the Agricultural Assistance Program.

The Montana Catholic Conference supports SB 3 and the continuation of the Agriculture Assistance Program.





SENATE AGRICULTURE

EXHIBIT NO. # 2
DATE 1/14/91
BILL NO. SB 3

ANDREW SQUARE, SUITE G
100 24TH STREET WEST
BILLINGS, MONTANA 59102

MARGARET E. MACDONALD
EXECUTIVE DIRECTOR

TELEPHONE 656-9779

WORKING TOGETHER:

CHAIRMAN JERGESON AND SENATE AG COMMITTEE MEMBERS
1-14-91

American Baptist Churches
of the Northwest

I urge you to support SB3 to continue the Montana
Agriculture Assistance Program.

Christian Church (Disciples
of Christ) in Montana

Drought, decreasing land values, high interest rates,
low commodity prices, and grasshoppers have placed
many Montana farmers/ranchers and rural communities
in jeopardy in recent years.

Episcopal Church
Diocese of Montana

The Agriculture Assistance Program goal is to aid and
help agriculture producers so they can continue to be
productive and self-sufficient. But equally
important, for those who are unable to continue in
agriculture, the program does provide information and
assistance regarding various programs that can help
in the transition.

Evangelical Lutheran
Church in America
Montana Synod

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

Farmers need the assistance of peer counselors to be
prepared for meetings with financial consultants and
lenders. They need someone who is knowledgeable to
sit down with them before mediation and take an
objective look at their options. This will facilitate
a win-win situation when the borrower and the lender
finally reach mediation, a requirement under the 1987
Farm Credit Bill. The peer counselor can help the
farmer cope mentally with the situation and get on
with life, whether that is life on or off the farm.

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

Roman Catholic Diocese
of Great Falls - Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
Mt. N. Wyo. Conf.

Additional problems we see are: very tight money for
agriculture borrowers; 85 percent of Montana's soil
is rated abnormally dry; depressed wheat and sheep
prices; and the average age of ag producers is
maturing.

United Methodist Church
Yellowstone Conference

Statistics for the use of the program as of 12-12-90
are: total calls/4,430; mediation/754; information/
1,192; assistance/723; follow up/1,388; legal infor-
mation/133; miscellaneous/249. For your information
I have attached the latest survey of the program.

I have been involved with agriculture all of my life
and probably feel more uncertain about the future of
Montana agriculture than ever before. I urge your
support of SB3 to continue the Montana Agricultural
Assistance Program.

By Mary Lou Heiken, Montana Association of Churches
Rural Ministry Coordinator

MONTANA AGRICULTURAL ASSISTANCE PROGRAM
DEPARTMENT OF AGRICULTURE
APRIL 1990

SURVEY OF PARTICIPANTS

Please mark the type(s) of assistance provided to you:

<u>34</u> Peer Counseling	<u>64</u> Mediation
<u>37</u> Financial Consulting	<u>15</u> Other

	<u>EXCELLENT</u>	<u>GOOD</u>	<u>FAIR</u>	<u>POOR</u>
1. Promptness of response by program personnel	<u>65</u>	<u>25</u>	<u>8</u>	<u>4</u>
2. Knowledge and ability of program personnel	<u>57</u>	<u>30</u>	<u>10</u>	<u>4</u>
3. Empathy and courtesy shown by program personnel	<u>72</u>	<u>25</u>	<u>4</u>	<u>1</u>
4. Value of the assistance received	<u>49</u>	<u>29</u>	<u>10</u>	<u>13</u>
5. Do you think this program should be continued?	YES-96 NO-6 No response-13			

SENATE AGRICULTURE

EXHIBIT NO. #3

DATE 1/14/91

BILL NO. SB3

CHAIRMAN JERGSON AND SENATE AG COMMITTEE MEMBERS
1 14-91 (SB3)

Mr. Chairman, members of the committee. My name is JoAnn Forsness and I currently serve as a hotline co-ordinator for Women Involved in Farm Economics and am a peer counselor for Montana Association of Churches through the Ag Assistance Program.

We cannot believe the deterioration of the economy of agriculture in the last two years. Two years ago when we came to ask for your assistance, we were sure that things couldn't get worse, believing that restructure of ag loans would be the norm. We were about as wrong as it's possible to be. Restructures are not the norm and FmHA has hired 15 new staff people with three of that number being attorneys to begin in March to clean up their delinquencies. Many borrowers of the FCS still experience interest rates much too high and a reluctance by FCS toward any meaningful restructuring. Restructuring most times is accomplished only through bankruptcy or long costly drawn out negotiations by attorneys for both sides.

We are still finding far too many farmers and ranchers who do not have food for their families for at least a part of the year causing main streets in all of eastern Montana's communities to have many boarded up buildings.

When we got out a file last month to look at records to re-record our brand it was abundantly clear why in comparing numbers from a diary of J. Wall's mother we found the following:

1951: wheat-\$2.13/1991-wheat \$2.35; 1951-stamps 3¢/1991-stamps 25¢; 1951 brands \$3.00/1991-brands \$50.

DECEMBER 1986 to DECEMBER 1990 Hotline report

13 hotline operators

28,663 Hours hotline manned

\$ 14,500 reimburse expenses -approx 50¢ per hour

603 after hour recorded calls

Calls for information or to register hay or request hay
are not recorded calls.

*"Each time a [person] stands up for an ideal,
or acts to improve the lot of others... he sends
forth a tiny ripple of hope, and crossing each
other from a million different centers of
energy and daring, those ripples build a
current that can sweep down the mightiest
walls of oppression and resistance."*

TIME, SEPTEMBER 25, 1989

Jo Ann Forsness
Hotline Coordinator-WIFE

FARM CREDIT REPORT
 Malta District Meeting
 September 18, 1990

Counties	Total Borrowers	Total Del.	1 year Del.	2 or more years del.
Roosevelt Inc. McCone				
N.1/2 Richland	200	84	29	55
Valley	151	43	20	23
Phillips	85	21	13	8
Daniels-Sheridan	108	22	13	9
Dawson Prarie Wibaux & S. Richland	183	22	12	10

District One-Foremost Western District	19.8% Del.
District Two-Bozeman to Miles City	19.5% Del.
District three covering above listed counties	29.1% Del.
District four- Cutbank to Havre-	16.5% Del.

Borrowers one year or less delinquent will probably be serviced by FmHA.
 Borrowers 2 or more years del. will probably be washed out of system. FmHA State Office indicates that if they could help them it probably would have been done one year ago.

FARM CREDIT SYSTEM.

Roosevelt and Valley 34 foreclosures 1990
 Delinquencies six times the national average.
 Commercial Banks-

Wolf Point Bank-42% of loan portfolio is agricultural loans, 27% have been notified that the bank will not continue with them for another year.
 Glasgow-percentages are 50 and 30. bank representatives from Malta to North Dakota (Williston)) stated that their situation was close to the above percentages. Malta Glasgow, Wolf Point, Scobey, Plentywood, Poplar, Sidney, and Williston represented.

Jo Ann Forsness
 District Credit Chairman
 National Credit Chairman

DISTRICT 1

Deer Lodge, Dillon, Helena, Kalispell, Missoula, Polson
553 borrowers
525 Active borrowers
1,851 loans
82 delinquent
15.6% delinquent borrowers
8.4% delinquent over two years

DISTRICT 2

Billings, Bozeman, Forsythe, Hardin, Miles City, Red Lodge

DISTRICT 2

701 borrowers
2,137 loans
681 active
120 delinquent
17.6% delinquent borrowers
9.8% over two years delinquent

DISTRICT 3

Baker, Glasgow, Glendive, Malta, Wolf Point

798 borrowers
2,775 loans
702 active borrowers
175 delinquent
24.9% delinquent borrowers
11.0% over two years delinquent

DISTRICT 4

Choteau, Cut Bank, Great Falls, Havre, Lewistown, Shelby

1,108 ^{to} total borrowers
2,727 2,727 loans
1,020 active ~~loans~~ *borrowers*
126 delinquent
4.6% over two years delinquent

State Totals

Total Borrowers 3,160
Total Active 2,928
Total Delinquent 503
Total Loans 1,892
22.5% Delinquent Borrowers
10.3% over two years Delinquent

MONTANA FARM HOTLINE

Statistics for	10/28 - 12/12/90	Total
Total Calls	20	4430
Program People(PC-MED)	10	754
Information	10	1192
Assistance Request	2	723
Follow-up	7	1388
Legal Information	0	133
Miscellaneous	0	249

Total peer counselor requests ----- 544

MEDIATIONS	1988	1989	1990
Being Processed	0	0	18
Pending	0	6	8
Completed	10	97	13
Borrower Declined	6	130	21
Lender Declined	6	0	0
Filed Bankruptcy	2	0	0
Requester Withdrew	<u>17</u>	<u>42</u>	<u>4</u>
TOTAL	41	275	70*

*Individual mediation = 6 and make the above total 70.

Financial consultant cases assigned ----- 6
 Financial consultant cases completed ----- 145
 Total financial consultant cases ----- 150

Department of Agriculture
 hotline.sub

CHAIRMAN JERGESON AND SENATE AG COMMITTEE MEMBERS
1-14-91 SB3

SENATE AGRICULTURE

EXHIBIT NO. #4

DATE 1/14/91

BILL NO. SB3

Hi - I am Dolly Vestal. I suppose you could say I am a charter member of the Ag Assistance Program even before it had a formal name. I first began this service in June of 1985 and the number of farmers/ranchers I have talked to since then is somewhere between 85 and 90 and still counting.

It is doubtful if the government of Montana has a more efficient operation than the Ag Assistance Program. Here you have a group of people well trained in the rules and regs of commercial banks, the FmHA and the Farm Credit Services. These people, in order to be counselors must either be farmers and or ranchers or newly separated from agricultural production. They have attended workshops dealing not only with assisting in preparation of loan applications, but more importantly in counseling the individuals whose worlds are tumbling down around their ears and who feel there is no hope in the time ahead.

These first sessions are probably the most crucial in the lives of these people.

My approach is to assure the persons in trouble that they possess abilities they never knew they had, that they should be fully prepared to discuss in detail what is needed either to attempt to save a farm or to get a loan. They are encouraged to be informed, articulate and above all, aggressive. Three of the most traumatic areas with which I have dealt with include the person who is "going back to that bank and get that _____", the person who is going to blow his brains out, and has the gun to prove it, and the wife who calls and asks for somewhere to go to avoid any further abuse to her and her children.

Bankers and other loan agencies have told me the value they see in the program which include, among other things, our ability to defuse the threatening individual, and the greater efficiency of records completed prior to a borrower appearing before them.

There is no way you can justify sunseting this program. It is absolutely necessary.

It is cost efficient, being manned by knowledgeable volunteers who are compensated only for travel, meals, telephone, and workshops.

It serves the very foundation of Montana - agriculture. It is going to be needed more in the future than many realize now. Witness, the sheep producers, the grain production areas, the farmer who has had the government deficiency payment to tide him over, and suddenly these have essentially dried up. The continuing drouth, the failure of GATT, the preponderance of urban representation in our legislature, state and federal.

You ultimately, hold the future of agriculture in your hands. Your decision here will make a difference. In closing, I guess I may as well repeat what I have said in some stormy discussions we have had:

"Program, or no program, I will still be here to talk to farmers and /or ranchers in trouble and to their families, telling them they can do it, that they are the salt of earth, and the world will not survive without the providers of our food, shelter, and clothing. Think about that!

Thank you for the opportunity to address this group. Please support Senate Bill 3.

SENATE AGRICULTURE

EXHIBIT NO. #5

DATE 1/14/91

BILL NO. SB #3

THE AGRICULTURAL ASSISTANCE PROGRAM

The Ag. Assistance Act in June will sunset,
a monstrous mistake, on that you can bet.

With farming and ranching in such a sad state of affairs,
theirs foreclosures and losses, seems no one cares.

Our structure doesn't seem to work the way it should,
so we feel we can help, maybe do some good.

That's why we are here, tho we don't get paid a dime,
who will help these people if you scratch this program this time.

Montana is great this we all know,
but without our farms, where will we go.

Well I can tell, and it won't be easy,
to the welfare lines, and that makes my stomach queasy.

We've spent thousands of hours clear across this state,
with farmers and ranchers who don't want this fate.

The funding for this program, is a drop in the bucket,
you must know how its helped, so please don't scrub it.

What it means to people, to know they can call,
can't be measured in dollars, oh no not at all.

As a volunteer counselor for this program,
I attend workshops, to learn the ropes,
to help people with FmHA & Farm Credit Systems, I hope.

I continue to learn, and help when they call,
but if we are gone they will really have their backs to the wall.

Who will they turn to, where will they go,
the answer to that ,won't be pleasant, I know.

We are needed, of this there's no doubt,
so please don't cut this program out.

There'll be no glory in this programs demise,
cause agriculture needs us, that's no surprise.

With Montana's economy in such sad array,
we must keep our #1 industry from going away.

The work that we do is important, you see,
not only for them, but for you and for me.

For we have helped many, to stay on their ground,
and that means taxes, and jobs for others around.

We musn't give up, nor think it'll go away,
for the tough times in ranching seem to be here to stay.

So look at your conscious, and around you if you must,
and help us to keep this Agriculture Assistance Program
from going bust.

Thank You,

Joan Forcella 1/14/91

Joan Forcella
Counselor, Ag Assistance Program



STAN STEPHENS
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE
OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.
CAPITOL STATION
HELENA, MONTANA 59620-0201

SENATE AGRICULTURE
EXHIBIT NO. # 6
DATE 1/14/91
BILL NO. SB 3
TELEPHONE:
AREA CODE 406
444-3144

FAX 406-444-5409

EVERETT M. SNORTLAND
DIRECTOR

MONDAY, JANUARY 14, 1991
SENATE BILL 3
SENATE AGRICULTURE COMMITTEE
TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
EVERETT SNORTLAND, DIRECTOR

Chairman Jergeson and members of the committee. When the Agricultural Assistance Program legislative sunset was extended during the 1989 legislative session, the legislature asked for and received a commitment to the legislature that the program would terminate July 1, 1991.

Agricultural producers continue to face as they have in the past; drought, low prices, and reduced farm programs. These problems may vary, but are not unlike similar difficulties faced by other Montana business.

When established during the 1986 special legislative session, the assistance program was intended and supported as a temporary program to help during a critical period. We remain consistent with that position and the commitment made to the 1989 legislature and therefore do not support Senate Bill 3.

wordperf/market/dm/SB3

TESTIMONY PRESENTED TO THE SENATE AGRICULTURE COMMITTEE

Presented by---Dale Fossen
Box 102
Joplin, Montana 59531
292-3230

Date---January 14, 1991

Subject---SB 3

SENATE AGRICULTURE
EXHIBIT NO. #8
DATE 1/14/91
BILL NO. SB 3

Members of the Senate Agriculture Committee:

My name is Dale Fossen and I farm at Joplin. I am here to testify in support of SB 3. I have been actively involved in the peer counseling part of the Agriculture Assistance Program since its inception in the special legislative session in 1986 and with the counseling program with Montana Association of Churches and Montana Farm Counseling Coalition since its beginning in 1985. I have also served on the Governor's Advisory Board that worked with the Department of Agriculture concerning the Ag. Assistance program.

On the surface this bill seems rather insignificant and such a small thing. So who cares about a bill that provides peer counselors, financial consultants, and mediators to farmers and ranchers who are in financial trouble? Think about that for just a second. The problem with this thought is that none of us here can tell you which people will be in financial trouble next week, next month, or next year. It is such a simplistic answer to say "They got themselves into this mess. They can get themselves out of it." It is far easier to turn our backs on our friends and neighbors as if they didn't matter in our communities. Oh sure, we are disturbed by the loss of farms and ranches and the people that go with them; but Gosh, that's the way it is! Is it really?

Agriculture today is too complex and too dependent upon the political whims of a select few. Today's farmers and ranchers need a way to fight back for themselves and their communities. We need to return to the old American ethic of befriending our neighbor. This bill provides that and a lot more. It helps agriculture in our state. It helps open the lines of communication. It keeps families in our communities and farms viable again which in turn provides money to our state through goods, services, and of course taxes. There are so many people in our state touched by agriculture that it becomes difficult to name the industries not affected by it or businesses not associated with it.

Many of the farmers and ranchers that we are helping today didn't suspect 3 or 4 years ago that they would be facing such terrible financial problems and need our help. Our program provides them with much more than appears on the surface of this program. Farmers and ranchers learn that others care about them. So many tell me, "I didn't know that anyone cared." With that realization a bond is formed and self-confidence can again be built upon. Self-worth grows. The added benefit is that they become better at their profession-- farming or ranching.

I'm not here to tell you that this bill can save all the farms in this state. It can't. I am here to tell you that it does provide an invaluable service to the agricultural communities of this state. The success can't be measured in dollars but in the smiles of

people who now know that this state cares enough about them to fund a program that can help them help themselves. A significant number of farmers and ranchers really feel that the state could care less if they lived or died. Maybe that is why they seem almost shocked that someone really does care and that this program doesn't have its hand out like the rest of the world. This program has put many a feather in the Montana State Government's hat.

People need to know that there is help out there. This program has built a reputation for honesty and integrity especially with the financial institutions. These people welcome us into their offices because they know we are there to help. Farmers and ranchers trust us because we provide the honesty, friendship, and understanding they so desperately need in order to build back the confidence they once had.

SB 3 can continue the cooperation between the private sector and the public sector. It can be another sign that this legislature cares about agriculture in Montana. I think it's time to stand up and say "Agriculture is the number one industry in Montana and this bill will help Montana."

I urge your support for this bill. I ask your help with your vote in favor of SB 3.

Thank you,

A handwritten signature in black ink that reads "Dale Fossen". The signature is written in a cursive, flowing style with a large initial "D".

Dale Fossen

Part 1 — General Provisions

Part 2 — Mediation of Farmer's Indebtedness

- 80-13-201. Voluntary mediation -- filing procedure -- dismissal of requests.
 80-13-202. Duties and requirements of mediators.
 80-13-203. Mediation agreement.
 80-13-204. Unsuccessful mediation.
 80-13-205 through 80-13-210 reserved.
 80-13-211. Confidentiality of records.
 80-13-212. Closed meetings.
 80-13-213. Waiver of right to bring civil action against state.
 80-13-214. Fees and expenses of mediation.

Chapter Cross-References

Disposal of foreclosed agricultural land, Title
 25, ch. 13, part 9.

