

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

February 13, 1987

A joint meeting of the Senate and House Agriculture, Livestock and Irrigation Committees met in room 325 of the State Capitol at 7 p.m. on the above date.

Senator Boylan, Chairman asked that anyone speaking on the bill to leave testimony with the secretary. He explained that the bills being heard tonight would go through the proper legislative procedure before they would go out as a law. He said the reason for the combined meeting tonight as so the House members could also hear the testimony, and they will have access to all the testimony which is given tonight by people who are from out of town and will not be able to come back to testify again. He said they would start off tonight with Senate Bill 268 and give 1/2 hour to the proponents and 1/2 hour to the opponents.

CONSIDERATION OF SENATE BILL 268: Senator Yellowtail, Senate District 50 and chief sponsor of Senate Bill 268 explained this as a bill regarding partial redemption of foreclosed agricultural property. He said he would start with just a brief discussion of context to place this entire issue in perspective. Agriculture is the backbone of Montana economy and family farms and ranches are the flesh of Montana communities. Agriculture in Montana is in crisis and if we are realistic we will realize that the crisis will not be over in the immediate future. Therefore it follows that this financial crisis that we are beset with now is not likely to stop in the near future.

Senator Yellowtail pointed out the agricultural crisis stems from forces beyond the control of Montana farmers and ranchers. We know mismanagement is not the reason for the crisis, he said, rather we identify issues like federal policy in the areas of value of the dollar, interest rates, import and export policy, etc.

Senator Yellowtail said we need to enhance an atmosphere wherein Montana family farming and ranching can recover from this crisis and SB 268 fits in the context of current law which provides that for foreclosed agricultural property the foreclosed borrower presently has the right of redemption for one year from the time of the foreclosure. He said the law of redemption is an old law and goes back a long way, it is found in the code books in 25-13-8 and other sections in

the codes. He said they tried to make the bill as simple as possible, it sets out a procedure for partial redemption, a time line, parameters for the valuation, due process in the interest of fairness to all parties. Senator Yellowtail then went through the bill section by section highlighting what the bill does.

PROPOSERS TO SENATE BILL 268: Sue Olson, farms near Roundup, representing Northern Plains Resource Council spoke as a proponent of Senate Bill 268, her testimony is attached as exhibit 1.

Alfred Verschoot, Ronan, Montana People's Action (MPA), spoke in support of Senate Bill 268. He said he felt this was an effort to upgrade the law. Land can be divided and he said he felt no reason why this could not be done. Since many of the loans will not return over 20% this law should be beneficial to the lending institutions.

Mary Lou Heiken, Rural Ministries Coordinator, for the Montana Association of Churches. She said the Montana Religious Legislative Coalition is in support of Senate Bill 268. She said she was raised on a farm and been actively involved in farming and ranching for over 30 years. She said it was important for her to remain in the community even if she did not have the total farm. She mentioned an elderly farm couple in their late 60's who are losing their farm and are in poor health with little or no earning power. With partial redemption they could retain a couple of acres and their home, live off their social security and stay in their own community where they would have the support of life long friends. If they have to move it is very doubtful if they will survive mentally, physically or financially, and I am sure there are many more like them.

Helen Waller, Circle, Montana, president of the National Save the Family Farm Coalition spoke in support of Senate Bill 268. Her written testimony is attached as exhibit 2.

Tom Tully said, his family ranches in the Bull Mountains south of Roundup, and he testified on behalf of Northern Plains Resource Council, spoke in favor of Senate Bill 268. His testimony is attached as exhibit 3.

Jeane Charter, said her family ranches next to Tully's in the Bull Mountains. Her testimony is attached as exhibit 4.

Jim Murry, Executive Secretary Montana AFL-CIO speaking in support of Senate Bill 268. His testimony is attached as exhibit 5.

Mary Kee, Roundup, Montana, and a member of Montana People's Action spoke in favor of Senate Bill 268. Her testimony is attached as exhibit 6.

OPPONENTS TO SENATE BILL 268: Al Haslobacher, representing Farm Credit Services of Spokane spoke in opposition to Senate Bill 268. His testimony is attached as exhibit 7.

John Cadby, Montana Bankers Association, representing all the commercial banks in the state of Montana, said he would like to introduce 3 bankers who are here to respond to questions of the committee: Mr. John Witte, President of the Traders State Bank at Poplar; Phil Johnson with the First Bank in Helena and we have our counsel George Bennett who is here to answer any legal questions that might arise. He said also speaking in their behalf is a banker from Sidney, John Franklin from the First United Bank of Sidney.

John Franklin, Bozeman, financial consultant and executive officer of the First United Bank in Sidney, testified in opposition to Senate Bill 268. He said, I grew up on a farm and worked with farmers all my life. I read this bill that at the foreclosure auction the buyer buys it but does not know what he got. He expressed the concern that a buyer might buy a ranch and in the partial right of redemption lose the hay base and asked, where does that leave the ranch?