Part 1

General Provisions

80-13-101. (Temporary) Purpose. It is the declared purpose of this chapter to establish an emergency program to directly assist individual farmers who are financially distressed by providing them assistance and counseling to manage farm credit problems, to avoid or mitigate forced liquidation or farm foreclosure, and to cope with the financial stress resulting from the adverse conditions of agriculture in this state. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 1, Ch. 9, Sp. L. March 1986; amd. Sec. 1, Ch. 605, L. 1987.

80-13-102. (Temporary) Definitions. As used in this chapter, unless the context indicates otherwise, the following definitions apply:

- (1) "Agricultural production" means the production of livestock, poultry, field crops, fruit, or other animal and vegetable matter for food or fiber.
- (2) "Agricultural property" means:
 - (a) real property that is principally used for agricultural production; and
 - (b) personal property that is part of an agricultural production operation or used as security to finance such an operation. Personal property includes equipment, crops, livestock, and the proceeds of any security.
- (3) "Department" means the department of agriculture provided for in 2-15-3001.
- (4) "Farmer" means a person who owns or operates a farm or ranch primarily for the purpose of agricultural production.
- (5) "Mediator" means a person authorized under 80-13-202 to serve as a negotiator between a farmer and a creditor.
- (6) "Peer counselor" means a person who:
 - (a) is or has been involved in production agriculture;
 - (b) has been trained through the department and others in counseling;

and

(c) works to aid financially distressed agricultural producers through this program.

(7) "Program" means the agricultural assistance program provided for in 80-13-103 and 80-13-201.

(8) "Secured creditor" means:

(a) the holder of a mortgage on agricultural property;

(b) a vendor of a contract for deed on agricultural property;

(c) a person with a statutory lien or a perfected security interest in agricultural property; or

(d) a judgment creditor with a judgment against a debtor engaged in agricultural production.

(9) "Unsecured creditor" means a person who extends credit without a perfected security interest to a farmer for the purchase of goods or services used in agricultural production. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 2, Ch. 9, Sp. L. March 1986; amd. Sec. 1, Ch. 481, L. 1987; amd. Sec. 2, Ch. 605, L. 1987; amd. Sec. 1, Ch. 269, L. 1989.

Compiler's Comments

1989 Amendment: Inserted definitions of agricultural property, mediator, peer counselor, program, secured creditor, and unsecured creditor. Amendment effective July 1, 1989.

80-13-103. (Temporary) Establishment of program. (1) The department shall establish an agricultural assistance program to aid financially distressed farmers in this state.

(2) Under the program, the department shall make available to farmers the following types of assistance:

- (a) farm financial consulting;
- (b) voluntary debt mediation as provided for in part 2 of this chapter;
- (c) support counseling; and
- (d) information and referral services. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 3, Ch. 9, Sp. L. March 1986; amd. Sec. 3, Ch. 605, L. 1987; amd. Sec. 2, Ch. 269, L. 1989.

Compiler's Comments

1989 Amendment: Near middle of (1) substituted "an agricultural assistance program" for "a program"; inserted (2)(b) including voluntary debt mediation as type of assistance; and made minor changes in form. Amendment effective July 1, 1989.

80-13-104. (Temporary) Powers and duties of department. (1) For the purpose of administering the program, the department shall:

- (a) utilize the services of:
 - (i) a network of trained peer counselors who can directly assist financially distressed farmers;
 - (ii) the cooperative extension service and the college of agriculture at Montana state university;
 - (iii) state or federal agencies;
 - (iv) community service organizations;
 - (v) private business;
 - (vi) professional organizations;
 - (vii) regional mental health corporations;

- (viii) volunteer organizations; and
- (ix) any other person or entity capable of providing assistance to farmers;
- (b) contract for services with qualified personnel, including peer counselors, farm financial consultants, and mediators, to provide the assistance required under 80-13-103;
- (c) hire a coordinator and necessary staff to implement and manage the program;
- (d) provide training for interested and qualified persons, including peer counselors, farm financial consultants, and mediators, to assist farmers needing help with farm financial management problems; and
- (e) continue to maintain a toll-free telephone line to receive requests for assistance, counseling, and referral of services.

(2) The department may continue an advisory board to assist the department in determining policy and in developing plans for administration of the program. Members of the advisory board shall serve without compensation.

(3) The department may adopt rules necessary for the administration of the program.

(4) The department may charge reasonable fees to defray the costs of providing financial consulting services under this part. *(Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.)*

History: En. Sec. 4, Ch. 9, Sp. L. March 1986; amd. Sec. 4, Ch. 605, L. 1987; (4)En. Sec. 6, Ch. 605, L. 1987; amd. Sec. 3, Ch. 269, L. 1989.

Compiler's Comments: In (1)(b) included mediators; in (1)(d) included farm financial consultants and mediators; at beginning of (1)(e) substituted "continue to maintain" for "establish"; 1989 Amendment: In (1)(b) included "may continue" for "may establish"; and made minor change in phraseology. Amendment effective July 1, 1989.

80-13-105 through 80-13-110 reserved.

80-13-111. (Temporary) Gifts and grants to support program. (1) The department may accept monetary or in-kind contributions, gifts, and grants provided to support the program.

(2) The department may receive grants on a matching formula basis to be used in accordance with the terms and conditions for receipt of such grants. *(Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.)*

History: En. Sec. 5, Ch. 9, Sp. L. March 1986; amd. Sec. 5, Ch. 605, L. 1987.

Part 2

Mediation of Farmer's Indebtedness

80-13-201. (Temporary) Voluntary mediation — filing procedure — dismissal of requests. (1) A farmer who is in danger of foreclosure on agricultural property or a secured creditor may request mediation of the farmer's indebtedness by filing a request with the department on a form prescribed by the department.

(2) In filing or responding to a mediation request, the farmer shall provide:

- (a) the name and address of each secured and unsecured creditor;
- (b) the amount owed to each creditor;

- (c) the amount of the periodic installment payments due each creditor;
 - (d) any financial statements and pro forma cash flow statements, including those related to any nonfarm activities; and
 - (e) any additional information the department may require.
- (3) In filing or responding to a mediation request, a secured creditor shall provide:

- (a) information pertaining to the basis of the credit determination;
 - (b) financial statements and pro forma cash flow statements on the respective farmer;
 - (c) statements regarding the status of the farmer's loan performance;
 - (d) the name and title of the representative of the creditor authorized to enter into a binding mediation agreement; and
 - (e) any additional information the department may require.
- (4) A farmer or secured creditor who agrees to participate in mediation shall authorize the release to the department of any information held by a creditor.

(5) Upon receipt of a properly completed mediation request form, the department shall direct a mediator to meet with the farmer and secured creditor to assist in mediation. An unsecured creditor may participate in mediation between a farmer and secured creditor if each party agrees or if the mediator determines that an unsecured creditor is a necessary party to the mediation.

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

- (a) a secured creditor does not agree to participate in mediation requested by the farmer; or
 - (b) the farmer does not agree to participate in any mediation requested by a secured creditor.
- (7) If the mediation request involves more than one secured creditor and any one creditor does not agree to participate in mediation, the department shall dismiss the mediation request only insofar as it relates to that creditor. *(Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.)*
- History:** En. Sec. 6, Ch. 9, Sp. L. March 1986.

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

- (2) In carrying out his properly authorized duties, the mediator shall:
- (a) listen to the farmer and any creditor desiring to be heard;
 - (b) attempt to negotiate an agreement that:
 - (i) extends the term of credit;
 - (ii) reduces the dollar amount of payments under credit; or
 - (iii) permits the farmer to continue in agricultural production and provides reasonable security to the creditor; and
 - (c) advise, counsel, and assist the farmer and creditor in attempting to arrive at a satisfactory agreement.
- (3) A mediator may attempt to:

(a) arrange mutually agreed upon forbearance from litigation, rescheduled or renegotiated debt, voluntary sale, or other liquidation of any agricultural property; and

(b) obtain assistance from any public or private agency. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 7, Ch. 9, Sp. L. March 1986.

80-13-203. (Temporary) Mediation agreement. (1) If an agreement is reached between the farmer and a creditor, the mediator shall draft a written mediation agreement to be signed by the farmer and the creditor.

(2) A farmer and any creditor who are parties to a mediation agreement:

- (a) are bound by the terms of the agreement;
- (b) may enforce the mediation agreement as a legal contract; and
- (c) may use the mediation agreement as a defense against an action contrary to the mediation agreement. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 8, Ch. 9, Sp. L. March 1986.

80-13-204. (Temporary) Unsuccessful mediation. If a mediation agreement cannot be reached, the mediator shall recommend to the department that the mediation be concluded and the mediation request be dismissed. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 9, Ch. 9, Sp. L. March 1986.

80-13-205 through 80-13-210 reserved.

80-13-211. (Temporary) Confidentiality of records. (1) All materials, data, and information received by the department with respect to any request filed under 80-13-201 are confidential and are not subject to examination or disclosure as public information.

(2) No official, employee, or agent of the department may knowingly disclose any materials, data, or information concerning a mediation request without the consent of the farmer and the creditor. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 10, Ch. 9, Sp. L. March 1986.

80-13-212. (Temporary) Closed meetings. Meetings between a farmer and any creditor conducted by a mediator are not open to public participation and are not subject to the provisions of the open meeting law contained in 2-3-203. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 11, Ch. 9, Sp. L. March 1986.

80-13-213. (Temporary) Waiver of right to bring civil action against state. All parties who voluntarily enter into the mediation process as described in this chapter shall waive their right to take civil action against the state of Montana and its designated mediator and thereby release the state and its designated mediator from civil liability for actions occurring within the scope of the mediation services. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 12, Ch. 9, Sp. L. March 1986.

80-13-214. (Temporary) Fees and expenses of mediation. The department may assess and collect fees to defray the costs of providing mediation services under this chapter. (*Repealed effective July 1, 1991—sec. 5, Ch. 269, L. 1989.*)

History: En. Sec. 2, Ch. 481, L. 1987.

CHAPTER 14

PRODUCTION LOAN LINKED DEPOSIT PROGRAM

(Terminated. Sec. 5, Ch. 57, L. 1987)

Chapter Compiler's Comments 80-14-201. En. Sec. 4, Ch. 5, Sp. L. March 1986.

Histories of Terminated Sections:

80-14-101. En. Sec. 1, Ch. 5, Sp. L. March 1986; amd. Sec. 2, Ch. 57, L. 1987.

80-14-102. En. Sec. 2, Ch. 5, Sp. L. March 1986; amd. Sec. 1, Ch. 57, L. 1987; amd. Sec. 14, Ch. 581, L. 1987.

80-14-103. En. Sec. 3, Ch. 5, Sp. L. March 1986.

80-14-202. En. Sec. 5, Ch. 5, Sp. L. March 1986; amd. Sec. 2, Ch. 57, L. 1987.

80-14-203. En. Sec. 6, Ch. 5, Sp. L. March 1986; amd. Sec. 3, Ch. 57, L. 1987.

80-14-204. En. Sec. 7, Ch. 5, Sp. L. March 1986.

80-14-205. En. Sec. 8, Ch. 5, Sp. L. March 1986.

CHAPTER 15

MONTANA AGRICULTURAL CHEMICAL GROUND WATER PROTECTION ACT

Part 1 — General Provisions

80-15-101. Short title.

80-15-102. Definitions.

80-15-103. Policy.

80-15-104. Administration.

80-15-105. Rulemaking.

80-15-106. Educational programs.

80-15-107. Research.

80-15-108. Confidentiality.

Part 2 — Control

80-15-201. Ground water standards.

80-15-202. Monitoring programs.

80-15-203. Evaluation and use of monitoring results.

80-15-204 through 80-15-210 reserved.

80-15-211. General agricultural chemical ground water management plan.

80-15-212. Specific agricultural chemical ground water management plans.

80-15-213. Beneficial use to be considered in developing management plans — water classification.

80-15-214. Contents of specific agricultural chemical ground water management plan.

80-15-215. Benefits of appropriate agricultural chemical use to be considered.

80-15-216. Commercial fertilizer ground water management plan.

80-15-217. Management plans — rulemaking — review.

80-15-218. Notice to buyer.

80-15-219. Department of health and environmental sciences to amend rules.

programs may well vary from one State to another. Similarly, the best method of ensuring that adequate notice is given to borrowers should be left to the States, and the circumstances of the States clearly vary here as well. FmHA will not hesitate to impose detailed requirements, by rule or otherwise, if problems develop in actual practice. But attempts to anticipate such problems in advance are too likely to lead to burdensome and needlessly-detailed regulation.

6. The agency, for similar reasons, will not establish detailed requirements for the annual reports that the statute requires each State to submit. Our experience, although it is limited, with the materials submitted by the various States in support of their applications for certification suggests that the States are quite competent to obtain necessary information without detailed guidance. If it appears that specific information is needed that is not being provided in those annual reports, FmHA will not hesitate to require its submission. But we do not know at this time what specific problems, if any, may develop, and fear that attempting to anticipate such problems could be counterproductive.

7. The agency similarly concludes that the rules should not be amended to attempt to provide more detailed conditions and restrictions concerning the sanctions to be imposed for possible non-compliance with requirements for the use of matching grant funds, nor should the rule go into such details as to whether capital expenditures for used equipment, should be permitted. The departmental regulations governing grant administration are quite extensive and specific, and FmHA does not now have any reason to believe that even more specific guidance is possible at this time. Here again, the agency concludes that regulatory conditions and restrictions adopted in advance of known problems could be counterproductive.

The significant changes are as follows:

Part 1946—Mediation

Subpart A—Agricultural Loan Mediation Program

Section 1946.1 has been partially revised in paragraph (b) to make an editorial change and to show that FmHA will comply with requests for information and analysis.

Section 1946.4(d) has been partially revised to clarify the method of distributing matching grant funds to qualifying States.

Section 1946.4(e)(2) has been partially revised to show that detailed cost estimates are to be provided by a State on the operation and administration of its agricultural loan mediation program.

Section 1946.4(g)(1) has been partially revised to require FmHA to notify a Governor or Head of a State Agency within 15 days after receipt of an application for a grant if additional information/clarification is needed.

Section 1946.5(a) has been partially revised to show that this program will be monitored by the FmHA Assistant to the Assistant Administrator for Farmer Programs in lieu of the Emergency Designation Staff.

Section 1946.7 has been partially revised to make an editorial change in the title.

Section 1946.8 has been partially revised to change the delegation of authority from the Staff Director, Emergency Designation Staff, to the Assistant to the Assistant Administrator for Farmer Programs.

This program/activity will be listed in the Catalog of Federal Domestic Assistance under No. 10.435, Agricultural Loan Mediation Program. This program is being proposed for exclusion from the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities.")

List of Subjects in 7 CFR Part 1946

Federal-State Relations, Grant Programs-Agriculture, Mediation.

Accordingly, FmHA adds a new Part 1946 consisting of Subpart A, to Chapter XVIII, Title 7, of the Code of Federal Regulations as follows:

PART 1946—MEDIATION

Subpart A—Agricultural Loan Mediation Program

- Sec.
- 1946.1 General.
 - 1946.2 Definitions.
 - 1946.3 Process for certification.
 - 1946.4 Matching grants.
 - 1946.5 Monitoring compliance and penalty for non-compliance.
 - 1946.6 Nondiscrimination.
 - 1946.7 Environmental requirements.
 - 1946.8 Delegation of authority.
 - 1946.9 1946.49 [Reserved]
 - 1946.50 OMB control number.

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Agricultural Loan Mediation Program

§ 1946.1 General.

(a) This subpart provides procedures for administration of the agricultural loan mediation program whereby a State may be certified by the Farmers Home Administration (FmHA) as a qualifying State for purposes of FmHA and other USDA agencies' participation in the program. Such certification is also necessary for a State to receive Federal matching grant funds to be used for the operation and administration of the State's agricultural loan mediation program.

(b) FmHA will participate in mediations conducted pursuant to a State's agricultural loan mediation program under the same terms and conditions applicable to agricultural creditors generally, and will cooperate in good faith in such mediations by complying with requests for information and analysis, and in presenting and exploring debt restructuring proposals, wherever feasible, when that State is and remains a qualifying State as defined in § 1946.2(b) of this subpart.

§ 1946.2 Definitions.

(a) *Agricultural Loan Mediation Program.* A State authorized or administered program which meets the requirements for certification outlined in § 1946.3(a)(2) (i) through (v) of this subpart.

(b) *Qualifying State.* A State which has been certified by FmHA as having an agricultural loan mediation program which meets the requirements outlined in § 1946.3(a)(2) (i) through (v) of this subpart, provided the State's certification has not expired or been withdrawn under the provisions of § 1946.5(c) of this subpart.

§ 1946.3 Process for certification.

(a) No later than August 1, of each year, the Governor of a State or Head of a State agency designated by the Governor of a State must submit a written request to the FmHA if the State wishes to be certified as a qualifying State for the purposes of FmHA participation in the State's program and for the State to receive a matching grant to be used for the operation and administration of the program within the State during the fiscal year commencing October 1 of that same year. The request must include:

- (1) A description of the State's agricultural loan mediation program.
- (2) Documentary information to support the request and a certification by the Governor or Head of a State

agency designated by the Governor that the State's agricultural loan mediation program:

(i) Provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties under the program;

(ii) Is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) Provides for the training of mediators;

(iv) Provides that the mediation session shall be confidential; and

(v) Ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

(b) If the State is a qualifying State at the time the written request is made, the written request need only describe the changes to the program since the previous year's request together with such documentary support as may be necessary concerning such changes, as well as a certification that the remaining elements of the program remain as described in the previous application.

(c) The request for certification should be mailed to:

Administrator, Farmers Home
Administration, U.S. Department of
Agriculture, 14th Street and Independence
Avenue SW., Room 5014, Washington, DC
20250.

(d) If a matching grant is requested in accordance with § 1946.4 of this subpart, the request for certification also must include the information required by § 1946.4 (e)(2) of this subpart.

(e) Within 15 days from receipt of the request for certification, the Administrator will notify the State Governor or Head of a State agency designated by the governor whether or not the State is certified as a qualifying State as defined in § 1946.2(b) of this subpart, or, if additional information or clarification is needed to make the determination, the Administrator will advise the State Governor or Head of a State agency of the additional information or clarification needed. Upon receipt of the additional information or clarification requested, the Administrator will respond within 15 days from the date of receipt.

§ 1946.4 Matching grants

(a) *Administration of grants.* FmHA will administer the program in accordance with the requirements of 7 CFR Parts 3015 and 3016. Any State requesting a grant must comply with the provisions of those regulations.

(b) *Source of funds.* All grants awarded to qualifying States will be

made from appropriated funds specifically for this program. A statement of the amounts appropriated, obligated, and remaining available for the program at any particular time will be given to any person upon request to FmHA.

(c) *Amount of grant.* A grant will not exceed 50 percent of the total fiscal year funds that a qualifying State requires to operate and administer its Agricultural Loan Mediation Program which has been certified by the Administrator as meeting the requirements of § 1946.3 (a)(2) (i) through (v) of this subpart. In no case will the total amount of a grant exceed \$500,000 annually.

(d) *Distribution criteria.* If funds for grants are appropriated on a fiscal year basis, funds will be obligated on a pro-rata basis to all States whose programs are certified at the beginning of the fiscal year. States certified after the beginning of the fiscal year will receive a share of funds not previously obligated. If, however, when funds for a fiscal year become available, there are not sufficient funds to give all qualified States 50 percent of their justified estimated expenses for the fiscal year, the percentage allocation to each State will be reduced so as to give all States the same percentage of their expenses. If after the percentage calculation any State's allocation still exceeds \$500,000, that State's share will be further reduced to \$500,000 and the remaining States' shares will be increased by the same percentage.

(e) *Eligibility criteria for amount of grant requested.* To be eligible to receive the amount of grant requested, a State must:

(1) Have an Agricultural Loan Mediation Program that has been certified by the Administrator in accordance with § 1946.3 of this subpart, which certification has not been withdrawn in accordance with § 1946.5 (c) of this subpart.

(2) Provide detailed estimates of the costs of operating and administering the State's Agricultural Loan Mediation Program.

(f) *Grant purposes.* (1) Grants made under this subpart will be used solely for the operation and administration of the State's Agricultural Loan Mediation Program. There is no other authorized use of grant funds. Eligible costs are limited to those allowable under 7 CFR 3016.22 that are reasonable and necessary to carry out the mission of the State's Agricultural Loan Mediation Program in providing mediation services for agricultural producers and their creditors within the State, such as:

(i) Salaries of professional, technical, and clerical staffs;

(ii) Payment of necessary, reasonable office expenses such as office rental, office utilities, and office equipment rental;

(iii) Purchase of office supplies;

(iv) Payment of administrative costs, such as workers' compensation, liability insurance, employer's share of social security, and travel that is necessary to provide mediation services;

(v) Training for mediators; and

(vi) Secretary systems necessary to assure confidentiality of mediation sessions.

(2) Grant funds may not be used for:

(i) The purchase of capital assets, real estate, or vehicles or repair and maintenance of privately-owned property;

(ii) Political activities; and

(iii) Routine administrative activities not allowable under OMB Cost Principles.

(g) *Application processing.* (1) FmHA will have 60 days from the date of certifying a State as a qualifying State to review the State's application and supporting information for a grant, mail the obligation document to the responsible State Government official for signature, to obligate funds, and notify the State of approval. In any case where additional information/clarification is needed for processing a grant application, the 60-day time limit will begin on the date the additional information of clarification is received. FmHA will notify the Governor or Head of a State agency within 15 days of receipt of the application for a grant if information/clarification is needed.

(2) A State requesting a matching grant will submit to the Administrator:

(i) Standard Form 424, "Federal Assistance." The application form can be obtained from any FmHA office.

(ii) The information prescribed in paragraph (e)(2) of this section.

(h) *Grant approval.* (1) The Administrator will notify the Governor or Head of the State agency designated by the Governor of grant approval by mailing, on the obligation date, a copy of the completed Form FmHA 1940-1, "Request for Obligation of Funds." The Form FmHA 1940-1 will indicate that the grant is subject to the requirements of 7 CFR Parts 3015 and 3016, this subpart, and will cite any special grantee conditions.

(i) *Fund disbursement or grant termination or major changes.* (1) Qualifying States approved to receive matching grants under this subpart will receive payment in accordance with 7 CFR Parts 3015 and 3016.

(2) In the case of a grant reduction, termination or withdrawal of

certification, in accordance with § 1946.5 (c) of this subpart, or major changes in the scope of the State's Agricultural Loan Mediation Program, the Administrator, or designee, will execute Form FmHA 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation," to stop further disbursement of funds under the Grant Agreement.

(j) *Financial management systems and reporting requirements.* (1) States receiving grants must comply with standards for the financial management and reporting and program performance reporting found in 7 CFR Parts 3015 and 3016.

(2) Qualifying States receiving matching grants must provide to the FmHA State Office by September 30 an annual report on:

- (i) The effectiveness of the State's Agricultural Loan Mediation Program;
- (ii) Recommendations for improving the delivery of mediation services to producers; and
- (iii) The savings to the State as a result of having an Agricultural Loan Mediation Program.

(3) FmHA State Offices will include any comments or recommendations regarding the State's Agricultural Loan Mediation Program and mail the information to the Administrator no later than November 1.

§ 1946.5 Monitoring compliance and penalty for non-compliance.

(a) *FmHA monitoring.* The FmHA Assistant to the Assistant Administrator, Farmer Programs, will monitor compliance of the State's Agricultural Loan Mediation Program

through the reports received in accordance with § 1946.4(j) of this subpart, through information received from FmHA field offices and the public, and through on-site visits to observe the operation and administration of the program.

(b) *Audit.* The qualifying State is subject to the audit requirements of 7 CFR Parts 3015 and 3016 of this chapter. An audit report will be submitted to the FmHA Administrator annually or biennially as applicable in accordance with OMB Circular A-128 by each qualifying State receiving a grant.

(c) *Penalty for non-compliance.* If the Administrator determines that a State's Agricultural Loan Mediation Program does not meet or no longer meets the requirements set out in § 1946.3(a)(2) (i) through (v) of this subpart for certification or, that grant funds are not being used only for the operation and administration of the State's Agricultural Loan Mediation Program, the FmHA Administrator is authorized to withdraw the certification of the program and terminate additional grant assistance and/or to impose any penalties or sanctions established in 7 CFR Parts 3015 and 3016. In the event that the penalty for non-compliance is enforced, the FmHA and other USDA agencies will cease to participate in mediations conducted by the State Agricultural Loan Mediation Program. If the penalty for non-compliance is enforced, the reason(s) will be included in a letter to the Governor or Head of the State agency along with appeal rights under Subpart B of Part 1900 of this chapter.

§ 1946.6 Nondiscrimination

The provisions of 7 CFR 1901 Subpart E, "Civil Rights Compliance Requirements," 7 CFR Part 15, "Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation of Title VI of the Civil Rights Act of 1964," 7 CFR Part 15b, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance," and 45 CFR Part 90, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," apply to activities financed by grants made under this subpart.

§ 1946.7 Environmental requirements.

Environmental requirements are not applicable to this subpart.

§ 1946.8 Delegation of authority.

The Administrator hereby delegates the authority for processing applications and administering grants under this subpart to the Assistant to the Assistant Administrator, Farmer Programs.

§§ 1946.9-1946.49 [Reserved]

§ 1946.50 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0125. In accordance with 5 CFR Part 1320, summarized below is the annualized public reporting burden for this regulation:

Section of regulations	Title	Form No. (if any)	Established number of respondents	Reports filed annually	Total annual responses (d) x (e)	Established number of manhours per response	Established total manhours (f) x (g)
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Reporting Requirements/No Forms							
1946.3(a).....	Request for certification	NONE	15	On occasion.....	15	4	60
1946.3(b).....	Reverification of Approval.....	NONE	10	On occasion.....	10	2	20
1946.4(e)(2).....	Eligibility criteria for amount of grant requested.....	NONE	10	On occasion.....	10	2	20
1946.4(c).....	Financial management systems and reporting requirements.....	NONE	10	1	10	8	80
1946.5(b).....	Audit report.....	NONE	10	1	10	16	160
Reporting Requirements Approved Under Other Dockets							
1946.4(g)(2).....	Application for Federal Assistance	SF 424 (0348-0006).....	15	On occasion.....	15	2	30
Docket Total.					70		370

Vance L. Clark,
Administrator, Farmers Home Administration.

Dated: August 9, 1988.

[FR Doc. 88-19481 Filed 8-25-88; 8:45 am]

BILLING CODE 3410-07-M

AGREEMENT

NEBRASKA

This Agreement, entered into by and between the NEBRASKA FARM MEDIATION SERVICE, a program of Interchurch Ministries of Nebraska, (hereinafter called Service) and the NEBRASKA DEPARTMENT OF AGRICULTURE (hereinafter called Department) provides funding to support the "Mediation Phase of the Nebraska Farm Mediation Program" (hereinafter called Program).

WHEREAS, the Department is required by §2-4804 R.R.S., 1943, to contract to provide farm mediation services pursuant to the Farm Mediation Act.

WHEREAS, the Department is authorized by Laws 1989, LB813, to expend said appropriations for farm mediation services.

WHEREAS, the Nebraska Farm Mediation Service has a fully staffed mediation program which has been delivering services to the State of Nebraska since October of 1987.

THEREFORE, in consideration of the covenants herein contained, it is agreed by and between the parties hereto as follows:

Article 1. STATEMENT OF WORK

A. The Service shall provide the necessary personnel, operational support, equipment, and facilities to conduct the mediation services for the entire state of Nebraska as set forth below. All services shall be provided within the time limits established by the Farm Mediation Act, Neb. Rev. Stat. §§2-4801 to 2-4816.

1. The Service shall provide intake and scheduling services. Intake services include, but are not limited to, receiving and processing initial inquiries on mediation; sending and receiving mediation application forms; and sending the Request for Mediation forms. Scheduling services include, but are not limited to, scheduling a time and place for a mediation meeting with the borrower, creditor, and the mediator, notifying all parties of such meeting, setting forth in such notice the time, place, and name of the mediator as well as suggesting that adequate preparation prior to mediation is advised, contacting any party who elects not to mediate or fails to respond to the Request for Mediation, notifying all parties if any party elects not to mediate, and contacting the mediator for the mediation session. The Service shall assist the Department in the development of necessary forms and procedures.
2. The Service shall conduct confidential mediation sessions through trained mediators under contract with the Department.
3. The Service shall provide supervision of program scheduling, fiscal, support, and mediating staff.
4. The Service shall work in cooperation with the Department in planning mediator training sessions. The Department shall be responsible for organizing and financing of such training sessions.

5. The Service shall be responsible for billing and collecting mediation fees and for the payment of contract services of mediators. Each party participating in mediation shall be charged \$20.00 per hour for the actual time spent in mediation meetings. In cases of extreme financial hardship, such fee may be waived, in whole or in part, by contacting the Department. All fees collected by the Service shall be utilized to reimburse the mediators or otherwise perform its duties under this Agreement. The mediator shall be paid \$20.00 per hour for the actual time spent in mediation and reimbursed for all expenses actually and necessarily incurred by the mediator in performance of his or her duties. Expenses shall be reimbursed as follows:
 - a) Travel time shall be reimbursed at \$10.00 per hour.
 - b) Mileage shall be reimbursed at the rate of \$.21 per mile.
 - c) Meals shall be reimbursed as follows:
 - i. No noon meals for same day travel.
 - ii. Breakfast if the mediator leaves on or before 6:30 a.m.
 - iii. Dinner if the mediator returns on or after 7:00 p.m.
 - iv. Noon meals for overnight travel if the mediator leaves before 11:00 a.m., or returns after 2:00 p.m.
 - v. No meal expense is allowed if travel is in the city of residence.
 - vi. Reimbursement shall be made based on \$4 for breakfast, \$4.50 for lunch, and \$8.50 for dinner.
 - d) Mediators shall be reimbursed for actual lodging expenses at a rate not exceeding \$26.00 plus tax per day. All lodging expenses must have an original receipt attached to the request for reimbursement.
6. The Service shall assist the Department in providing public education and public awareness of the mediation process and the mediation services available.
 - a) The Service shall conduct mediation clinics in conjunction with the Nebraska Technical Community Colleges Ag Action Centers. The Service shall offer up to five clinics per month at alternating locations throughout the state. The Service shall be responsible for the following:
 - i. The clinics shall be open to all agricultural borrowers and creditors and shall be provided free of charge to the participants.
 - ii. No clinic shall be conducted unless at least one person who has previously not attended a clinic is present.
 - iii. The clinics shall provide instruction on the elements of the mediation process and how to prepare for mediation.

- iv. The clinics shall provide a comprehensive overview of the financial and legal considerations in agricultural debt resolution.
 - v. The clinic legal staff shall be trained specifically in farm debtor law, including the laws governing Farmers Home Administration and Farm Credit Services and their regulations and policies.
 - vi. Farm Mediation and Debt Restructuring in Nebraska: A guide for Farmers and Ranchers shall be the primary text of the clinics. Additional and supplemental materials shall be developed as necessary.
 - vii. The Service, in conjunction with the Department, shall make every effort to publicize the clinics through press releases, public service announcements, direct mailings, referrals, and public notices.
7. The Service shall maintain complete program records, including the filing of all mediated Agreements and complete statistical records of program participation and costs as set forth in Article 3, section J, and make them available to the Department pursuant to the Farm Mediation Act and the rules and regulations adopted and promulgated under it.
 8. The Service shall work in cooperation with the Department in all services relating to mediation.
 9. The Service shall notify the University of Nebraska Cooperative Extension Service promptly when a borrower submits an application for mediation or consents to mediation for the purposes of providing such borrower financial counseling and assistance.
 10. The Service shall distribute questionnaires to all parties involved in mediation concerning such parties' comments and concerns on the mediation process and the performance of the individual mediators.

B. The Department shall provide the necessary personnel, operational support, equipment, and facilities to conduct the services set forth below.

1. The Department shall provide word processing, technical, and administrative support for the preparation, issuance, and distribution of mediation materials.
2. The Department shall enter into an agreement with a sufficient number of mediators to provide mediation services throughout the state of Nebraska.
3. The Department shall enter into an agreement with the Nebraska Technical Community Colleges' Ag Action Centers to provide mediation clinics specified in Article 1.A.6. above.

Article 2. ALLOWABLE COSTS AND PAYMENTS

A. The Department shall provide a sum not to exceed \$88,800 to the Service as reimbursement for the actual costs incurred toward the fulfillment of the conditions as specified in the Statement of Work above. Forty thousand, six hundred nine dollars and 85 cents (\$40,609.85) (see C. below) of such amount shall be paid to the Service at the commencement of this Agreement with the balance of \$48,000 being paid in four equal installments of up to \$12,000 each as set forth in the following paragraph.

The request for an installment payment shall be accompanied by the quarterly report set out in Article 3, section J. Source of funding is General Fund Appropriations authorized by Laws 1989, LB813, and any federal matching funds available for this program. Total program expenditures by the Department shall be dependent on the actual costs incurred by the Service but shall not exceed \$88,800 without the express written consent of the Department. The final installment payment made under this Agreement shall be adjusted so the total amount paid by the Department is equal to the actual costs incurred by the Service during the performance of this Agreement. Actual costs shall include operating expenses and staff expenses for a coordinator, intake and scheduler, fiscal officer, secretary, and clinic educational staff as set forth in the Statement of Work above. Actual costs may also include equipment expenses with prior approval of the Department. Actual costs shall be offset by the fees collected by the Service, any matching funds provided by the Service and all other funds received from any source for use with the Program. The estimated expenses for the Service are set forth in Exhibit A which by this reference is made a part of this Agreement. It is further understood and agreed that payment to the Service is contingent upon providing or performing all items required of the Service in this Agreement.

If services in excess of \$88,800 are requested by the Department, this Agreement shall be amended accordingly.

B. The Service shall utilize, in a good-faith manner, the funds to cover staff expenses, operating expenses (including travel, supplies, printing, telephone and postage) and equipment expenses to perform its duties under this Agreement.

C. The \$190.15 overpayment paid to the Service under the Agreement entered into for the period July 1, 1989 to June 30, 1990, shall be credited as part of the amount to be paid to the Service pursuant to Article 2.A. above, at the commencement of this Agreement.

Article 3. SPECIAL PROVISIONS

A. The Service agrees that the books of account, files, and other records of the Service which are applicable to this Agreement shall at times be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to or for the account or benefit of the Service.

B. Furthermore, the Service agrees to maintain all books, documents, papers, or any other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Service shall retain the records beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved, and the Department has agreed that such records do not need to be retained.

C. This Agreement may not be assigned in whole or in part without prior consent of the Department and the Service.

D. This Agreement may be terminated by either party upon thirty (30) days written notice to the other party.

E. The Service hereby agrees to indemnify and hold harmless the Department from any and all claims and liability that may arise out of or on account of any failure on the part of the Service to perform any service or duty as herein agreed or out of any activity performed by the Service for the Department.

F. This Agreement shall be from the first day of July, 1990, to the last day of June, 1991.

G. Any modification of this Agreement shall be in writing and executed by each party thereto in order to be valid.

H. The Service shall provide to the Department a final report for the period of this Agreement. This report shall contain a summary of the information provided in Article 3, section J below for the entire length of the Agreement which shall be provided within 30 days following the termination or completion of this Agreement.

I. The Service agrees to:

1. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, or otherwise qualified handicapped status.
2. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or otherwise qualified handicapped status.

It is further understood that if the Service is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such act or action is unlikely.

J. The Service shall provide to the Department a quarterly report which shall include, but not be limited to, the following:

1. Total number of persons inquiring about mediation.
2. The summary of mediation cases reporting form set forth in Exhibit B.
3. The average length of the mediation session.
4. The average fee paid by each party in mediation.

5. The location of the parties involved in mediation by crop reporting district.
6. The total amount paid to mediators as salary and expenses.
7. The average amount paid per case to mediators as salary and expenses.
8. Total amount of fees billed.
9. Narrative summary of achievements and an evaluation of the program, including comments from returned questionnaires.
10. A finance report that includes the total revenue and operating expenses incurred by the Service.
11. The total number of persons attending the mediation clinics in each region, specifying how many are first-time attendees and how many have previously attended a mediation clinic.
12. The total number of mediation clinics held in each region.

The quarterly reports shall be furnished within 30 days following September 30, 1990; December 31, 1990; March 31, 1991; and June 30, 1991, for the previous applicable quarter.

K. All information created, collected, and maintained by the Service regarding the finances of borrowers and creditors, unless all parties consent to disclosure, shall be confidential.

L. The Service shall continue to provide a high-quality program for the least cost.

M. The parties mutually agree that this Agreement incorporates the basic understanding of the parties. Further clarification of the Statement of Work and the duties of each party may be mutually developed by the parties in written policy and procedure.

N. Any funds paid to the Service under this Agreement and not fully utilized during the year shall be returned to the Department unless otherwise agreed.

Furthermore, if the Service fails to perform as outlined herein, the Service may be required to repay any unearned funds received under this Agreement.