Bob Stephens, Montana Grain Growers, spoke as an opponent of Senate Bill 268. He said, Montana Grain Growers feel this is just another stumbling block to get additional financing from farm credit service organizations, and it will tend to take the guts out of a good farm and you will find you have a hard time selling it.

Mons Teigen, representing the Montana Stockgrowers Association and Montana Cattlewomen. He gave written testimony, attached as exhibit 9. He said Warren Ross is chairman of the newly formed Ag Credit Committee, and was here this morning but could not remain or he would have spoken here on the need for credit for farmers.

Mike Sjostrom, Vice President of Montana Ag Credit, Inc. He spoke as an opponent of Senate Bill 268 and his testimony is attached as exhibit 10

There were no further opponents and Senator Boylan before asking for questions from the committee, expressed his appreciation to the House members who had just gotten out of session and had come to the hearing without even having supper.

Senator Yellowtail told the committee they have resource people available for answering questions from the committee and introduced Mr. Bob Randall and Mr. Steve Dougherty. He said Mr. Randall is an appraiser, Mr. Dougherty an attorney and Mr. Cogley, your staff attorney, is well informed also.

Representative Bachini said he had been listening to the testimony and would like to have the sponsor clarify a couple of problems. He asked, if there is a redemption when property has been foreclosed, does this really devalue the remaining property? He said it seemed to him with an appraiser, time period, etc. wasn't this protected? Senator Yellowtail said, I recognize that the first question is a complicated one. We must be able to designate a portion of the foreclosed property that we wish to be able to redeem in a fashion that will not seriously damage the value of the remainder. We have done this in the bill, in my opinion. We have, in section 4, page 2 and following. This section deals with valuation of the portion to be redeemed and that sets up a process whereby the portion to be redeemed is not redeemed at the fair market value today, but rather proportional loan value at which the land was foreclosed. In response to the concern by the opponents, we have provided for protection in due process in section 6. The lender has very specific rights of due process to challenge any element of this partial redemption under section 6.

Senator Thayer asked if the only recourse in a dispute between the two parties going to court? Senator Yellowtail said we presume, or at least hope, that the two parties are able and willing to negotiate and discuss whatever issue there might be and hopefully resolve an issue through negotiation rather than having to go to court. Also, I believe that whether or not we wrote a due process section into this law, I think both parties would have recourse through a court hearing.

Senator Thayer said he would like to address the same question to Mr. Bennett, an attorney. Mr. Bennett, Montana Bankers Association said, I think Senator Yellowtail is correct, the ultimate arbiter of a dispute over the value would have to go through the court process.

Representative Giacometto asked Mr. Franklin, under our current law, isn't it possible if I were to lose my place that I could still partially redeem part of that. Mr. Franklin answered, yes, and said we are in the process right now of receiving 160 acres back, irrigated ground. I will guarantee you, we don't want it. If the individual that owned it would like to have 40 acres that sits on the corner that has nothing to do with the rest of the value of the place and he wants to pay us what we have in it, we'll gladly sell it to him after we have gone through the foreclosure, if that's the way it goes. I can speak for myself--we don't want any tractors, we don't want the house, we don't want any land, all we would like to do is get our money back--the depositors money we loaned out.

Representative Giacometto asked, what this bill is doing is just putting into statute what they already do. Mr. Franklin answered, yes, as far as I am concerned.

Senator Beck asked Senator Yellowtail, does this bill also include anyone who has a contract for deed? Senator Yellowtail said, no, sir. We specifically avoided the issue of contract for deed. This is strictly between a financial institution and a borrower--a mortgagor and a mortgagee.

Senator Kolstad asked, if it is in fact between a mortgagee and a mortgagor it would also include a contract for deed, isn't that correct? Senator Yellowtail said perhaps he did not understand the terms well enough. Senator Kolstad said, all you have to do is differentiate whether it includes a private lender as well as a commercial lender. Senator Yellowtail answered, No. 1, it is absolutely not my intention to address contracts for deed. If this bill doesn't say that adequately, then I think we had better insure that it does.

Representative Giacometto said, I would like someone to address what the Senator has asked there. Does this address the contract for deed? The way I read it, it would and I would like that clarified. Senator Yellowtail said he would like to refer this to the staff attorney. Dave Cogley said at the time he wrote this it was his intention as well as the sponsor's to include only mortgages when we defined "redemption" as the person who formerly occupied and owned an equitable interest in Agricultural land that was sold in foreclosure of a mortgage granted by that person. of That would be the only situation where it would to apply. I understand there is some question as to whether a contract for deed somehow can be converted into a mortgage and I am not sure what the basis for that is, but it is my understanding that this would only apply to a mortgage transaction. It would not apply to a private lender under a contract for deed.