O. This Agreement shall not be construed as to render the Service employees or agents to be employees or agents of the Department.

P. The Service shall have an audit program that meets or exceeds the requirements contained in Office of Management and Budget circular A-133.

Q. The Service shall comply with all applicable requirements which are imposed upon the Department to make it eligible to receive and retain federal certification of the Farm Mediation Program.

R. The Service shall sign and have in force during the agreement period a drug-free workplace policy as set forth in Exhibit D which, by this reference, is made part of this Agreement.

S. The Service shall sign the Certification Regarding Debarment, Suspension, and Eligibility and Voluntary Exclusion for Lower-tiered Covered Transactions as set forth in Exhibit C which, by this reference, is made part of this Agreement.

Approved by the Executive Secretary, Interchurch Ministries of Nebraska, and the Chair, Nebraska Farm Crisis Response Council on this 21st day of August, 1990.

APPROVED:

By: Mel Luetchens
Mel Luetchens, Executive Secretary
Interchurch Ministries of Nebraska
for the Nebraska Farm Mediation
Service

By: Norma Hall
Norma Hall, Chair
Nebraska Farm Crisis Response
Council for the Nebraska Farm
Mediation Service

Approved by the Director of the Nebraska Department of Agriculture
this 11 day of September, 1990.

APPROVED:

By: George Beattie
George Beattie, Director
Nebraska Department of Agriculture

MED36



STAN STEPHENS
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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444-3144

FAX 406-444-5409

EVERETT M. SNORTLAND
DIRECTOR

January 14, 1991

Memorandum

SENATE AGRICULTURE

EXHIBIT NO. #7

DATE 1/14/91

BILL NO. SB 3

TO: Senate Agriculture Committee members
Senator Greg Jurgeson, Chairman

FR: Everett M. Snortland
Director

Everett

RE: The Montana Growth Through Agriculture Act

Thank you for your letter of January 7, and the opportunity to provide the Senate Agriculture Committee with an update on the Montana Growth Through Agriculture Act. It is with pleasure that I am able to report that this program has been effective in implementing the intent of the legislature as defined in the enabling statute. The members of the Agriculture Development Council have strived to establish policies and procedures which make the best use of the coal severance tax monies which are allocated to this program for the purpose of strengthening Montana's agricultural industry.

We have prepared for your review short description of the Montana Growth Through Agriculture statute and program activities including market development grants and seed capital loans which have been made to date. This report covers the period of time in which the MGTA program has been attached to the Department of Agriculture (January 1989 - January 1991).

The Agriculture Development Council has reviewed grant proposal requests for a total of \$2,487,006. Of these proposals, 27 have been funded for a total of \$639,840. Six seed capital loans have been approved for a total of \$300,000. No grants or loans were facilitated prior to the program being moved from the Department of Commerce to the Department of Agriculture.

If I can provide any further information on this or any other program in the Department of Agriculture, please feel free to contact me.

MONTANA AGRICULTURE DEVELOPMENT COUNCIL

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THE MONTANA GROWTH THROUGH AGRICULTURE ACT

STRUCTURE

HB889 created the Montana Agriculture Development Council, which is allocated to the Department of Agriculture for administrative purposes. The Council has seven members appointed by the Governor: the directors of the departments of Agriculture and Commerce, and five persons who are or have been engaged actively in agriculture. The members serve staggered three year terms.

The members elect their own chairperson (and other officers, if desired). The Council meets quarterly or on the call of the chairperson or a majority of the members.

SB228 also passed in 1987, generally revised the allocation of coal severance tax proceeds not dedicated to the permanent coal tax trust fund. Under its terms, 50% of coal severance taxes still goes into the permanent trust, and another 12% to the highway reconstruction trust fund. Of the remaining 38%, two percent is allocated to a state special revenue fund for the Montana Growth Through Agriculture Act, HB889, also passed during the 1987 session. Two percent of 38% is .76% of total coal tax proceeds.

PURPOSE

The purpose of the Growth Through Agriculture Act is to "strengthen and diversify" the state's agricultural industry by creating a public/private partnership to assist in:

- (1) development of "innovative agricultural business organization improvements"
- (2) commercialization and marketing of new agricultural products.

The intended result of this effort is to help Montana:

- (a) keep pace with a dynamic agricultural industry;
- (b) create new jobs; and
- (c) expand small business opportunities.

COUNCIL POWERS AND DUTIES

The Growth Through Agriculture Act outlines seven mandatory and two optional program activities to be pursued. The Council shall:

- (a) Establish policies and priorities to enhance the future development of agriculture in Montana;
- (b) Make seed capital investments in development and commercialization of new products and processes;
- (c) Assist in enhancing domestic markets for Montana agricultural products;
- (d) Place an export marketing specialist in the Pacific Rim;
- (e) Cost-share in foreign agricultural trade missions;
- (f) Provide professional assistance to persons who apply for the purpose of developing export sales; and
- (g) Assist in the creation of agricultural business incubators.

In addition, the Council may:

- (a) Invest in applied technological research; and
- (b) Invest in agricultural technology assistance and transfer.

General Program Activities

Seed capital investments

Implementation of the Seed Capital portion of the Growth Through Agriculture Act was delayed pending resolution of the White case which contested the Constitutionality of the similar Montana Science & Technology Alliance loan program. The Supreme Court ruled the loan program unconstitutional as defined in the enabling statute. Subsequently, the 1989 Montana legislature passed legislation which corrected this problem. This portion of the Act/statute is now operational. As of January 14, 1991, 6 seed capital loans have been approved (please note appendix B for a description of each investment) for a total of \$300,000. The Council has placed emphasis on the seed capital loans in order to establish a revolving loan account for future investments.

Seed Capital loans are made on the following criteria:

- (a) can be reasonably expected to provide an economic return to the applicant within a reasonable time;
- (b) demonstrate a potential commercial value to other entrepreneurs in Montana;
- (c) require such a loan to obtain additional private capital;
- (d) involve processing or adding value to agricultural commodities produced in Montana; and
- (e) provide jobs that will be substantially filled by current Montana residents.

Maximum loan amount is limited to \$50,000 under an 8 year repayment period. The interest rate is currently set at 9% APR.

Foreign and Domestic Agricultural Market Development Investments

In order to accomplish the goals of the Montana Growth Through Agriculture Act, an agricultural market development grant program has been established. A Request for Proposals is issued on a biannual basis to solicit market development projects. Generally in order to qualify for this program proposals must have practical near term application involving new or alternative technologies, practices or organizational arrangements which will stimulate expanded agricultural development, economic activity, and employment opportunities. The council has utilized this segment of the MGTA to accomplish a portion of the duties outlined in the enabling statute. Allocation to specific proposals are made on the following criteria:

- (a) Degree to which the proposed activity addresses a significant industry need or opportunity for public benefit and evidence of industry support.
- (b) Demonstrated experience and ability of applicant to undertake the proposed activity.
- (c) Clearly demonstrated potential for near-term commercial application in terms of job creation, capital investment, or other identifiable economic activity.
- (d) Adequacy of workplan and timeframe to achieve the activities goals.
- (e) Degree of innovation and originality of proposed activity

The MGTA statute calls for the funding of an export marketing specialist in the Pacific Rim. The Montana Dept. of Commerce has established an office in Tokyo and Kumomoto, Japan. The Agriculture Development Council has allocated \$150,000 annually as appropriated by the legislature, to this effort. In addition

the Council has approved and funded 27 grants for a total of \$639,840. Total grant requests to date including the one incubator grant equals \$2,487,006. (See attached list of approved grants.)

Agricultural Business Incubator Investment

Investments made through this aspect of the program are based on the Council's assessment of:

- (a) the potential ability of the applicant incubator to be financially self-sufficient;
- (b) identification of businesses or industries targeted for development assistance;
- (c) community support for the incubator program; and (emphasis added)
- (d) a plan to address business development needs of specific user groups.

The incubators themselves "Must operate as self-financing business development entities, providing such services as training, management consultation, accounting, and office space to eligible agricultural businesses," which may include, but are not limited to, marketing cooperatives and associations.

In addition to meeting the above-listed criteria, incubator applicants must have facilities that are:

- (a) geographically distant from other incubators;
- (b) located in communities of less than 15,000 people; and
- (c) funded with a 1:1 local match (which may be in cash or in-kind).

Program Administration

Administrative Expenses to facilitate the Montana Growth Through Agriculture Act during Fiscal year 90 and Fiscal year 91 to date are as follow:

FY 90	Personal services	\$50,506.69
	Operating expenses	<u>\$28,620.75</u>
	-Total	\$79,127.44
FY 91	07/01/90 - 01/01/91	
	Personal services	\$17,364.68
	Operating expenses	<u>\$11,359.04</u>
	-Total	\$28,723.72

**AGRICULTURE DEVELOPMENT COUNCIL
GRANTS & LOANS**

Appendix A

FY89 Grants

Grant #8950001 - Northern Express Transportation Authority (NETA)
Amount -- \$46,350.00 ---- Completed

The Northern Express Transportation Authority (NETA) was awarded \$46,350 to explore containerizing options for preserving Montana product identity when shipping hay, barley, and wheat to export markets. NETA will cooperate with high tech agri-terminals to lower the landed cargo costs of Montana's agricultural products. NETA will also explore the feasibility of building a volume drying facility in Toole County which would utilize inexpensive natural gas to further reduce hay cube processing costs. NETA successfully completed this study and is working to establish a hay compressing and export center in Shelby.

Grant #8950002 - G.R.I. AgriTech
Amount -- \$20,000.00 --- Completed

GRI-AgriTech was awarded \$20,000 to develop an animal temperature monitoring device to assist Montana ranchers in disease and ovulation detection. The development of the monitoring device was successfully completed and is currently being marketed on a national basis.

Grant #8950003 - Butte Local Development Corporation
Amount -- \$20,000.00 --- Completed

Butte Local Development Corporation was awarded \$20,000 to study the feasibility of establishing a Semolina/Pasta industry in Montana. Processing durum wheat in Montana to a Semolina or pasta form would add value to our raw materials before shipment out of state. BLDC successfully completed this research and is in the process of recruiting prospective pasta manufacturers to invest in a semolina/pasta plant in the Butte area.

Grant #8950004 - Hill County Extension /Winter Marketing Seminar
Amount -- \$ 3,700.00 --- Completed

Hill County Extension Service was awarded \$3,750 to produce a winter marketing seminar. This marketing seminar was held February 8th and 9th in Havre, successfully introducing agricultural marketing concepts to the agricultural community in the golden triangle area.

Grant #8950005 - Montana Flour & Grain /Kamut
Amount -- \$ 4,750.00 --- Completed

Montana Wheat & Flour Inc. was awarded \$4,750 to secure a plant variety certificate for the grain Kamut. The plant variety certificate was obtained in November of 1989 and secures for Montana producers the availability of this variety of Polish winter wheat.

Grant #8950006 - Amaranth / Dr. Jurgen Schaeffer/MSU
Amount -- \$20,000.00 --- Balance \$4,000.00 / 12/90

The department of Plant and Soil Sciences was awarded \$20,000 for the development of a marketing and production plan for the grain Amaranth. Markets for Amaranth are rapidly expanding in Japan. Montana producers have the opportunity to be among the first to penetrate this market. Dr. Schaeffer has completed this research and has established communication with the TOSCH corporation for potential contracts for the production of Amaranth.

Grant #8950007 - MSU/Montana Hard White Wheat
Amount -- \$10,000.00 --- Completed

Dr. Allen Taylor of the MSU Dept. of Plant & Soil Science was awarded \$10,000 to explore the market potential for hard white winter wheat. Dr. Taylor completed his research and found potential markets for hard white wheat both domestic and international. Dr. Taylor has subsequently accepted a position in Morocco, one of the largest export markets for hard white wheat.

Grant #8950008 - Wayne E. Bromenshenk / Alfalfa Protein
Amount -- \$25,000.00 --- Completed

The Montana Alfalfa Agricultural Marketing Association was awarded \$25,000 for an education program for the production of high protein alfalfa. This educational program was completed in April of 1990 and led to the formation of the Greengold marketing cooperative.

Grant #8950009 - Agriculture in Montana Schools / Montana
Agricultural Awareness Video
Amount -- \$ 8,000.00 --- Completed

Agriculture in Montana's Schools Inc. was awarded \$8,000 to produce a videotape on Montana's agricultural industry for the public school system. This videotape was completed and has been distributed to Montana's public schools and has been incorporated in the Agriculture in Montana's Schools curriculum. Because of the video's success, three additional videos will be produced (funded by industry contributions) on various aspects of the agricultural industry.

Grant #8950010 - Montana Agricultural Producers Inc. (MAGPI)
Quality Hay Association - Extended to June 30, 1991.
Amount -- \$15,000.00 --- Balance \$ 6,000.00

The Montana Agricultural Producers Inc. was awarded \$15,000 to expand the state's weed free and quality hay association. MAGPI and the Missouri River Agricultural Marketing Association have worked to develop a state wide hay association. Their efforts have resulted in the development of new markets for Montana's alfalfa hay. Premiums of \$10 - \$25 a ton have been established for dairy quality alfalfa. Work continues in the effort to expand the production of high quality alfalfa.

Grant #8950011 - Jim Barngrover / Marketing services for Import
Substitution
Amount -- \$12,000.00 --- Completed

Farm to Market Inc. was awarded \$12,000 to develop and test a brokerage model for a producer marketing service. This has resulted in the formation of an organic commodity brokerage firm to serve the needs of this segment of Montana's agricultural industry.

Grant #8950012 - Great Northern Botanicals Association (GNBA) /
Alternative Crops product & market development
Amount -- \$16,000.00 --- Completed

The Great Northern Botanicals Association was awarded \$16,000 for technical and marketing assistance for herb and specialty crop producers. The herb market has been largely untapped by Montana producers. This organization provides a vehicle to organize interested producers to enter the market. The GNBA has now progressed to the stage of economic viability in the herb market.

Grant #8950013 - Pride of Montana, Sheep & Wool Festival / Sue
Schweitzer
Amount -- \$ 2,500.00 --- Completed

The Pride of Montana Sheep and Wool Festival, a centennial event, was awarded \$2,500. This centennial event celebrated Montana's rich history of sheep and wool production. The event has subsequently been continued in conjunction with the Gallatin County Fair and tied to one of the major sheep breed's show.

Grant #8950014 - Incubator -- Headwater RC & D
Amount -- \$55,926.00 --- Completed

Headwaters Resource Conservation and Development was awarded \$55,926 for an agri-business incubator to serve a 7 county region from a headquarters in Dillon. The incubator was to provide one-on-one technical business assistance in the

general areas of business planning, financing, marketing, and operations to new and existing agriculturally related business owners. The agri-business incubator was in Dillon and functioned sporadically for the period of one year. The concept of an incubator proved to be a somewhat ineffective method of providing the services described in the grant application. After discussion with the Headwaters RC&D they decided to terminate this program.

Grant #8950015 - Montana Department of Agriculture
Amount -- \$120,000 -- Termination date 06/30/91

The Montana Dept. of Agriculture was authorized to expend approximately \$60,000 per year during FY 90 and FY 91 to fulfill the requirements of the Montana Growth Through Agriculture statute. Program activities have included: the hiring of an international marketing specialist, to enable the department to provide professional assistance to those developing both domestic markets and export sales, cost sharing for foreign trade missions as provided for by statute, the Tastes of the Treasure State and other value added food promotion, participation in the Western United States Agriculture Trade Association (allows Montana to access Targeted Export Assistance funds from the USDA), respond to emergency rail car shortage issues, maintain the Agricultural Marketing Bulletin Board, and generally continue to work to identify opportunities to add value to raw products, identify alternative crops and develop or enhance markets for agricultural products.

FY 90 Grants

Grant #9050001 - Paddlefish Caviar Project / Glendive Area
Chamber of Commerce
Amount -- \$21,300.00 --- Completed

The Glendive Area Chamber of Commerce was awarded \$21,300 to collect paddlefish roe from fishermen on the Yellowstone river for sale as caviar. The chamber signed a contract with TempoTech Inc. for the sale of this roe at \$30 per pound. This resulted in \$108,240 of revenue which is shared equally between the Dept. of Fish, Wildlife and Parks (for paddlefish fishery improvements) and a five member council for allocation to cultural, historical, economic and recreational projects in Eastern Montana.

Grant #9050002 - MSU / Department of Plant Pathology
VAL-AD / Dr. Jack Riesselman
Amount -- \$20,100.00 --- Termination date: 01/15/91
Balance -- \$16,080.00

The Department of Plant Pathology was awarded \$20,100 to develop the hay preservative "VAL-AD", a product which would increase the level of the essential amino acid methionine in

alfalfa as well as increase leaf retention during processing and allow a greater flexibility in processing at higher moisture levels.

Grant #9050003 - Cream of the West
Amount -- \$15,000.00 --- Termination date: 10/01/90
Waiting for final report -- Balance \$ 5,000.00

Cream of the West Inc. was awarded \$15,000 for the development of a new product line and to conduct research on entry into the Canadian market.

Grant #9050004 - Montana Agritech
Amount -- \$ 7,500.00 --- Completed

The World Trade Center in Great Falls was awarded \$7,500 to participate in and disseminate information gathered from a trade mission to the AgriTech exposition in Tel Aviv, Israel.

FY 91 Grants

Grant #9150001 - Montana Grain Growers Association / Montana
Agricultural Photo Library
Amount -- \$ 3,370.00 --- Termination date: 10/01/91
Balance \$ 2,370.00 - quarterly report due 12/31/90

The Montana Grain Growers Association was awarded \$3,370 for the development of an agricultural film library. This library establishes a resource center for use in the promotion of the agricultural industry. Photographs in this library will represent a wide range of agricultural production, processing and marketing. No such resource currently exists.

Grant #9150002 - Montana Christmas Trees Association / Christmas
Tree Marketing Program
Amount -- \$ 5,000.00 --- Termination date: 06/30/91
Balance \$500.00 - quarterly report due 01/01/91

The Montana Christmas Tree Growers Association was awarded \$5,000 for a market development campaign in Canada and the Intermountain west. Because of the glut of christmas trees produced on the west coast, traditional markets for Montana's christmas trees are being eroded. An aggressive marketing campaign is needed to maintain and expand Montana's share of this market. Montana trees have a competitive advantage selling into the Albertan market due to the trees ability to retain needles after exposure to below zero temperatures.