Senator Galt said that even though it is not a contract for deed there are also private mortgagors that aren't banks or institutions. Senator Yellowtail said, you are correct that those kinds of sales do exist, and my approach to this is and if you understand my intention then perhaps in legal language we can see how to narrow that down. My intention is to couch partial redemption strictly in the framework of the precedent since 1867 presently existing full right of exemption for 1 year as it applies to a full property. Now if there is someone here who can define that I wish they would, we can narrow it down and point it in the right direction.

Senator Galt said, conceivably, and there does exist, the fact where 2 parties have it. Not first and second

mortgage, but a mortgage on one section and on another section. How do you deal with that? Senator Yellowtail said his response would be the same. How does the present one year right of redemption apply in such a case, and would presume the partial redemption would apply in the same. Senator Galt said, you would hurt one mortgager and not the other? Senator Yellowtail said it would not be his intention to do so unfairly nor was it his intention to hurt any mortgager. He said he understood that there are first and second mortgages at present and a priority right there but not being a lawyer or financier to understand how the present right of redemption applies to those cases, but his intention is that the right of partial redemption should be no different.

Senator Thayer asked if the current law allows for partial redemption or does it have to be the entire property. Senator Yellowtail said his understanding is that it applies to the full property.

Senator Beck said he would have to sit down and discuss how they came up with the formula on appraisal and how you come up with the value on this, but going one step further, if a person does get the property redeemed, turns around and sells that fairly immediately and that devaluates--sells it to a junk dealer or whatever, is there any protection for the landowner or the mortgagee in something of that nature. Senator Yellowtail said he would presume that once the parcel is fully redeemed the title would return to the redemptioner and then he can do with it whatever the rights that go along with title allow.

Senator Beck said the point he was trying to get at--the formula takes into account a piece of ground and something comes in to devalue the rest of the property--it happens all the time, that's why the zoning laws, subdivision laws etc., and that is why the question. Senator Yellowtail said in one of the early sections--section 3, subsection 2 provides that the designation of the portion must be made in such manner that the division conforms to local land use ordinances and the remainder is not unreasonably decreased in value. He said, we have provided that local land use ordinances are provided for, that those are a consideration, if that helps one part of your question. The other part of the question, in the evaluation part of section 4 we have provided that the redeemed portion must be valued -- not at any reduced value, but strictly as a proportion of the foreclosure price. He gave an assumed example.

Senator Beck asked, on your scenario that the bank bid \$100,000 and somebody else came in and bid \$120,000, but you still have this right of redemption. Does that go up to \$60,000 then? Senator Yellowtail answered, yes, as the bill is written, yes it would. He said he would note however,

that with the land not worth that amount it would take someone crazy or something to do that.

Senator Boylan asked, is this the basis to redeem the farmstead or is there another bill on the homestead act? To pick out a place to live and have the dwelling, corrals etc. Senator Yellowtail said they struggled with the whole business of the Homestead Act and whether to try to incorporate that into this bill and concluded that was too complicated, we would be mixing too many things together. The Homestead Act stands by itself, it is a separate issue and we don't want to confuse that. My intention was to provide a maximum amount of possibility to the redemptioner really based on their financial ability to redeem the property.

Representative Cody asked Mr. Franklin, what would your concerns be when a potential purchaser of land that has been foreclosed on and the fact that he might buy something that he doesn't know is there or might not be there. How do you equate that? It does exist now and I am having trouble with having it here too. Mr. Franklin said, if I understand your question, today when a piece of property sells it is a full right of redemption. The way I read the bill is that if I went broke and they foreclosed on my property and you held the lien and your neighbor decided to buy it. Your neighbor bids it in at foreclosure, he is obligated to purchase it at the end of the 12 months whatever is remaining of the farm and I could come in and take the building site and the and the irrigated bottom ground and your neighbor is obligated to take whatever is left because he bid it in at foreclosure auction.

Representative Cody asked, if the purchaser or anyone bidding on that property, if this law went into effect, would he know that there is a right to redemption even on a full foreclosure. Mr. Franklin said yes. He explained that bidding on a ranch today he would know what he was getting but the way the bill is written he would not know what he would end up with because of what might be redeemed in the the partial redemption.

Senator Yellowtail closed by saying, he was clearly astonished at the opposition here today. First, the gentleman from Spokane. The potential for reduction of value of the remainder of the property is addressed in the bill and there is a recourse if there is devaluation in some case. The fact that the bill is not limited to a few acres and the house, this has been addressed also, this is not a Homestead Exemption bill, we want maximum flexibility for the foreclosed borrower to be governed by their ability essentially to come up with the money. The fact that unreasonably decreased is not defined, I think if we tried to define that we would get ourselves involved in a hopeless

can of worms and I think the scientific analysis of an appraiser in conjunction with the court can make those determinations. As to the whole issue of you or I redeeming the water holes and the creek bottom out of our ranch, no--it is not realistic and I don't want to do that to the lender and it is not a reasonable thing for me to do anyway. I think we have provided against that case in this bill. We have provided due process. I do not think it a reasonable criticism of this bill. Mr. Franklin points out that the buyer buys it but doesn't know what he got. I have 3 responses to that. 1. Reality is that most foreclosed property does not sell as an independent unit in this day and age. What most likely happens to it is a neighbor who can afford to do so incorporates it into their holdings, or in my territory the oil man from Texas is buying these places up hand over fist, and that is the case that is more likely in this day and age. 2. The present year right of redemption exists. This is no different in terms of uncertainty for the buyer at foreclosure auction. That uncertainty exists today for the entire property. In practice today nobody buys property at foreclosure auction. Nobody is fool enough to pay the original inflated price of that property at foreclosure auction knowing that if they wait a year they will be able to get it ultimately for 5 years at fair market value which is substantially less. In our area we have foreclosures going on right and left and nobody buys at foreclosure auction because of that uncertainty, they wait out the 1 year right of redemption, so I don't see too much basis for that concern. I think we have answered the "drying up credit" theory. We all recognize that that is a pretty hollow threat. I am reluctant to say this, but Mr. Stephens and Mr. Teigen have surprised me by appearing here against this bill. I don't know Mr. Stephens very well, but Mr. Teigen is a friend of mine. I must ask, whom do you represent? Here are people who have come to support this bill and I suspect that some of them are members of your organization. Congress has established its approach to keep the family operator on the land and that is Chapter XII bankruptcy. I want to remind the committee, the lenders and everyone here that the lender's position in Chapter XII bankruptcy can only be the side that is disadvantageous. The lender under Chapter XII bankruptcy, as I understand it is entitled to recover only fair market value. Here we offer an alternative. It should be far more desirable to the lender, in any case. We offer an alternative to permit the lender to recover their loan value in this property. Please make no mistake, however, this is not intended to be an anti-lender bill. We know that Agriculture depends on viable banks and credit and we know that banks in our communities depend on viable farms and ranches. I suspect this requires the courage for both parties to meet half way. Fairness has been my over riding concern in presenting this legislation. Redemption is not a new idea, partial redemption is not so very strange to that

concept, and I think we are here offering the Montana Legislature an opportunity to do something concrete to address the recovery of family farmers in Montana.

Senator Yellowtail thanked the committee and the people who had come to the hearing for a very fair hearing.

Senator Boylan said this would conclude the hearing on Senate Bill 268 and said they would open the hearing on Senate Bill 321.

CONSIDERATION OF SENATE BILL 321: Senator Jergeson, Senate District 8 and chief sponsor of Senate Bill 321 explained the bill. He said the basic fundamental purpose of introducing this bill is because we believe mediation and negotiation is better than bankruptcy. We believe that mediation and negotiation is better than foreclosure. While this bill compels both sides to come to the table to try to sort out the problems and find a solution, it is not arbitration. Any agreement the mediator tries to work out, both sides must agree to sign the agreement and abide by the terms. If one side or the other is not able to agree the process ends and whatever course of action, be it bankruptcy or foreclosure if that is absolutely inevitable, would occur. Hopefully, he said, this whole mediation process will help some farmers and ranchers. He said many say Chapter XII bankruptcy answers the question, and he asked how many here tonight would prefer a negotiated or mediated agreement to your problem as a tool rather than going through bankruptcy? He asked them to please stand--most of those present did so. He then asked how many lenders would prefer mediation.

PROPONENTS TO SENATE BILL 321: Curtis Haskins, a farmer from Polson, Montana, a peer counselor, a member of Montana People's Action, and testifying for Senate Bill 321 in behalf of the Ag Action Coalition. He presented written testimony, attached as exhibit 11.

Terry Murphy, President of the Montana Farmers Union spoke in support of Senate Bill 321. His testimony is attached as exhibit 12.

Jim Murry, Executive Secretary Montana AFL - CIO and a life long member of the Montana Farmers Union spoke in favor of Senate Bill 321. His testimony is attached as exhibit 13.

Jo Ann Voice, Ryegate, Montana, said she is here to testify in favor of Senate Bill 321. She read some of the information that had come to her from other states that had mediation, and said she represented the Montana People's Action. Her testimony is attached as exhibit 14.

Helen Waller, National Save the Family Farm Coalition, Circle wheat farmer said she was here to support Senate Bill 321. Her testimony is attached as exhibit 15.

Jerry Schillinger, farmer, Circle and representing Northern Plains Resource Council spoke in favor of Senate Bill 321 and his testimony is attached as exhibit 16.

Lyle Quick, Circle, a commissioner from McCone County, President of Montana Association of Counties Agricultural and Rural Affairs and also sit on the National Rural Affairs Committee board. He said the committee was spawned out of the fact that Agriculture is causing so many problems today in rural America that the situation has to be addressed. He asked that the committee look favorably on this bill and most of the Ag bills being proposed this session because if we fail in state government and local government to provide the services for the people we have to support it will be total devastation. Today the delinquent tax rate is already astronomical. In McCone County alone it is 12%. Where are we going to pick up the tax dollars? We will have to cut services, he said. He left a support sheet, exhibit 17.