Grant #9150003 - MSU/Department of Plant & Soil Science / Mapping
Malting Barley Production
Amount -- \$ 1,240.00 --- Termination date: 06/30/91
Balance \$930.00 - quarterly report due 12/31/90

The MSU Dept. of Plant & Soil Science was awarded \$1,240 to map the potential malt barley production areas in Montana.

Grant #9150004 - MSU/Department of Plant & Soil Science / Barley
Cereal Grain of the 90's
Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$14,000.00 - report due 02/28/91

The MSU Dept. of Plant & Soil Science was awarded \$20,000 to develop and implement a promotional campaign for waxy hulless barley. Waxy hulless barley (developed by MSU) has shown properties which lower serum blood cholesterol in much the same manner as oat bran.

Grant #9150005 - MSU/College of Agriculture / Marketing
Agricultural Careers to High School Students and
Educators
Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$16,000.00 - quarterly report due 12/31/90

The MSU, College of Agriculture, was awarded \$20,000 to market educational and career opportunities in the agricultural sciences to high school students in Montana. Students, career counselors, administrators, and teachers have an inadequate perception of careers and disciplines available in the agricultural industry. The viability and health of Montana's agricultural future rests with the quality of students which can be attracted to the agricultural sector, this project is designed to make students aware of the opportunities and careers in agriculture.

Grant #9150006 - MICRO-FARM
Amount -- \$ 5,000.00 --- Termination date: 07/01/91
Balance \$500.00 - report due 12/31/90

The MICRO-FARM a computer network of commercial rabbit growers was awarded \$5,000 for the development and implementation of a electronic bulletin board of production, processing, and marketing information.

Grant #9150007 - MSU/College of Business /International Trade
Profile, Phase 2
Amount -- \$10,000.00 --- Termination date: 10/31/91
Balance \$10,000.00 - just being processed

The MSU, College of Business was awarded a \$10,000 grant to develop a profile of Montana businesses already engaged in international trade. The ITP will provide information on

the present status of international trade in the state, and subsequent surveys will monitor the effectiveness of development plans and efforts. In order to assist businesses with their international trade efforts, Montana have been hampered by a lack of comprehensive information concerning international trade activities and plans in Montana.

Grant #9150008 - Dept. of Commerce/International Affairs Officer
Amount -- \$40,000.00 -- Termination date: 07/30/92

The Dept. of Commerce was awarded \$20,000 during FY 91 and FY 92 to employ a international affairs officer (attached to the Governor's office) to support and complement the international trade efforts of the Agriculture Development Council. This involves such duties as; hosting, protocol, information exchange, educational/professional/cultural exchange, trade mission and exhibition logistics, public relations and the coordination of interdepartmental projects.

SEED CAPITOL LOANS

Appendix B

AgROBOTICS Inc.

Amount \$50,000.00 --- Maturity Date 04/10/95
Loan Closed: April 4, 1990

AgRobotics, Inc. of Bozeman, was awarded a \$50,000 loan for the marketing of an automated dairy cattle feeding system. AgRobotics has developed a dealer network for the distribution of the automated feeding system, concentrating on midwestern markets.

Firehill Farms Inc.

Amount \$50,000.00 --- Maturity Date 06/25/95
Loan Closed: June 25, 1990
Yearly payment of \$12,854.62 - due 06/25/91

Firehill Farms, Inc. of Plentywood, was awarded a \$50,000 loan for the development of production facilities and for the marketing of dried and preserved flowers. Firehill Farms has been successful in marketing dried and preserved flowers to national and international brokers. This has served as an example of an alternative crop which can be developed for arid northeastern Montana.

Big Sky Cheese Inc.

Amount \$50,000.00 --- Maturity Date 06/25/95
Loan Closed: June 25, 1990
Monthly payments of \$1,185.66 - due 12/20/90

Big Sky Cheese and Dairy Corporation of Fairfield, was a awarded \$50,000 loan for the construction of a cheese manufacturing plant. Construction of the cheese plant has been delayed due to the licensing requirements of the Dept. of Health and Environmental Science. This may result in the modification of the repayment schedule.

Big Sky Foods Inc.

Amount \$50,000.00 --- Maturity Date 07/25/95
Loan Closed: July 25, 1990
Monthly payments of \$1,185.66 - due 01/25/91

Big Sky Foods, Inc. of Great Falls, was awarded a \$50,000 loan for the marketing of "Sun Cherries" (Cherries from the Flathead and Bitterroot valleys which are dried in a manner similar to raisins. This illustrates a method of adding value to an agricultural product traditionally sold in raw commodity form.

Centennial Foods Inc.

Amount \$50,000.00 --- Maturity Date 07/31/91
Loan Closed: July 31, 1990
One payment due 07/31/91

Centennial Foods, Inc. of Dillon was awarded a \$50,000 loan for bridge financing in order to maintain operations until complete project financing could be secured. Centennial Foods will process waxy hulless barley into three commercial products; betaglucan, sweetened barley starch, and dried distillers grains. This project secured financing December 20, 1990 and repayment will be due in July.

Basic Bio Systems Inc.

Amount \$50,000.00 --- Maturity Date 11/26/95
Loan Closed: November 26, 1990
Yearly payment of \$12,854.62 - due 11/26/91

Basic Bio Systems, Inc. of Missoula was awarded a \$50,000 loan for the commercialization of "Nuture" a product derived from oats which has time release capabilities. To illustrate this concept imagine a sun screen which when incorporated with Nuture would allow for a single application for a whole days use, or in a chewing gum which would retain its flavor for a greatly extended period of time.

the company is located, and the court shall enforce obedience to the subpoena in the manner provided by law.

(3) The cost of the annual review must be paid by each Montana capital company in accordance with reasonable fees assessed by the department.

History: En. Sec. 12, Ch. 554, L. 1983.

Cross-References

Functions of State Banking Board and Department of Commerce, Title 32, ch. 1, part 2.

90-8-314 through 90-8-320 reserved.

90-8-321. Decertification. (1) If the examination conducted pursuant to 90-8-313 discloses that a Montana capital company is not in compliance with the provisions of this chapter, the department of commerce may exercise any of the powers with regard to banks granted in Title 32, chapter 1, part 5, and may seize the assets of the company and liquidate it. In the event of liquidation of the assets, any penalty imposed pursuant to 90-8-301 shall be included in the claims to be paid.

(2) If in the discretion of the department of commerce the action allowed under subsection (1) is not required to protect the company's investors, the department may place the company on notice that it will lose its certification as a Montana capital company within a specified period of time if the company does not come into compliance with the provisions of this chapter. The department shall automatically decertify a Montana capital company that is assessed a penalty under 90-8-301(3).

(3) As long as the department acts in good faith, the department and its employees and agents may not be held civilly or criminally liable or liable upon their official bonds for action taken under this section or for any failure to act under it.

(4) A Montana capital company may apply to the department for decertification.

History: En. Sec. 13, Ch. 554, L. 1983; amd. Sec. 7, Ch. 708, L. 1989.

Compiler's Comments

1989 Amendment: In (2) inserted second sentence requiring Department to automatically

decertify capital company assessed penalty under 90-8-301(3); and inserted (4) allowing company to apply for decertification.

CHAPTER 9

AGRICULTURE DEVELOPMENT

Part 1 — General Provisions

- 90-9-101. Short title.
- 90-9-102. Purpose.
- 90-9-103. Definitions.

Part 2 — Agriculture Development Council

- 90-9-201. Council organization — meetings.
- 90-9-202. Powers and duties of the council.
- 90-9-203. Rulemaking.

Part 3 — Investments

- 90-9-301. Agriculture seed capital account — matching funds.
90-9-302. Agricultural business incubator program — criteria — limitations.
90-9-303. Return-on-investment agreements.
90-9-304 and 90-9-305 reserved.
90-9-306. Appropriation authority and funding — prohibited investments.
90-9-307. Accountability.
90-9-308 through 90-9-310 reserved.
90-9-311. General criteria underlying agricultural development project loans.
90-9-312. Seed capital projects — program goals.
90-9-313. Specific criteria for seed capital project loans.
90-9-314. Research and development project — program goals.
90-9-315. Specific criteria for research and development project loans.
90-9-316. Agricultural development project loan agreement — contents — council decisions final.
90-9-317. Seed capital project loan agreement — specific loan requirements — payback.
90-9-318. Research and development project loan agreement — specific loan requirements — payback.

Part 4 — Marketing—Export Assistance

- 90-9-401. Agricultural marketing enhancement.
90-9-402. Export finance assistance.

Part 1**General Provisions**

90-9-101. Short title. This chapter may be cited as the “Montana Growth Through Agriculture Act”.

History: En. Sec. 2, Ch. 665, L. 1987.

90-9-102. Purpose. It is the purpose of this chapter to strengthen and diversify Montana’s agricultural industry by establishing a public-private sector partnership to assist the development of innovative agricultural business organizational improvements and the commercialization and marketing of new agricultural products in order to keep pace with a transforming agricultural industry and to create new jobs and expand small business opportunities.

History: En. Sec. 3, Ch. 665, L. 1987.

90-9-103. Definitions. As used in this chapter, the following definitions apply:

- (1) “Act” means the Montana Growth Through Agriculture Act.
- (2) “Agricultural business” means an enterprise engaged in the production, processing, marketing, distribution, or exporting of agricultural products. The term includes any related business the primary function of which is providing goods or services to an agricultural enterprise.
- (3) “Agricultural development project” means either a seed capital or research and development project designed to discover, develop, transfer, use, or commercialize existing or new agricultural products or processes in order to strengthen and enhance agricultural economic development in the state.

(4) "Agricultural development project loan agreement" or "loan" means an agreement entered into between the council and the loan recipient of a seed capital project loan or a research and development project loan that:

- (a) creates a debt relationship between the parties;
- (b) provides for a financial return to the council;
- (c) provides economic development potential to the state; and
- (d) contains various provisions and terms as required by the act.

(5) "Company" means a natural person, firm, partnership, corporation, association, or other entity authorized to conduct business in the state.

(6) "Convertible debenture" means a debenture convertible into stock under certain conditions by an individual or company, but not by the council.

(7) "Council" means the Montana agriculture development council established in 2-15-3015.

(8) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(9) "Department" means the department of agriculture established in 2-15-3001.

(10) "Expansion capital project" means an agricultural technology development project undertaken to enable an individual or a company to expand its manufacturing and marketing activities in order to move its agricultural products or services into new markets or to expand existing markets.

(11) "Innovative agricultural technology" means the involvement of an agricultural product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(12) "Investment" means an award of money, with or without repayment requirements, for the purposes provided for in 90-9-302 and 90-9-401.

(13) "Matching funds" means the funds received in cash by the agricultural development project loan recipient from nonstate appropriated sources and contributed by the loan recipient to the project in an amount that is at least equal to the funds loaned to the recipient by the council for use in the agricultural development project.

(14) "Portfolio company" means a startup or expansion stage company that has received a seed capital project loan from the council.

(15) "Private sector" means any entity or individual, not principally a part of or associated with a governmental unit, that is associated with or involved in commercial activity.

(16) "Research and development project" means an agricultural development project that falls into the category of applied technology research or agricultural technology transfer and assistance.

(17) "Research and development project loan" means an agricultural development project loan agreement entered into between the council and a loan recipient for a research and development project.

(18) "Seed capital project" means a startup or expansion capital project.

(19) "Seed capital project loan" means an agricultural development project loan entered into between the council and a loan recipient for a seed capital project.

(20) "State" means the state of Montana.

(21) "Technology transfer and assistance project" means an agricultural development project that:

(a) transfers technology research from the laboratory to the marketplace; or

(b) provides better access and exposure to business development assistance or information for researchers or early-stage agricultural businesses that commercialize agricultural technology products.

(22) "Warrant" means an instrument issued by a corporation giving a holder other than the council the right to purchase stock of a corporation at a fixed price, either for a limited time or perpetually.

History: En. Sec. 4, Ch. 665, L. 1987; amd. Sec. 10, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: Inserted definitions of act, agricultural development project, agricultural development project loan agreement, company, convertible debenture, debenture or note, department, expansion capital project, innovative agricultural technology, matching funds, portfolio company, private sector, research and

development project, research and development project loan, seed capital project, seed capital project loan, state, technology transfer and assistance project, and warrant; in definition of investment substituted "90-9-302 and 90-9-401" for "this chapter"; and made minor change in phraseology. Amendment effective March 23, 1989.

Part 2

Agriculture Development Council

90-9-201. Council organization — meetings. (1) The members of the council shall select a member as chairman. In addition to the chairmanship, the council may establish other offices and select council members to fill these offices.

(2) The council shall meet quarterly and at other times as determined by the chairman or a majority of the council.

History: En. Sec. 5, Ch. 665, L. 1987.

90-9-202. Powers and duties of the council. The council shall:

(1) establish policies and priorities to enhance the future development of agriculture in Montana;

(2) make investments or loans in agricultural development projects that have a short- or long-term ability to stimulate agriculture development and diversification in Montana, including but not limited to:

(a) seed capital loans for development and commercialization of new products and processes;

(b) agricultural business incubators;

(c) foreign and domestic market development activities;

(d) applied technological research; and

(e) agricultural technology assistance and transfer; and

(3) accept grants or receive devises of money or property for use in making the investments or loans authorized by this chapter.

History: En. Sec. 6, Ch. 665, L. 1987; amd. Sec. 11, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (2), near beginning, inserted "or loans"; in (2)(a) substituted "loans"

for "awards"; in (3) substituted "or loans authorized by" for "described in"; and deleted (4) that granted authority to adopt rules imple-

menting this chapter. Amendment effective March 23, 1989.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

90-9-203. Rulemaking. The council shall adopt rules necessary to implement the provisions of this chapter, including but not limited to rules:

- (1) governing the conduct of council business;
- (2) establishing application procedures that, at a minimum, require the submittal of an executive summary for an agricultural development project loan, a business plan for a seed capital project loan, a research and development project proposal for a research and development project loan, and other documents necessary to meet the criteria established in the act;
- (3) establishing procedures to be followed by the council in its review process prior to making an agricultural development project loan;
- (4) establishing postdisbursement activities that describe the ongoing involvement or follow-along management of the council that may be required in an agricultural development project loan agreement.

History: En. Sec. 9, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

Part 3**Investments**

90-9-301. Agriculture seed capital account — matching funds. (1) There is an agriculture seed capital account administered by the council.

(2) The council may loan money from the agriculture seed capital account to support research relating to innovative organizational improvements in agricultural businesses and to the commercialization and marketing of new agricultural products or agricultural production processes.

(3) The council may not make a loan to an agricultural development project for which the matching funds have not been received. Matching funds are required prior to any expenditure of state funds for research and development or seed capital projects. The council may accept as matching funds those funds received by the loan recipient within 1 year prior to the execution of the loan agreement.

History: En. Sec. 7, Ch. 665, L. 1987; amd. Sec. 12, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (2), near beginning, substituted "loan" for "invest"; inserted (3) requiring matching funds for agricultural development project loans and for research and development or seed capital projects; and deleted former (3) and (4) that read: "(3) Investments from the account must be matched by at least an equal amount raised by the applicant from sources that are not state-appropriated.

(4) Preference must be given to applications that:

(a) can be reasonably expected to provide an economic return to the applicant within a reasonable time;

(b) demonstrate a potential commercial value to other entrepreneurs in Montana;

(c) require such a grant to obtain additional private capital;

(d) involve processing or adding value to agricultural commodities produced in Montana; or

(e) provide jobs that will be substantially filled by current Montana residents." Amendment effective March 23, 1989.

90-9-302. Agricultural business incubator program — criteria — limitations. (1) There is an agricultural business incubator program account in the state special revenue fund. The council may invest from the account an amount not to exceed \$100,000 in each agricultural business incubator. The incubator must operate as a self-financing business development entity, providing such services as training, management consultation, accounting, and office space, if necessary, to eligible agricultural businesses. Eligible agricultural businesses may include but are not limited to marketing cooperatives and associations.

(2) Investments under this section must be awarded by the council, based upon its review of the following criteria:

- (a) the potential ability of the applicant to be financially self-sufficient;
- (b) identification of businesses or industries targeted for development assistance;
- (c) community support for the incubator program; and
- (d) a plan to address business development needs of specific user groups, including but not limited to displaced farmers.

(3) Investments may be made only in agricultural business incubators that are located in different geographic areas of the state and that are not located in a municipality with a population in excess of 15,000 people. The municipality or community in which the incubator is located must provide funding or contributions on at least a dollar-to-dollar basis. Contributions by applicants may include land, buildings, or professional services.

History: En. Sec. 8, Ch. 665, L. 1987; amd. Sec. 13, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (1), after "office space", inserted "if necessary"; near end of (3) substituted "on at least a dollar-to-dollar basis" for "of a value at least three times the amount of the investment under this section"; and made minor

changes in phraseology. Amendment effective March 23, 1989.

Cross-References

Business incubator tax exemption, Title 15, ch. 24, part 18.

90-9-303. Return-on-investment agreements. The council shall enter into return-on-investment agreements for those products or processes that are to be developed and commercialized as a result of an investment under this chapter. As a part of such an agreement, the council shall require payment of a return that it considers commensurate with the risk of its original investment.

History: En. Sec. 9, Ch. 665, L. 1987.

90-9-304 and 90-9-305 reserved.

90-9-306. Appropriation authority and funding — prohibited investments. (1) The council has authority to accept and expend all funds received by it as grants, donations, or other private or public income, including amounts repaid as principal and interest on investments made by the council. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of this chapter, except that expenditures for actual and necessary expenses required for the efficient administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(2) Council members may not personally apply for or receive council funds. If an organization with which a member is affiliated applies for council

funds, the member must disclose the nature of the affiliation and may not participate in the decision of the council regarding the application.

History: En. Sec. 10, Ch. 665, L. 1987; amd. Sec. 14, Ch. 284, L. 1989; amd. Sec. 13, Ch. 628, L. 1989.

Compiler's Comments

1989 Amendments: Chapter 284 deleted former (2) that read: "(2) No investment may be made in projects for which matching funds or participation of financial intermediaries is required until such funds have been committed"; and in (2), near end of first sentence before "funds", deleted "investment". Amendment effective March 23, 1989.

Chapter 628 in (1), at end after "as provided in 17-7-502", inserted "for the purposes of this chapter" and inserted exception clause requiring the expenditures to be from temporary appropriations; and made minor changes in punctuation and phraseology. Amendment effective July 1, 1989.

Cross-References

Public employees and officers — standards of conduct, Title 2, ch. 2.

90-9-307. Accountability. The council shall develop independent review and audit procedures to ensure that investments and loans made by it are used for the purposes identified in its investment and loan agreements.

History: En. Sec. 11, Ch. 665, L. 1987; amd. Sec. 15, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In two places inserted references to loans; and deleted former (2) that read: "(2) The council's investment agreements must contain provisions considered necessary by the council to ensure the proper

inspection and review of projects, the attainment of project goals, and the maintenance of adequate financial records by recipients of council funds." Amendment effective March 23, 1989.

90-9-308 through 90-9-310 reserved.

90-9-311. General criteria underlying agricultural development project loans. The council may make an agricultural development project loan only upon a favorable determination that the proposed agricultural development project:

- (1) is consistent with the findings and purposes of the act because it incorporates innovative agricultural technology;
- (2) has prospects for collaboration between the public and private sectors of the state's economy;
- (3) has prospects for achieving commercial success and for creating new jobs in the state;
- (4) has potential for commercial success related to the specific product, process, or business development methodology proposed;
- (5) can provide matching funds;
- (6) has potential to benefit existing agricultural business;
- (7) can be reasonably expected to provide an economic return within a reasonable period of time;
- (8) involves processing or adding value to agricultural products produced in the state; and
- (9) has a management structure that allows ongoing postdisbursement involvement by the council.

History: En. Sec. 1, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-312. Seed capital projects — program goals. (1) The council may make a seed capital project loan to a seed capital project if it determines that the project meets the loan criteria established in 90-9-311 and 90-9-313 and further determines that the project meets the goals established in subsection (2) and involves development and commercialization of innovative agricultural products or processes.

(2) The goals of this program are:

(a) to assist in the development of innovative technology in the state by providing a source of capital to the agricultural-based sector of the state's economy;

(b) to provide financing and follow-along management support for agricultural businesses in the state that are attempting to develop agricultural products or processes based on innovative technologies; and

(c) to provide a liaison between agricultural businesses in the state and investors in an effort to enhance the pool of capital available to agricultural businesses in the state.

History: En. Sec. 2, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-313. Specific criteria for seed capital project loans. The council may make a seed capital project loan only if it determines that the proposed project complies with the criteria and goals set forth in 90-9-311 and 90-9-312 and further determines that:

(1) the project develops or employs innovative agricultural products or processes that promise a significant competitive advantage;

(2) the project requires financing that is not available from conventional lending sources;

(3) the project provides an opportunity to preserve the principal of the loan amount and to earn a monetary return;

(4) the company is located or preparing to locate within the state;

(5) the project demonstrates a capacity to diversify or add value to the state's agricultural businesses;

(6) the company's management team possesses sufficient agricultural business experience;

(7) the company has potential for creating and retaining jobs and stimulating tax revenue growth in the state;

(8) the company's agricultural product or process is targeted for a commercial market;

(9) the company's product or process is of sufficient quality to significantly impact the target market; and

(10) if applicable, the company's business plan is designed to provide financing, marketing, and production milestones to accomplish the proposed commercialization.

History: En. Sec. 3, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-314. Research and development project — program goals. (1) The council may make a research and development project loan if it determines that the project meets the loan criteria established in 90-9-311 and 90-9-315 and further determines that the project meets the goals established in subsection (2).

(2) The goals of this program are:

(a) to significantly upgrade existing agricultural research capabilities within the state's research and development institutions and organizations;

(b) to provide financial support to individual research projects that have significant potential to advance development of agricultural business in the state;

(c) to facilitate the process of transferring research from the laboratory to the commercial marketplace;

(d) to provide financial support for the development of advanced research capabilities within the state's university system through the acquisition of facilities, equipment, or personnel;

(e) to facilitate the flow of information to agricultural-based businesses in the state in order to assist those businesses in reaching their full commercial potential; or

(f) to improve the information and resources available to the state's agricultural businesses involved in commercialization of innovative agricultural products and processes.

History: En. Sec. 4, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-315. Specific criteria for research and development project loans. The council may make a research and development project loan only if it determines that the proposed project substantially complies with the criteria and goals set forth in 90-9-311 and 90-9-314 and further determines that the project:

(1) has the potential to diversify or add value to the state's agricultural economy;

(2) demonstrates a clear path to commercial development of the research results within the state;

(3) involves university system research participation, if appropriate;

(4) employs or otherwise takes advantage of existing research and development strengths within the state's university and private research establishment;

(5) involves a realistic and achievable research project design;

(6) develops or employs innovative agricultural products or processes; and

(7) is located within the state.

History: En. Sec. 5, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-316. Agricultural development project loan agreement — contents — council decisions final. (1) If the council determines that an

agricultural development project meets the criteria established in this chapter and has complied with the applicable procedures and review processes established by the council, the council may enter into an agricultural development project loan agreement with the company and authorize the disbursement of funds to the company.

(2) The loan agreement, at a minimum, must contain the following provisions:

- (a) the project budget;
- (b) the financing, marketing, and production milestones for the project that describe project tasks to be achieved at designated times in each area;
- (c) the reporting requirements, including but not limited to:
 - (i) financial statements to be submitted on at least an annual basis as determined by the council;
 - (ii) quarterly commercialization progress reports;
 - (iii) annual reports; and
 - (iv) reports on any significant project transactions;
- (d) the disbursement schedule for the loan;
- (e) the payback to the council;
- (f) the causes for loan revocation, suspension, or termination; and
- (g) the intellectual property provisions.

(3) All decisions of the council are final and are not subject to the contested case provisions of Title 2, chapter 4.

History: En. Sec. 6, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-317. Seed capital project loan agreement — specific loan requirements — payback. (1) In addition to the loan requirements of 90-9-316, a seed capital project loan must be structured as contracted debt, including but not limited to the following terms:

(a) an interest rate set at a level that provides for a return to the council, from paybacks by all of its portfolio companies, an amount at least equal to the principal amount of the loan and that provides for a market rate of return when considering the overall benefit to the state derived from the projects;

(b) a provision in the note that may defer debt service until maturity of the note, the term of which may not exceed 8 years;

(c) a loan amount that may not exceed \$50,000 in any one round of financing. Successive rounds of financing in which the council participates for any one company may not occur within a 9-month period. The total amount that may be loaned to any one company may not exceed \$150,000.

(d) a provision that the note becomes due in full upon dissolution or liquidation of the company;

(e) a provision that the company will provide the council with a second priority security interest in all of the equipment used in the company's business, accounts receivable, and inventory to secure repayment of the loan;

(f) a provision that the priority security interest in the company's assets referred to in subsection (1)(e) will be evidenced by appropriate forms required to secure the assets as provided in Title 30, chapter 9.

(2) In addition to the provisions in 90-9-316 and subsection (1) of this section, a seed capital project loan agreement may provide for any of the following:

- (a) a convertible debenture;
- (b) a warrant held by the council; or
- (c) a warrant held by a third party for the benefit of the council.

History: En. Sec. 7, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-318. Research and development project loan agreement — specific loan requirements — payback. In addition to the loan requirements of 90-9-316, a research and development project loan agreement must be structured as contracted debt, including but not limited to the following terms:

(1) The agreement must include provisions calling for a payback of two times the original loan amount, paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the council's financing. This percentage rate may not exceed 5%.

(2) The payback for an agricultural technology transfer and assistance project loan may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of the act. No more than 10% of the council's funds designated for research and development in any one fiscal year may be used for agricultural technology transfer and assistance loans.

History: En. Sec. 8, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

Part 4

Marketing — Export Assistance

90-9-401. Agricultural marketing enhancement. The council shall assist in identification and development of new domestic and foreign markets for Montana agricultural products. The council shall:

(1) assist in placing one full-time professional marketing person in Japan or another Pacific Rim country to develop export marketing opportunities in the Pacific region;

(2) provide assistance for appropriate trade missions of Montana producers, processors, or distributors of agricultural products on a cost-share basis; and

(3) assist in other appropriate means of enhancing domestic markets for Montana agricultural products.

History: En. Sec. 12, Ch. 665, L. 1987; amd. Sec. 16, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (1), at beginning, substituted "assist in placing" for "place" and after

"Japan" inserted "or another Pacific Rim country". Amendment effective March 23, 1989.

90-9-402. Export finance assistance. The council shall provide professional assistance to persons who apply for financial assistance for the purpose of developing export sales of Montana agricultural products.

History: En. Sec. 13, Ch. 665, L. 1987.

CHAPTER 10

RESERVED

CHAPTER 11

INDIAN AFFAIRS PLANNING AND COORDINATION

Part 1 — State Coordinator of Indian Affairs

90-11-101. Legislative policy.

90-11-102. Duties and assistance.

Chapter Cross-References

Compact with the United States, Art. I, Mont. Const.

Educational goals and duties — preservation of Indian heritage and culture, Art. X, sec. 1, Mont. Const.

Cession and retrocession of jurisdiction over Blackfeet highway, 2-1-206.

Jurisdiction on Indian lands, Title 2, ch. 1, part 3.

Federal funds for welfare of Indians, 17-3-107.

State-tribal cooperative agreements, Title 18, ch. 11.

Tribal agreement with district for Indian child compulsory attendance and other agreements. 20-5-108.

Cultural and aesthetic grants, Title 22, ch. 2, part 3.

Montana Historical Society — authority of Board, 22-3-107.

Sale of imitation Indian articles, Title 30, ch. 14, part 6.

Solemnization of Indian marriage, 40-1-301.

Parent-child legal relationship termination — not to disentitle to tribal benefits, 41-3-611.

Prisoners — supervised release program — Indian tribe as sponsor, 46-23-401.

Vital statistics — disclosure to determine tribal enrollment, 50-15-112, 50-15-206.

Indian and federal water rights, Title 85, ch. 2, part 7.

Fort Peck — Montana Compact, 85-20-201.

Agreement with Indians concerning hunting and fishing — Indian treaty of 1855, 87-1-228.

Part 1

State Coordinator of Indian Affairs

Part Cross-References

Office of State Coordinator of Indian Affairs, Department of Commerce, 2-15-1813.

90-11-101. Legislative policy. (1) Whereas, a considerable portion of the citizens of the state of Montana are members of the Indian race; and

(2) Whereas, in the course of the past 80 years these Indian citizens of the state of Montana have been driven from their native valleys and plains and are at present living and residing upon reservations set apart for such purposes by the United States of America, and by virtue of that isolation and

AGRICULTURE

- 4.16.402 Application Procedures for a Research and Development Project Loan - Submission of Research and Development Proposal
- 4.16.403 Application Procedures for a Research and Development Project Loan - Evaluation - Due Diligence
- 4.16.404 Application Procedures for a Research and Development Project Loan - Review Process
- 4.16.405 Application for a Research and Development Project Loan - Council Action
- 4.16.406 Research and Development Project Loans-Monitoring Reports

Sub-Chapter 5

Loan Programs

- Rule 4.16.501 Failure to Commercialize or Produce in Montana - All Loan Programs
- 4.16.502 Rights to Intellectual Property-Confidentiality - All Loan Programs

Sub-Chapter 6

Agricultural Business Incubator Program

- Rule 4.16.601 Agricultural Business Incubator Program-Purpose-Investments-Criteria and Limitations

Sub-Chapter 7

Agricultural Marketing Development Program

- Rule 4.16.701 Agricultural Marketing Development Program-Purpose-Goals-Criteria

DEPARTMENT OF AGRICULTURE

CHAPTER 16

MONTANA AGRICULTURE DEVELOPMENT COUNCIL

Sub-Chapter 1

Procedural Rules and Citizen Participation Rules

- Rule 4.16.101 Organizational Rule
- 4.16.102 Procedural Rules
- 4.16.103 Citizen Participation Rules

Sub-Chapter 2

Procedural Rules

- Rule 4.16.201 Definitions

Sub-Chapter 3

Procedure for a Seed Capital Project

- Rule 4.16.301 Application Procedure for a Seed Capital Project Loan - Submission and Use of Executive Summary
- 4.16.302 Application Procedures for a Seed Capital Project Loan - Submission of Business Plan
- 4.16.303 Application Procedures for a Seed Capital Project Loan - Review Process
- 4.16.304 Application Procedures for a Seed Capital Project Loan - Council Action
- 4.16.305 Seed Capital Project Loan - Post-Disbursement Activities

Sub-Chapter 4

Agricultural Marketing Development Program

- Rule 4.16.401 Application Procedures for a Research and Development Project Loan - Submission and Use of Executive Summary

Sub-Chapter 1

Procedural Rules and Citizen Participation Rules

4.16.101 ORGANIZATIONAL RULE (1) The Montana agriculture development council ("council") was created in 1987 by 2-15-1817, MCA, and transferred to the department of agriculture by 2-15-3015, MCA.

(2) The council consists of seven members appointed by the governor, including the director of the department of agriculture, the director of the department of commerce, and five members who are or have been actively engaged in agriculture.

(3) The council is allocated to the department of agriculture for administrative purposes only as prescribed in section 2-15-121, MCA.

(4) The department provides staff for the council to administer council activities. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-4-201, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 2/4/89.)

4.16.102 PROCEDURAL RULES (1) The council hereby adopts and incorporates by reference rules 1 through 28 of the attorney general's model procedural rules. A copy of these rules may be obtained from the staff of the Montana Agriculture Development Council, Agriculture/Livestock Building, Helena, Montana 59620. Hearings on applications shall not be considered contested cases. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-15-121, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 2/4/89.)

4.16.103 CITIZEN PARTICIPATION RULES (1) The council hereby adopts and incorporates by reference the citizen participation rules of the department of agriculture as set forth in ARM 4.2.201 through 4.2.204. A copy of these rules may be obtained from the staff of the Montana Agriculture Development Council, Agriculture/Livestock Building, Helena, Montana 59620. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-4-201, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 2

Definitions

4.16.201 DEFINITIONS In addition to the definitions set forth in 90-9-103, MCA, the following definitions apply for purposes of these rules:

(1) "Act" means the provisions of Title 90, chapter 9 MCA.

(2) "Department" means the department of agriculture.

(3) "Geographic area" means a county as established in the state of Montana as described in the annotations to the Montana Code Annotated, Vol. 1, "Descriptions, county boundaries," and may include more than one (1) county for purposes of this rule.

(4) "Marketing" means those efforts undertaken to expand the saleability of the products of Montana agricultural businesses through the development of new products, processes and technologies; the improvement or modification of existing products, processes and technologies; and the development of new opportunities for selling and distributing Montana agricultural products.

(5) "Person" means an individual, firm, partnership, corporation, association or other entity, authorized to conduct business in the state of Montana.

(6) "State" means the state of Montana. (History: Sec. 90-9-202, MCA; IMP, Sec. 90-9-202, MCA; NEW, 1988 MAR p. 2481 Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190 Eff. 8/18/89.)

Sub-Chapter 3

Procedure for Seed Capital Project

4.16.301 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - SUBMISSION AND USE OF EXECUTIVE SUMMARY

(1) An applicant for a seed capital project loan shall submit a brief executive summary of the proposal to the council.

(2) The executive summary must include the following items:

(a) a description of the agricultural product and/or process being developed or marketed with particular emphasis on any proprietary characteristics which would result in a competitive advantage for the applicant;

(b) a characterization of the market for the product or process, including potential size, customers, and methods required for selling the product or process to the market;

(c) a description of the management team's experience and qualifications which are relevant to the particular agricultural business area in which the company is proposing to enter;

(d) an estimate of projected sales revenue and new jobs; and

(e) the amount of capital needed for the current round of financing, in addition to a listing of other potential investors.

(3) The executive summary should not contain any information that the applicant does not want subject to public inspection.

(4) The executive summary is evaluated by the council for a determination of whether the project complies with (2) above and whether the project should be advanced to the business plan development and review phases. (History: Sec. 90-9-203, MCA; IMP, Sections 90-9-311, MCA; 90-9-312, MCA; 90-9-313, MCA; and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.302 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - SUBMISSION OF BUSINESS PLAN

(1) When the executive summary is deemed complete and the seed capital project deemed appropriate for further consideration, the applicant must submit a business plan to the council.

(2) This plan must contain the following items:

(a) the executive summary;

(b) the company's history and business development objectives;

(c) the product and technology description;

(d) the market size and characteristics assessment;

(e) the sales and marketing strategy;

(f) a description and assessment of the competition;

(g) the financial projections, including income statements, balance sheets, and cash flow projections for five (5) years;

(h) the historical financial statements of the company including balance sheets and income statements for the three previous years or as many as are available;

(i) a description of the management team, including a detailed resume for each member;

(j) a manufacturing and operations plan;

(k) the ownership structure; and

(l) an organization and personnel plan.

(3) If deemed necessary, personal financial data may be requested.

(4) A cover letter must also accompany the business plan and include a description of other capital or matching fund efforts. The cover letter must also contain the names of up to three individuals who could provide the council with a threshold review of the products, technology, process and market potential of the company if such a review is deemed necessary by the council. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-203, 90-9-301, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.303 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - REVIEW PROCESS (1) The following steps are taken by the council to complete its evaluation in order to arrive at a loan decision:

(a) Upon receipt of the completed business plan, threshold evaluations may be obtained from technical and financial reviewers.

(b) Once the threshold evaluation step is completed, council staff will schedule an on-site meeting with the company's management team to discuss the applicant's objectives and financing needs.

(c) The applicant shall make a formal presentation to the council at a regularly scheduled council meeting.

(d) The council staff will then conduct its own due diligence examination of the seed capital project proposal, which involves, at a minimum, a thorough assessment of the project's compliance with the applicable criteria and goals as set forth in the act and rules, the company's management team, the company's potential market, other investors, ownership, and management and financial references.

(e) Council staff will then develop a recommendation for the council for its review and consideration. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.304 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - COUNCIL ACTION (1) Upon receipt of the staff's recommendation, the council shall determine whether to make a seed capital project loan.

(2) The council shall determine whether the applicant has complied with the act and applicable rules, and whether the project would provide an opportunity for the council to exit the loan with a return as provided by Section 7 of the Act.

(3) All decisions of the council are final and not subject to the contested case provisions of the Administrative Procedure Act. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-202, 90-9-203, 90-9-301, MCA NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.305 SEED CAPITAL PROJECT LOAN - POST-DISBURSEMENT ACTIVITIES (1) The council may take an active role in working with an agricultural business in which it has entered into a seed capital project loan.

(2) The activities in which the council may participate include, but are not limited to:

(a) assisting the company in seeking additional investment capital when necessary; and

(b) designating a person(s) to sit on the company's board of directors or other governing body and/or to hold observer rights. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-316, 90-9-317, 90-9-203, MCA NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 4

Agricultural Marketing Development Program

4.16.401 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - SUBMISSION AND USE OF EXECUTIVE SUMMARY

(1) An applicant for a research and development project loan must submit a brief executive summary of the proposal to the council.