Gerriann Wilson, Montana People's Action, Polson, handed in a sheet for testimony, her testimony is written on the back of the sheet, and is attached as exhibit 18.

Bud Mekelburg, Otis, Colorado, Executive Director of the Colorado Coalition to Save Rural America, and a farmer from Yuma County. He spoke in favor of Senate Bill 321 and his testimony is attached as exhibit 19.

Mary Lou Heiken, Rural Ministries Coordinator for the Montana Association of Churches handed in written testimony in favor of Senate Bill 321. Her testimony is attached as exhibit 20.

Mary Kee, Roundup, Montana and a member of Montana People's Action handed in written testimony in favor of Senate Bill 321. Her testimony is attached as exhibit 21.

Howard Lyman, Great Falls handed in testimony in favor of Senate Bill 321, and it is attached as exhibit 22.

John Ortwein, representing the Montana Catholic Conference handed in written testimony which is attached as exhibit 23.

The time allotted for proponents had been used up and Senator Boylan asked for opponents.

OPPONENTS TO SENATE BILL 321: Al Haslebacher, Farm Credit System Officer of Region 5, Spokane, spoke in opposition to Senate Bill 321. His testimony is attached as exhibit 24.

John Witte, Scoby, Mt, handed in a sign up sheet, said he was representing the Citizens State Bank in Scoby and the Treasure State Bank in Poplar. He explained that the purpose of the bank is to gather in the surplus funds in the community, to safeguard it for the depositors, to loan it out into that community to help it grow and prosper and to make a profit for its stockholders. He said he has been in Agricultural banking for 30 years. It is a high risk business to the farmer and operator and a high risk business to the banker. He said 2 years ago they did not pay one cent of tax to the state of Montana from their bank in Scoby because we ate 875,000 dollars in losses. Ordinarily we should have paid 35 to 40 thousand. He told about efforts to help the farmer stay in business, working with Farm Home, and even in spite of everything possible being done in mediation, what does a lender do when there is a negative balance and you are loaning out the depositors money. We think we have the tools in place, he said, through the guaranteed loan program of Farm Home today. Every time I see an auction sale I know there goes another family down the road, and they will no longer a part of the community. He said when the little community banks go down the road the communities go down the road too. We are doing everything we can to keep the farmers going. He said he did not like the mediation bill because there is a long process of time there. The chaos, the mental aches and hurts of mediation can go on for years.

Phil Johnson spoke as an opponent to Senate Bill 321. His testimony is attached as exhibit 26.

Mons Tiegen, speaking for the Montana Stockgrowers and Cattlewomen, said they did not support the bill. He handed in written testimony, attached as exhibit 27

Bob Stephens, representing Montana Grain Growers Association said they are not opposed to mediation, they are opposed to mandatory mediation. He said he has farmed in Agriculture, and has been a bank officer so felt he understood both sides. He said there are many "lien" people coming in trying to get ahead of the banks, the aerial duster, the petroleum guy, the fertilizer man, the tire man, etc. The bank can have a loan, these people want to come in, file a lien, and be in ahead of the banker. When they are into the farmer, the bank will have to turn them down.

Mike Sjostrom, Vice President of Montana Livestock Ag Credit, Inc. spoke in opposition to Senate Bill 321. He handed in written testimony, attached as exhibit 28.

Mr. John White turned in a sheet in opposition, it is attached as exhibit 29.

There were no further opponents, and Senator Boylan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck asked a question of Senator Jergeson. He said, it seems to me a lot of the opponents raised the question of the length of the mediation; period. Have you, or would you give it some consideration to put possibly a shorter time limit in there? Senator Jergeson answered, the basic mediation period, between the 14 days of filing notice of request of mediation after an action has been present and the time the mediator has to work with both parties--45 days, comes to a total of 59 days, and I believe the provision may be in there that the mediator can extend that time by another 45 days if he sees that there is some reasonable opportunity for an agreement to be worked out in that period of time, otherwise it would end at that time. Frankly, all of you familiar with livestock know that we are about a one crop a year operation, and in the whole process of that year 60 days is a very small part of the critical time of the entire year. I am open to all kinds of suggestions on the technical aspects of this bill, and I would consider them when we go into executive session.

Representative Lybeck said he would like to follow up with a question to Keith Kelly. He said, I realize you didn't testify, but you are here and I would like you to answer. I know we've had this program in effect now for a short while. I was wondering if you would give a brief report on how you see it has worked out. Keith Kelly, Director, Department of Agriculture, said referring to the Ag Assistance program that began sometime after mid June 1986, to date we have received 800 calls over the hot line. To break the program down by category there is the peer counseling component, a financial consultant and a mediation component of it with legal assistance in the training. We had 153 peer counseling requests, a total of 27 mediation requests and currently 4 have been concluded, some are in operation some are still working along, and 41 financial consultant cases.

Representative Rapp-Svrcek said he had a question for Mr. Witte. He said Mr. Witte seemed to be a conscientious banker who cared about the people and the community he worked with. He said, You mentioned a lot of things in regard to your bank, that you need to make a profit for your stockholders and that both you and the borrower take risks when you sign a note and there seemed to be a great deal of concern in your testimony in regard to the communities in which you operate. I would ask you, Sir, how would it adversely affect the profit for you or your stockholders, what risks do you take, and how would it disrupt the communities just by asking that you sit down at a table with the borrower in an effort to work out something?

Mr. Witte answered, the other day when I testified before the House Ag Committee. For 9 years Daniels County has been declared a disaster county. 7 years of drought, then we had a fair year but we got grasshoppers; in '86 we had possibly one of the best moisture years that Daniels County has ever had. The old timers said this would have been the best year of crop production, but the grasshoppers didn't die. Some of our customers sprayed 3 times. We had fields out there that were as bare as this floor, so in those tough years that we have had I say Daniels County is possibly the hardest hit agricultural county in the nation, I have lost 6 farm customers. I have never gone to the court house on 1. We have sat down and negotiated, we sat in Farm Home with one and worked to see what we could do.

Mr. Witte said when you hire a "so called" expert who really knows less about Ag loans than the bankers--one of the things that scared him about the bill was--how much do they know about ag lending? He said he was also worried about the confidentiality of the loans.

Representative Rapp-Svrcek said he had a question of Mr. Phil Johnson. He said, Mr. Johnson you have not disappointed me. I hoped that at least one time tonight I would hear a member of your industry allude to the fact that these bills would dry up credit, and you did it for me. I just have some questions about drying up credit. Do you perceive that credit dries up in a banking community or gets tighter for reasons other than agricultural loans? Does the health of the community have any effect on agricultural credit? Mr. Johnson said, In Montana, I think I would turn that question around. The health of agriculture has a great effect on the community. In terms of drying up credit--no, I didn't say it dried up credit. I said it did show cause in measuring risks which is what we're supposed to be good at, but we are looking at ag loans that are on the rim, so to speak as being either bankable or nonbankable. The economic conditions as I said in my testimony seem to be going against us and we perceive that we are going to have additional costs stemming from this bill in terms of monitoring and taking care of that credit.

Representative Rapp-Svrcek said he would like to talk about the loans that are on the "rim". He asked, from which scenario would the bank profit more--a scenario where they sit down with the borrower and work out something that keeps the borrower on the land and pays a portion of the money back to the bank or the scenario where the bank takes back the land? Mr. Johnson said, I think I answered that in my testimony. He was asked to answer it again, please, and said, The answer would be the former part of your response. We're better off in mediation, not mandatory mediation. The minute we take a piece of property back, we lose, and we lose big.

Representative Rapp-Svrcek said he would like to ask Mr. Johnson the same question he had asked Mr. Witte. What harm comes to the banking industry by merely asking that you sit down across from the table with a borrower? Mr. Johnson answered there were additional costs and delays, and you are introducing a party into the picture that may or may not be qualified to handle the situation.

Representative Rapp-Svrcek asked, Mr. Johnson, you are not bound by anything that mediator would come up with, you are still allowed to leave that mediation process to continue your foreclosure or whatever the bank wishes to do. Again I ask you what harm has your institution come by in sitting down across the table with your borrower? Mr. Johnson answered that it is the mandatory mediation. It results in an inordinate delay in collecting the loan, that cost is borne by society in the community and by the institution depositors and borrowers.

Representative Cody expressed that she didn't feel there was a problem with the rural bankers such as Mr. Witte that care about the community and the people in it, what about these insurance companies? Mr. Witte said he really didn't know. The insurance companies, chapter XII, have been mentioned. Chapter XII is a kind of a dirty thing and the insurance companies right now, I don't think they are making a loan in the state of Montana and haven't been for some time. Now with Chapter XII coming in they have definitely dried up their credit. I don't know how you would sit down and mediate with them. We were all caught in this fire, I lay some blame on my fellow members in the land bank system that they got some money out there on some land that was too high priced, and today the roof has fallen in and there is no way that debt can be serviced in today's economy. I don't know how you can sit down and mediate with the insurance companies.

Senator Abrams asked a question of Mr. Keith Kelly. He said, Keith, you gave us some statistics on the amount of mediation, what is your success ratio? Mr. Kelly answered, that in mediation, of the 4 cases completely signed and delivered, I think 3 of them were successful and in the 4th case the individual came to the conclusion that he could not continue in business.

Senator Galt asked Senator Jergeson, I refer to sections 17 and 18. Are all the expenses of this thing to be paid by the parties to the mediation or who? Senator Jergeson said yes, and it could be by more parties if you have more than one lender. Senator Galt said, but the whole expense--who is going to pay the mediator? Mr. Kelly answered, the Department of Agriculture, though I have to establish rules and work out some method of determining who is qualified to serve as mediators. Those people would probably be hired

under some sort of contract or retainer with the Department. They would only be hired on a case by case basis where they are called out to serve.