(2) The executive summary must include the following items:

(a) a description of the proposed research and development project, including the product and/or process involved;

(b) an analysis of the project's commercial potential and prospective commercial partners;

(c) an estimate of total financing needs; and

(d) the amount of funds requested from the council including the expected use of proceeds.

(3) The summary should not contain any information that the applicant does not want subject to public inspection.

(4) The executive summary is evaluated by the council for a determination of whether the project complies with (2) above and whether the project should be advanced to the research and development proposal and review phases. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.402 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - SUBMISSION OF RESEARCH AND DEVELOPMENT PROPOSAL

(1) When the executive summary is deemed complete and the research and development project deemed appropriate for further consideration, the applicant must submit a research and development proposal to the council.

(2) This proposal must contain the following items:

(a) a title page;

(b) a table of contents;

(c) the executive summary;

(d) the project objectives;

(e) a background review of the research and development project;

(f) the project design;

(g) a list of required facilities and equipment;

(h) a description of potential commercial partners;

(i) a description of the project's potential impact on the state's economy;

(j) a list of milestones which describe specific tasks to be achieved on a specific time schedule;

(k) the budget and use of proceeds, plus documentation showing source of funds and use of proceeds for each line of the budget;

(l) the feasibility and/or availability of matching funds;

(m) a description of funding efforts made to obtain funding for the proposed project;

(n) the resumes of the major principals identified in the project design describing the education and employment experience of each; and

(o) a list of three technical reviewers who are qualified to review the proposal including their names, addresses and phone numbers. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-203, and 90-9-301, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.403 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - EVALUATION - DUE DILIGENCE

(1) After receiving the research and development proposal, council staff will determine if the proposal is complete. Once the proposal is deemed complete, the formal review process begins.

(2) Upon receipt of a complete research and development proposal, the proposal may be subjected to an outside technical review conducted by reviewers selected by the council. Each reviewer will be asked to comment on the technical feasibility of the proposed research and development project's design and implementation, as well as the project's prospects for market success, when applicable.

(3) If deemed necessary, a research and development proposal may also be subjected to a financial review.

(4) If the technical and financial reviews are favorable, the council will initiate and pursue its own due diligence process on the research and development project. The purpose of this process is to further verify the feasibility of the agricultural project, the credibility and expertise of the project principals and the market or commercial potential of the proposed product or process. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315 and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.404 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - REVIEW PROCESS (1) In addition to the technical and financial reviews, the council will evaluate each proposal in light of the loan criteria and goals as set forth in the act and rules.

(2) The applicant will then be asked to attend regularly scheduled council meeting and make a brief presentation on the project to the council.

(3) The council staff will then develop a recommendation to the council for its review and consideration. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315 and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.405 APPLICATION FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - COUNCIL ACTION (1) Upon receipt of the staff's recommendation the council shall determine whether to make an agricultural loan.

(2) The council shall determine whether the proposal complies with the act and applicable rules.

(3) All decisions by the council are final and not subject to the contested case provisions of the Administrative Procedure Act. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-202, 90-9-203 and 90-9-301, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.406 RESEARCH AND DEVELOPMENT PROJECT LOAN - MONITORING REPORTS (1) A loan recipient must submit progress reports to the council staff as specifically required in the research and development project loan agreement.

(2) The progress reports shall include, but not be limited to:

- (a) financial status of the loan recipient;
- (b) overall project performance; and
- (c) progress in accomplishing the designated milestones.

(3) A final project report is due upon completion of the project term.

(4) Annual commercialization reports are required until the loan recipient has satisfied the payback terms contained in the agreement. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-316, 90-9-318 and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 5

Loan Programs

4.16.501 FAILURE TO COMMERCIALIZE OR PRODUCE IN MONTANA - ALL LOAN PROGRAMS (1) A loan recipient must agree that the production or manufacturing of the new agricultural product shall occur in the state and should production or manufacturing be located out-of-state, the loan recipient shall immediately reimburse the council for its original investment with the current rate of interest.

(2) The council may determine that a loan recipient is not complying with the agricultural development project loan agreement if:

(a) the loan recipient has not complied with the terms and conditions of the loan agreement,

(b) commercial production, marketing or distribution of the product is not commenced by the company within a reasonable time;

(c) the company fails to use its best efforts to achieve the benefits of increased employment in Montana; or

(d) the company fails to maintain such offices or facilities in Montana.

(3) If the council determines that a loan recipient is not complying with the term and conditions of the loan, the council may terminate funding of the loan. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-314, 90-9-315, 90-9-316, 90-9-317, 90-9-318, 90-9-202, and 90-9-203, MCA; NEW, 1989 MAR P. 1338, Eff. 8/18/89.)

4.16.502 RIGHTS TO INTELLECTUAL PROPERTY-CONFIDENTIALITY - ALL LOAN PROGRAMS (1) All intellectual property rights including any patents, copyrights, trademarks, and trade secrets developed by the loan recipient with use of funds provided by the council shall be owned by the recipient.

(2) The loan recipient shall have each of its employees, agents, independent contractors and others who may reasonably be expected to create intellectual property rights sign an agreement with the loan recipient, subject to approval by the council, whereby such other persons shall assign any and all intellectual properties to the funding recipient where any invention, discovery, improvement or other intellectual property right is conceived, created or reduced to practice during the term of the loan.

(3) Unless otherwise required by law, information submitted by an applicant will be treated as confidential, except the following:

(a) name and address of applicant;

(b) short description of proposed agricultural development project;

(c) amount of requested loan;

(d) the program(s) under which the applicant is applying;

(e) any other information in which the demand of individual privacy does not clearly exceed the merits of public disclosure; and

(f) any information in which the demand of individual privacy clearly exceeds the merits of public disclosure when the applicant has expressly waived his right to privacy.

(4) The council shall maintain public files on each completed application received containing the following information:

(a) items (3) (a) through (f) of this rule;

(b) all written documents received or prepared concerning items (3) (a) through (f) of this rule;

(c) a brief statement of council action regarding the application including the council's approval or disapproval of the application, the terms and payback provision.

(5) This rule is based on the council's finding that except for the information described in items (3) (a) through (f), the demands of individual privacy clearly exceed the merits of public disclosure of the personal, financial and business information that is contained in applications submitted to the council. (History: Sec. 90-9-203, 2-3-103, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-314, 90-9-315, 90-9-316, 90-9-317, 90-9-318, 90-9-202, 90-9-203, MCA; NEW, 1989 MAR p. 1338, Eff. 8/18/89.)

Sub-Chapter 6

Agricultural Business Incubator Program

4.16.601 AGRICULTURAL BUSINESS INCUBATOR PROGRAM-
PURPOSE-INVESTMENTS-CRITERIA AND LIMITATIONS

(1) For purposes of this rule, an agricultural business incubator is a self-financing business development entity providing such services as training, management consultation, accounting and office space if necessary to eligible agricultural businesses.

(2) The purpose of the agricultural business incubator program is to encourage the strengthening and diversification of economic activity in rural communities through assisting early-stage agricultural businesses.

(3) Investments may be made only in agricultural business incubators that are located in different geographic areas of the state.

(a) An incubator may not be located in a municipality or community with a population in excess of 15,000 people.

(b) The municipality or community in which the agricultural business incubator is located must provide funding or contributions on at least a dollar-to-dollar basis.

(c) Contributions by the municipality or community may include but not be limited to land, buildings, office space or professional services.

(4) In order for an agricultural business incubator to qualify for a council investment, the applicant must:

(a) submit a completed application to the council, signed by the chief executive officer of the entity desiring to establish the agricultural business incubator;

(b) demonstrate, through supporting documentation, the ability of the incubator to operate independent of council investment within 5 years of receiving a council investment;

(c) demonstrate, through supporting documentation, the ability of the incubator to provide quality business development assistance and management skills including but not limited to:

(i) appropriate educational background of management team and key personnel;

(ii) previous experience of applicant relating to business and/or incubator management,

(d) demonstrate, through supporting documentation, community support for the proposed incubator;

(e) present in writing and before the council, a plan that addresses the business development needs of specific user groups, including, but not limited to displaced farmers, and how this proposed incubator will meet those needs;

(f) demonstrate, that at a minimum, the following services will be provided by the incubator,

(i) training,

(ii) management consultation, and

(iii) necessary professional services.

(5) A council investment in an incubator shall not exceed \$100,000.

(6) As required by 2-4-305, MCA, notice is hereby given that parts of this rule, repeat parts of 90-9-302, MCA, in order to provide full notification to applicants of the incubator program. (History: Sec. 90-9-203, MCA; IMP, 90-9-302, MCA; TRANS, and AMD, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 7

Agricultural Marketing Development Program

4.16.701 AGRICULTURAL MARKETING DEVELOPMENT PROGRAM-PURPOSE-GOALS-CRITERIA (1) In addition to the purposes of the "Montana Growth Through Agriculture Act" as set forth in 90-9-102, MCA, a purpose of the marketing program is to find new or expanded markets for the products, processes, and technologies of Montana agricultural businesses.

(2) The agricultural marketing development program will coordinate with existing department marketing programs and the market development activities of the department of agriculture.

(3) The marketing development program shall support both domestic marketing and international trade efforts.

(4) The goals of the marketing development program are to:

(a) increase sales of the products, processes, and technologies of Montana agricultural businesses on a state, national, and international level;

(b) open or expand markets for new or specialty products;

(c) monitor new and changing markets and market conditions, and provide Montana producers with such information;

(d) improve, expand, or create new relationships between buyers and sellers of the products, processes, and technologies of Montana agricultural businesses;

(e) encourage the expansion of value-added production, processes, and technologies in Montana.

(5) The council will biannually identify, at regularly scheduled meetings at which public comment will be the markets, products, processes, and technologies it seeks to study, expand, or otherwise develop.

(a) the council shall advertise requests for proposals in compliance with applicable Montana law and shall consider the comments received at its meetings when determining which types of proposals should be requested.

(b) at a minimum, requests for proposals will include the following:

(i) specific criteria by which proposals will be selected;

(ii) the establishment of milestones for evaluating the progress and success of the proposals;

(iii) a schedule for the submission of periodic progress reports. (History: Sec. 90-9-202, MCA; IMP, Sec. 90-9-202, 90-9-401, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, 1989 MAR p. 1190, Eff. 8/18/89.)

NEXT PAGE IS 4-821

TRANSMITTAL SHEET

State of Montana
Department of Agriculture

REQUEST FOR PROPOSALS

under

The Montana Growth Through Agriculture Program

AGRICULTURAL MARKETING ENHANCEMENT PROGRAM

Return all proposals to:

Mr. Clive Rooney, Program Officer
Montana Growth Through Agriculture Program
Department of Agriculture
Agriculture/Livestock Building
Capitol Station
Helena, MT 59620
(406) 444-2402

Sealed proposals will be received up to 5:00 p.m. (Mountain Standard Time) December 31, 1990.

Legal Authority:

(MCA) Section 90-9-401 Montana Codes Annotated

(ARM) Section 8.121.401 Administrative Rule of Montana

AGRICULTURAL MARKETING DEVELOPMENT PROGRAM

PURPOSE OF THE MONTANA GROWTH THROUGH AGRICULTURE PROGRAM

The primary goals of the Montana Growth Through Agriculture program, as they are stated in the enabling legislation, are "to strengthen Montana's agricultural industry by establishing a public/private sector partnership to assist in the development of innovative agricultural products in order to keep pace with a transforming agricultural industry and to create new jobs and expand small business opportunities."

INTRODUCTION

The Montana Growth Through Agriculture program was created by the 1987 Legislature to encourage economic development through innovations in various aspects of agricultural business. The program includes, among other things, the authority to establish development of an agricultural marketing development program.

The Montana Growth Through Agriculture Program is administered by the seven-member Montana Agriculture Development Council, which is attached to the Department of Agriculture for administrative purposes.

The Montana Agriculture Development Council invites proposals to fund demonstration projects, applied research and feasibility analyses designed to address Montana's agricultural development needs and opportunities. Generally, to qualify for consideration, proposals must have practical, near-term application involving new or alternative technologies, practices or organizational arrangements that will stimulate expanded agricultural development, economic activity and employment growth. Public and private entities and organizations, business and industry, educational institutions, local governments and individuals are eligible to submit proposals.

Proposals submitted under this RFP must be received by the Montana Department of Agriculture no later than 5:00 p.m. (MST), December 31, 1990. Applicants with questions about information contained in this RFP should write or telephone:

Mr. Clive Rooney, Program Officer
Montana Growth Through Agriculture
Montana Department of Agriculture
Ag/Livestock Building, Capitol Station
Helena, Montana 59620
(406) 444-2402

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY

Proposals for funding will be accepted from:

- Public and Private Agencies and Organizations
- Business and Industry
- Educational Institutions
- Local Governments
- Individuals

If two or more individuals or organizations propose to conduct a project jointly, they should submit one application as co-applicants.

Applicants must demonstrate a proven ability to carry out all elements of the proposed project. In addition, applicants proposing to rely upon the expertise of another individual or organization to undertake any part of the project must clearly define the responsibilities of that party as well as provide evidence of their willingness and demonstrated ability to undertake that area of responsibility.

Employees of the Montana Department of Agriculture and the Montana Department of Commerce and their immediate families, and members of the Montana Agriculture Development Council and their immediate families are excluded from eligibility for funding under the Agriculture Marketing Enhancement Program. Immediate family includes mother, father, brother, sister, spouse and children.

PROJECT ELIGIBILITY

Projects which involve new or alternative production, processing, or distribution and marketing technologies, practices or organizational arrangements will be considered. Projects must specifically demonstrate a potential for further development of Montana's agricultural industry to be eligible. Projects should be undertaken in Montana. Proposals for projects to be conducted outside Montana must present clear evidence that the Montana agriculture industry will benefit from the activity.

As noted previously, the potential for near-term commercial application or use of the project results is a major consideration in proposal evaluation. General research studies or analyses which do not have a clear potential for direct implementation should not be submitted.

ELIGIBLE COSTS

Eligible costs under the Agricultural Marketing Development Program include, but are not limited to:

- Salaries and Wages
- Fringe Benefits
- Consultant Services (professional, technical, operational)
- Travel
- Advertising and Promotion
- Equipment (preferably leased versus direct acquisition)
- Supplies and Materials
- Communication (telephone, postage, printing, etc.)
- Data Processing

Program funds cannot be used for the payment of institutional overhead or other indirect costs such as use of land, buildings or equipment. These costs can be used, however, in calculating the applicant match.

PROPOSAL REQUIREMENTS

Proposals under the Agricultural Marketing Enhancement Program must be submitted to Program Officer Moe Wosepka at the address listed on the transmittal page of this RFP. An original and nine (9) copies of the proposal must be submitted by 5:00 p.m., December 31, 1990. Applicants are responsible for timely submission of proposals.

In order to be considered, proposals must be responsive to the objectives identified in this RFP. Each proposal must be limited to one project or activity only, the title of which must appear on the cover sheet of the application.

The purpose of the proposal application is to provide evaluators with a written statement containing sufficient information to demonstrate that the proposed activity is a sound approach to an important area of interest as outlined in the RFP, and that it merits financial support. Proposals will be judged principally on their adherence or conformity to the objectives and criteria indicated in this RFP, and the cost effectiveness of the proposed activity. A meeting with applicants may be required for clarification or further examination of proposals before funds are approved.

PROPOSAL FORMAT

Proposals shall be no more than eight (8) pages in length (excluding the cover sheet, budget form and resumes) and conform to the format described below. Proposals over eight (8) pages in length will not be considered.

COVER SHEET

- Title of proposed project
- Name and title of applicant(s)
- Address and telephone number of applicant(s)
- Duration of proposed project (include beginning and ending dates; start-up date must be at least sixty (60) days after approval of project.)
- Name, address and telephone number of contact person if other than applicant(s)

EXECUTIVE SUMMARY

Briefly describe in one page or less, the problem, need or opportunity to be addressed, the project objectives, a description of the effort and the project's intended economic benefits. The overall background and approach used to address the need or opportunity should be indicated as well as the role the project will play in achieving the objectives identified in this RFP.

IDENTIFICATION OF NEED OR OPPORTUNITY

Clearly state the specific need, problem or opportunity to be addressed, indicating its importance. The proposer should also demonstrate the potential for near-term application of technologies, practices and/or organizational arrangements that will be developed as a result of the project.

Demonstrate economic development potential of the project measured in terms of job creation, capital investment, or other identifiable economic activity.

A statement regarding the degree of innovation or originality of the proposed project is required. If the project involves applied research, indicate how it relates to other research, if any, in order to avoid duplication of effort.

STATEMENT OF OBJECTIVES

A clear, concise description of the objectives of the proposed activity is required. Consistency with the objectives of the program as indicated in the RFP is critical.

DELIVERABLES

Deliverables are the anticipated end product of the proposed project which will make it useful. This section should clearly describe the deliverables which will be provided and indicate how these deliverables will be made available and benefit the agriculture industry after the project is completed.

In addition to a written presentation of findings and recommendations, deliverables may be provided in a number of forms including, but not limited to one or more of the following:

- publication of "how to" guidelines or instructions
- an analysis of economic, scientific or production feasibility for a specific development project
- publication of a management, business, marketing or capital formation plan
- an engineering design plan, drawing or blueprint
- a new prototype product, machine or process
- a new organization or organizational structure
- an audio-visual presentation of a new product or processing technique or methodology, or marketing and promotion effort

PLAN OF WORK

This section should provide a detailed description of how the proposed project is to be carried out. The plan should indicate the tasks to be performed, who will carry them out, where they will be conducted and a timetable for completion. The work plan should demonstrate the feasibility of conducting the proposed activity and achieving the desired results.

POTENTIAL USE

The practical or commercial application of the proposed project activity is important. This section should indicate the means by which the proposed project activity appears to have potential commercial application or may be broadly identified and quantified to the maximum extent possible. It should also identify the groups or sectors that will benefit from the proposed activity, and if possible, the geographic regions of Montana that may benefit.

KEY PERSONNEL

This section should identify the key people who will be involved in carrying out the proposed project activity and their qualifications for doing so. Subcontractors, consultants and others not directly associated with the applicant must be included. Qualifications of project participants will be an important consideration in granting funds.

FACILITIES AND EQUIPMENT

This section should briefly describe the facilities and equipment, if any, required to carry out the proposed work. Items to be purchased with grant funds should be fully described and justified in this section. Wherever possible, it is desirable that capital equipment to be funded under the program be leased.

CURRENT AND PENDING SUPPORT

A minimum one-to-one applicant funding match is required for all projects. However, the council reserves the right to waive the matching requirement.