Senator Galt asked Mr. Kelly, do you actually think the Department of Agriculture can carry on this program without additional appropriation? Mr. Kelly said, I think any additional appropriation would be very limited, Senator.

Senator Jergeson said the bill is written the way it is so that it is not an open ended appropriation as the bill the House turned down on voluntary mediation. This has controls and limits on it. A person who requests mediation is going to have to want to be serious about making it work because it is going to cost him some money.

Senator Galt asked, you can guarantee it is not going to cost the state any money? Senator Jergeson answered, as I said it will be very limited. I suppose it will take some time for them to set up an organization, identify and entice those people who they can get to go out and do the mediation.

Senator Galt asked if this cost was in the Agricultural Appropriation bill this year? Senator Jergeson answered, as you know, Senator Galt we are never done here until we adjourn sine die and if we pass a statutory authorization the budget committees have opportunities to look at that.

Senator Galt said he had one other question, he said, I do know that this covers not only the institutions and the insurance companies, but it also covers private lenders and people with contracts for deed etc. Senator Jergeson answered, that is true. You have to understand Chapter XII probably covers all of them. I believe some of them were looking at that Chapter XII to see if it covered contract for deed and they are afraid that it may. The fact of the matter is if anybody who has loaned money in excess of \$20,000 can foreclose, so everybody is involved in this. The whole situation is that foreclosure and bankruptcy should be the very last resort for either side, and that is a resort that neither side ever really wants to go to until they absolutely have to.

Senator Galt asked, you have one private fellow with a contract for deed to another private fellow, the fellow that is operating, stone broke, he is a poor caretaker and has done all the nasty things and you are going to preclude the fellow that has to take the place back from getting it back for a period of time--it might be for the planting season or it might be for the calving season. Senator Jergeson answered that he felt it would be for a limited period of time, 59 days for any kind of mediation could go on and he said he would suggest that in the case of a person in a

contract for deed situation--in that case the lender, if he decided to foreclose on the fellow who bought the place from him on a contract for deed and the guy was letting the place go to hell, well he could do as Mr. Witte said with his customers, in this case those people would probably be quite angry with each other and it may in fact take an objective non-bias mediator to sort the thing out for them.

Senator Galt asked, but would there be a delay in the guy getting his place back. Senator Jergeson answered, 60 days.

Representative Koehnke asked a question for Al Haselbacher from the farm credit system. In your testimony, did you say that you have instructed your people out in the field in both the land bank and PCA to mediate with them? Al Haselbacher answered, yes, that was correct, sir. It was late in the process, probably about September or October. We sent a letter to our farm credit service office which are jointly managed PCA and FLBA, asking them to make a good faith effort in participating in the Montana Ag Assistance Program in all phases of its operation.

Representative Koehnke asked, sir, was this true before this legislation for voluntary mediation? Did you instruct them to do that before this other legislation? Mr. Haselbacher answered, the Legislature was not in session and so this bill was not around so it would be before, yes.

Representative Koehnke asked, did you do that voluntarily--has that been a policy with your people all along? Mr. Haselbacher said the special session created the Montana Ag Assistance Program and it was some time after that before we actually asked them to formally participate in this program. The Farm Credit System is operated by people who come from the farmers. Our policy is to work with individual farmers on a case by case basis, and as we are farmer owned, foreclosure is an absolute last resort. Our directors are farmers and they don't make those decisions lightly.

Senator Beck asked Senator Jergeson, on page 4 of the new section 3, it says that anything under \$20,000 is not included in this mediation. Is that \$20,000 per item or a combination of items. Senator Jergeson answered, that would be outstanding debt.

Senator Beck also said he would like some documentation of how serious a problem this is--I would like to know, how many people have been denied mediation with their creditors and who are some of the creditors that denied them mediation. Is that at all possible? Senator Jergeson said he could not speak from a personal basis, but can say when our PCA was taken down along the Hi-Line there were a great many people who were at a loss on how to deal with the

situation and there were 400 members of that Association. Many of them were able to go in with the new people who were put in the office who were charged with liquidating the association. There were others that were so terribly angry that it took a great long time before they would set foot in the place to even see what their status was.

Mr. Beck said, that is really what I want to know. Maybe they've changed. Maybe they are mediating today. If someone is being denied mediation I would like to know that too.

Senator Jergeson said he did not have an individual case of someone who was denied that mediation, it is entirely possible that among the people sitting here they may be close to it or been denied mediation.


Mary Kee spoke to Senator Jergeson who then told the committee that this lady said she had been denied mediation by the farm credit system.