The match may be provided in the form of cash, in-kind services, or other resources, indirect or overhead costs, or a combination of the above. Projects with levels of matching above the one-to-one level will have an advantage in the competitive selection process. The match may be provided by the project sponsor or other supporter(s). The cost of previous research leading to the proposed project will not be considered as an eligible cost for matching purposes.

Funds from the Agricultural Marketing Enhancement Program will be provided contingent upon receiving necessary funds from other sources, assuming the desired project timetable will be maintained. This section should identify other sources of funds or resources received or to be received, and when they were or are expected to be provided. Further, this section should also demonstrate evidence of industry support. Evidence of a commitment for other required funds or resources must be provided before Agricultural Marketing Assistance Program funding allocations will be finalized.

PROPOSED BUDGET

A Proposed Budget (form attached) must be completed for each project submitted. This form should indicate grant funds requested by expenditure category, as well as the amount or value of the applicant's matching contribution. Please refer to the "Current and Pending Support" section of this RFP for matching requirements.

In addition to the Proposed Budget form, proposals must indicate a description of project expenditures, including detail on significant cost items. In all instances, consultant services must be detailed. The number and type of personnel directly involved in the project, their hourly or salaried rates, and estimated work days must be noted. Sources of all applicant contributions must also be indicated and the amount of sponsor cash contributions noted.

The Montana Agriculture Development Council reserves the right to audit an applicant's books and records relating to the performance of the project during and up to four (4) years after completion of the project.

SELECTION PROCESS

Selection of successful proposals will be on a competitive basis. All proposals will be judged against the following criteria, on a weighted average, consistent with the stated objectives of the program:

1. Degree to which the proposed activity addresses a significant industry need or opportunity and evidence of industry support of such an activity. (20 points)
2. Demonstrated experience and ability of applicant to undertake proposed activity. (20 points)
3. Clearly demonstrated potential for near-term commercial application in terms of job creation, capital investment or other identifiable economic activity. (20 points)
4. Adequacy of workplan and timeframe to achieve the activity goals. (20 points)
5. Degree of innovation and originality of proposed activity. (20 points)

In addition, all proposals must include sufficient information to allow the above factors to be judged. Only those proposals which furnish complete information will be considered for evaluation. No partial proposals will be considered. The Montana Agriculture Development Council reserves the right to make a final selection or reject all proposals.

AWARDS

The Montana Agriculture Development Council will fund contracts under the Agricultural Marketing Enhancement Program. Successful applicants will be notified within thirty (30) days and the proposals will commence no sooner than sixty (60) days following council approval.

Selected projects must comply with all applicable federal, state and local laws, rules and regulations for funds to be awarded. Evidence of such compliance may be required.

A contract defining all project terms, conditions and responsibilities of the applicant will be developed by the council. The contract will, in addition, clarify all legal patents and proprietary rights that will result from the proposed activity. The contract will incorporate this RFP and the successful applicant's final proposal among its provisions.

Each applicant whose proposal is not chosen for funding will be notified in writing by the council. The notification will include an explanation of the council's reasons for not funding the proposal.

REPORTING REQUIREMENTS

The Montana Agriculture Development Council will be responsible for monitoring each funded project.

Specific terms and conditions of each funded project will be contained in the formal contract.

The council reserves the right to determine the extent of reporting requirements, subject to modification in the course of the project. Interim reporting requirements will be based on the cost, duration and nature of the project. A comprehensive final report (original and 3 copies) will be required within ninety (90) days of completion of the project. The final report should include:

- a comparison of actual findings and accomplishments of the project with goals and objectives described in proposal;
- reasons for deviation from established goals of proposal;
- a clear description of the commercial application and economic benefits which accrued during the course of the project,
- a description of its immediate impacts,
- an estimate of its long-term commercial and economic benefits.

In addition to the final project report, the council reserves the right to conduct a follow-up survey of funded projects in order to determine long-term impacts.

OWNERSHIP AND PUBLICATION OF MATERIALS

All information and materials generated by the proposed activity become the sole property of the State of Montana. The grant recipient will retain the right to utilize, reprint and distribute all said information and materials.

LIABILITY

The Montana Agriculture Development Council will not be held liable for any costs incurred by any firm for work performed in the preparation of and production of a proposal or for any works performed prior to the formal execution of a contract.

RIGHT TO KNOW

Proposals selected for funding and all related contracts shall be subject to disclosure under the Montana Right to Know Law. Further, proposals not selected for funding will be subject to disclosure under the Right to Know Law.

OTHER CONSIDERATIONS

The council reserves the right to:

- Reject any or all proposals received in respect to this RFP
- Waive or modify minor irregularities in proposals received after prior notification and concurrence of applicant
- Clarify the scope of this RFP, within the program requirements and with appropriate notice to all applicants, to best serve the interests of the state of Montana
- Amend the RFP specifications after their release, with appropriate written notice to all potential applicants
- Require a good faith effort on the part of the project sponsors to work with the council and the Department of Agriculture.

**THE MONTANA GROWTH THROUGH AGRICULTURE PROGRAM
 AGRICULTURAL MARKETING ENHANCEMENT PROGRAM**

PROPOSED BUDGET

PROJECT TITLE:

PROJECT APPLICANT:

PRINCIPAL CONTACT:

PROJECT DURATION:

<u>EXPENDITURE CATEGORY</u>	<u>GRANT FUNDS REQUESTED</u>	<u>APPLICANT MATCH</u>	<u>TOTAL</u>
Salaries and Wages			
Fringe Benefits			
Consultant Services			
Travel			
Advertising & Promotion			
Equipment			
Supplies & Materials			
Communication			
Data Processing			
Indirect & Overhead	XXXXXXXXXXXXXXXX		
Other (Specify)			
TOTAL			

AGRICULTURE DEVELOPMENT COUNCIL
SEED CAPITAL LOAN PROGRAM

Executive Summary

An applicant for a seed capital project loan shall submit a brief executive summary of the proposed project to the Council. The executive summary must include the following:

1. A description of the agricultural product and/or process being developed or marketed with particular emphasis on any proprietary characteristics which would result in a competitive advantage for the applicant.
2. A characterization of the market for the product or the process, including potential size, customers, and methods required for selling the product or process to the market.
3. A description of what the loan is being requested for and a projected project cost.
4. A description of the management team's experience and qualifications which are relevant to the particular agricultural business area which the company is proposing to enter.

The executive summary is evaluated for a determination of whether or not the project should be advanced to the business plan development and review phases. Please be advised that there is a statutory requirement for matching funds. See enclosed statute 90.9.301 for further clarification. Also when advanced to the application stage you will be required to provide a certified appraisal of your collateral.

All information provided to the Council/Department of Agriculture is subject to public disclosure.

Use of Proceeds: (Enter Gross Dollar)	Amount of Loan Requested	Identify Amount & Source of Matching funds	Total Project Cost
New Construction/ Expansion/Repair of Real Estate			
Acquisition and/or Repair of Machinery & Equipment			
Inventory Purchase			
Working Capital/ Operating funds			
Land/Building Acquisition			
Other			
Total			

Term of Loan Requested: _____ (Maximum term = five (5) years)

THE FOLLOWING FORMS MUST BE COMPLETED WHERE APPLICABLE. ALL QUESTIONS ANSWERED ARE MADE A PART OF THE APPLICATION.

For ADC Loans please provide an original and nine copies (Photocopy is Acceptable) of the Application Form, and all Exhibits to the Agriculture Development Council.

1. Submit a cover letter briefly identifying your proposed project and giving a description of other sources of capital. The cover letter must also contain the names and phone numbers of at least three individuals who could provide the Council with a threshold review of the products, technology, process, and market potential of the prospective activity if such review is deemed necessary by the Council.
2. Furnish a signed current personal and/or corporate financial statement (ADC Form 1 may be used for this purpose) for each individual, or principal stockholder who will guarantee the loan requested. Social Security/Tax ID number should be included on financial statements. Also include the last three years federal income tax returns for the same above. (Please mark these Exhibit A)

3. Include the following additional financial/proforma statements.
 1. Profit or loss statements (Existing business/corporation if applicable) showing previous two years and estimate of current year. ACD Form 2.
 2. Proforma project profit and loss projection for five (5) years. ADC Form 3.
See attached ADC forms
 3. Schedule of collateral proposed to secure requested loan. ADC Form 4.
4. Complete the Marketing Plan and Management Structure (ADC Forms 5 & 6) questionnaires.
5. Have you or any officers of your company ever been involved in bankruptcy or insolvency proceedings. If so, please provide the details in the space provided below. Yes___ No___

6. Are you or your business involved in any pending lawsuits? If yes, provide the details in the space provided below. Yes_____ No_____

7. Does you or your business, its owners or majority stockholders own or have a controlling interest in other businesses? If yes, please provide their names and the relationship with your company along with a current balance sheet and operating statement for each. This should be Exhibit B.
8. Provide the names, addresses, and phone numbers of three (3) personal references. This should be Exhibit C.
9. Additional information may be requested as deemed necessary.

I/we certify that the proposed business/purpose for which this loan is requested is or will be located in the state of Montana. I/we certify that the statements made in this application, financial statement, and profit or loss statement are true complete and accurate to the best of my/our knowledge and belief, and are made in good faith to obtain a loan. I/we understand that false information or misrepresentation of information on this application, financial statement, and profit or loss statements or other documents will be reasonable cause for denial of my/our request or resulting loan to be called immediately due and payable.

If Applicant is a proprietor or general partner, sign below:

By: _____ Date

By: _____ Date

By: _____ Date

By: _____ Date

If applicant is a Corporation, sign below:

Corporate Name and Seal Date

Affix corporate seal here

By: _____
Signature of President

Attested by: _____
Signature of Corporate Secretary

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PERSONAL FINANCIAL STATEMENT**

As of _____ 19____

Complete this form if 1) a sole proprietorship by the proprietor; 2) a partnership by each partner; 3) a corporation by each officer and each stockholder with 20% or more ownership; 4) any other person or entity providing a guaranty on the loan.

Name _____ Resident Phone _____
Resident Address _____
City, State & Zip _____
Business Name of Applicant/Borrower _____

ASSETS	(Omit Cents)	LIABILITIES	(Omit Cents)
Cash on hand & in Banks.....	\$ _____	Accounts Payable.....	\$ _____
Savings Accounts.....	_____	Notes Payable (to Banks & Other	_____
IRA.....	_____	Describe in Section 2).....	_____
Accounts & Notes Receivable	_____	Installment Account (Auto)	_____
Describe in Section 6).....	_____	Mo. Payments \$ _____	_____
Life Insurance -Cash	_____	Installment Account (Other)	_____
Surrender Value Only.....	_____	Mo. Payments \$ _____	_____
Stocks & Bonds	_____	Loans on Life Insurance.....	_____
Describe in Section 3).....	_____	Mortgages on Real Estate.....	_____
Real Estate	_____	Describe in Section 4).....	_____
Describe in Section 4).....	_____	Unpaid Taxes	_____
Automobile - Present Value.....	_____	Describe in Section 7).....	_____
Other Personal Property	_____	Other Liabilities	_____
Describe in Section 5).....	_____	Describe in Section 8).....	_____
Other Assets	_____	Total Liabilities.....	_____
Describe in Section 6).....	_____	Net Worth.....	_____
Total.....	\$ _____	Total.....	\$ _____

Section 1. Source of Income	Contingent Liabilities
Salary.....	\$ _____
Net Investment Income.....	As Endorser or Co-Maker.....
Real Estate Income.....	Legal Claims & Judgments.....
Other Income (Describe)*.....	Provision for Fed Income Tax.....
	Other Special Debt.....

Description of items listed in Section 1 _____

*(Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.)

Section 2. Notes Payable to Banks and Others

Name & Address of Noteholder	Original Balance	Current Balance	Payment Amount	Terms (Monthly-etc)	How Secured or Endorsed -- Type of Collateral

(Response is required to obtain a benefit)

Section 3. Stocks and Bonds (Use separate sheet if necessary)

No. of Shares	Names of Securities	Cost	Market Value Quotation/Exchange	Date Amount

Section 4. Real Estate Owned. (List each parcel separately. Use supplemental sheets if necessary. Each sheet must be identified as a supplement to this statement and signed.)

Address Type of Property	Title is in name of	Date Purchased	Original Cost	Present Value	Mortgage Balance	Amount of Payment	Status of Mortgage

Section 5. Other Personal Property. (Describe, and if any is mortgaged, state name and address of mortgage holder and amount of mortgage, terms of payment, and if delinquent, describe delinquency.)

Section 6. Other Assests, Notes & Accounts Receivable (Describe)

Section 7. Unpaid Taxes (Describe in detail, as to type, to whom payable, when due, amount, and what, if any, property the tax lien attaches)

Section 8. Other Liabilities (Describe in detail)

Section 9. Life Insurance Held (Give face amount of policies -- name of company and beneficiaries)

Lender is authorized to make all inquiries deemed necessary to verify the accuracy of the statements made herein and to determine my/our creditworthiness.
 • (I) or (We) certify the above and the statments contained in the schedules herein are a true and accurate statement of (my) or (our) financial condition as of the date stated herein.

Signature	Signature	Date
Social Security No.	Social Security No.	

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PROFIT AND LOSS STATEMENT**
(Attach narrative explaining basis for figures
showing receipts, expenses, and profits)

	Year	Actual	Actual	Current
Income Sources		_____	_____	_____
_____	\$	_____	_____	_____
_____		_____	_____	_____
Gross Receipts		_____	_____	_____
Merchandise Cost		_____	_____	_____
Gross Profit		_____	_____	_____
EXPENSES				
Officers Salaries (if corporation)		_____	_____	_____
Employee Wages		_____	_____	_____
Contracted Services.		_____	_____	_____
Accounting and Legal Fees.		_____	_____	_____
Advertising.		_____	_____	_____
Rent/Lease		_____	_____	_____
Depreciation		_____	_____	_____
Supplies		_____	_____	_____
Utilities (electric, gas, water, tele)		_____	_____	_____
Gasoline/Fuel/Oil.		_____	_____	_____
Repairs and Maintenance.		_____	_____	_____
Interest Payment/Ag Dev. Council .		_____	_____	_____
Interest (Other Creditors)		_____	_____	_____
Other Interest		_____	_____	_____
Taxes (Real Estate, Personal Prop.)		_____	_____	_____
Storage.		_____	_____	_____
Insurance.		_____	_____	_____
Bad Debts.		_____	_____	_____
Miscellaneous (postage, etc.) . . .		_____	_____	_____
TOTAL OPERATING EXPENSES.		_____	_____	_____
NET PROFIT		_____	_____	_____
Less Income Taxes		_____	_____	_____
NET PROFIT AFTER TAXES		_____	_____	_____
Cash Outlays for capital purchases		_____	_____	_____
Principle debt payment, ADC, others		_____	_____	_____
(Proprietorship/Partnership, Corporation)		_____	_____	_____
NET PROFIT		_____	_____	_____

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PROJECTED PROFIT OR LOSS (Proposed Project Only)
ESTIMATED PROJECTION AND FORECAST FOR FIVE YEARS EARNINGS**
(Attach narrative explaining basis for figures
showing receipts, expenses, and profits)

	Year				
Income Sources		_____	_____	_____	_____
	\$	_____	_____	_____	_____
_____		_____	_____	_____	_____
_____		_____	_____	_____	_____
_____		_____	_____	_____	_____
Gross Receipts		_____	_____	_____	_____
Merchandise Cost		_____	_____	_____	_____
Gross Profit		_____	_____	_____	_____
 EXPENSES					
Officers Salaries (if corporation)		_____	_____	_____	_____
Employee Wages		_____	_____	_____	_____
Contracted Services.		_____	_____	_____	_____
Accounting and Legal Fees.		_____	_____	_____	_____
Advertising.		_____	_____	_____	_____
Rent/Lease		_____	_____	_____	_____
Depreciation		_____	_____	_____	_____
Supplies		_____	_____	_____	_____
Utilities(electric,gas,water,tele)		_____	_____	_____	_____
Gasoline/Fuel/Oil.		_____	_____	_____	_____
Repairs and Maintenance.		_____	_____	_____	_____
Interest Payment/Ag Dev. Council .		_____	_____	_____	_____
Interest (Other Creditors)		_____	_____	_____	_____
Other Interest		_____	_____	_____	_____
Taxes(Real Estate, Personal Prop.)		_____	_____	_____	_____
Storage.		_____	_____	_____	_____
Insurance.		_____	_____	_____	_____
Bad Debts.		_____	_____	_____	_____
Miscellaneous (postage, etc.). . . .		_____	_____	_____	_____
TOTAL OPERATING EXPENSES.		_____	_____	_____	_____
NET PROFIT		_____	_____	_____	_____
Income Taxes.		_____	_____	_____	_____
NET PROFIT AFTER TAXES		_____	_____	_____	_____
Cash Outlays for capital purchases		_____	_____	_____	_____
Principal Debt Payment, ADC,		_____	_____	_____	_____
Other Creditors		_____	_____	_____	_____
NET PROFIT		_____	_____	_____	_____

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
SCHEDULE OF COLLATERAL**

Applicant _____

Street Address _____

City _____ State _____ Zip _____

LIST ALL COLLATERAL TO BE USED AS SECURITY FOR THIS LOAN

Section I - REAL ESTATE

Attach a copy of the deed(s) containing a full legal description of the land and show the location (street address) and city where the deed(s) is recorded. Following the address below, give a brief discription of the improvements, such as size, type of construction, use, number of stories, and present condition (use additional sheet if more space is required).

LIST PARCELS OF REAL ESTATE					
Address	Year Acquired	Original Cost	Market Value	Amount of Lien	Name of Lienholder

(Description(s): _____

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
BUSINESS/MARKETING PLAN**

Please answer the following questions in the space provided below
(If more space is required please attach).

- A. Describe the target market for your proposed business's products.

- B. Discuss your proposed business's marketing strategy.

- C. Describe your competition and what gives your product a competitive advantage.

- D. Describe your proposed sales and promotional plans, selling methods and purchasing plan.

*
**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
MANAGEMENT**

Please answer the following questions in the space provided below (If more space is required please attach).

- A. Describe the ownership structure of the proposed business/and or project.

- B. Describe the experience, education and qualifications of your management personnel and their proposed duties. (Attach resumes)

- C. Describe the firm's proposed accounting and financial management systems.

- D. Describe the proposed business's manufacturing and operations plan.

- E. Discuss any license, permits, or regulations that affect your proposed project.

- F. Supply a proposed organizational chart (attach) and describe your personnel management plan.