Senator Jergeson closed by saying that he is sort of amazed that Mr. Haslebacher is here to suggest that this bill raises false expectations for farmers. As a former borrower of PCA type services, I would like to say that they are the masters of false expectations. I, like Mr. Witte, will not use any stronger language than that here tonight. I would suggest to bankers and lenders like Mr. Witte. This bill is not aimed at you guys. This bill does not try to paint you as wearing black hats, in fact when the farm credit system did break up our PCA our local bankers did their level best to absorb the people who were members of that PCA. I applaud them for it and I don't offer this bill as a slap in their face, but I offer it as a hope that those people who are faced with their people filing Chapter XII's on them or with their having to face the point where they have to foreclose on a customer. It is legitimate for lenders to be looking out for their bottom line. It is legitimate for lenders to be looking out for a profit. It is legitimate for farmers to be looking out for their livelihoods, to be looking out for their destinies, and sometimes because they are so closely involved in their own legitimate interests they have trouble seeing the other side. The mediator may be able to sort this out. He said he did not expect the time to drag on, that there was a time limitation, and said it is Chapter XII that is causing the lenders to dry up credit, it is not the tools that would try to prevent Chapter XII that is doing it.

Senator Boylan closed the hearing, and said anyone who did not get to testify could hand in testimony to the secretaries and it would be duly noted.

The meeting was adjourned at 10:02 p.m.

Senate Agriculture Committee
February 13, 1987
Page 18



Senator Boylan, Chairman

ROLL CALL

AGRICULTURE

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/13/87

NAME	PRESENT	ABSENT	EXCUSED
ABRAMS, Hubert J.	✓		
BENGTSON, Esther G.		✓	
BECK, Tom	✓		
JERGESON, Greg	✓		
KOLSTAD, ALLEN C.	✓		
LYBECK, Ray	✓		
STORY, Peter R.		✓	
THAYER, Gene	✓		
GALT, Jack VICE CHAIRMAN	✓		
BOYLAN, Paul CHAIRMAN	✓		

Each day attach to minutes.

DATE 2-13-87

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Wing Rice	Montana Farmers Union			
John Brun	Montana Farmers Union			
Mr. Alexander	USWA Local 72			
Mr. Reardon				
Ed Lyons	M.P.A.			
Pat Lyons	M.P.A. Lewistown			
Esther Kopyatnick	M.P.A.			
Alan D. Elliott	M.F.U.			
William Lyman	P.O. Box 1168 Ft. Falls			
Paul Christman	North Star Visa Card			
Keith J. Small	Mont People's Union			
LORRA FRANK	MT. FARM BUREAU			
Kay Norbeck	WIFE			
Lee Hirsch	Senator Miles City			
John Hansen	July Guard - WIFE			
John Amundson	self			
Pat Waldie	self			
Dee Conley	M.P.A.			
Paul Conley	M.P.A.			
Ken de Young	Mont Farmers Union			
Ken Smith	" " "			
JIM SPATZ	Headmaster Ag Supply			
Tom Brathel				
Rick Shuid	KM ON / G+ Fours			
Stan Jones	M.P.A.			

SB 288
SB 321

DATE 2-13-87

COMMITTEE ON

Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
JOHN CARBY	MT BANKERS ASSN	321 268		✓
Mike Sjostrom	Mont. LUSTK Ag Credit	321 268		✓
Bob Stephens	Ind. Grain Growers	321 268		✓
ALONN FRANKLIN	1 st UNITED BANK SIDNEY	268		✓
George Bennett	ANNT. BKRS ASSN	321 268		✓
Mal Hagg	Mont. Farmers Union			
Mary Lou Newbin				
John L. Ostrem	mt Catholic Conf	321	✓	
Jack Lasech	Twin Bridge Mt	321 268		
Anne Lasech	" " "	321 268		
Robert Wodrich	Wodrich Ranch	321 268	✓	
Clara G. Witt	Traders State Bank			✓
(Philip D) Johnson	MTA - Director	321 268		✓
Wallace B. Anderson	MTA	321 268	✓	
W. A. Bate	MPA	321 268	✓	
Joyce Janszaro	rancher	321 268	X	
Dino Hayes	MTA - Rancher	321 268	X	
Annales Redding	Big Horn Rancher	321 - 5275		
Hil D. Peterson	Skewdon MPA	321 268	X	
Charles P. III	HELENA	321 268	✓	
Norm	MPA	321 268	✓	
H. H. H. H.	"	321 268	X	
Paul	MPA Twin Bridge	321 268	✓	
Michael	MPA Twin Bridge	321 268	✓	
Marion	MPA Skewdon	321 268	✓	
William	MPA Twin Bridge	321 268	✓	

DATE 2-13-87

321

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Tom Tully	NPRC	321 268	✓	
Mona Teigen	Mt. Stockpovers	321 268		X
Bill Martin	Mt. Stockpovers	321 268		X
Donna Schmitt	Hardin	321 268		
Minister Zeller				
George Smith	Town Bridge			
Shelby Pittman	Comms			
Walter J. ...	SPR P. H			
Neyla Murphy	Mt. Farmers Union	321/110	✓	
Cherry ...	WPRC	53321	✓	
Al ...	Family Credit	53321 53268		✓
ELRON LUTHER	MT Council of ...	53321 53268		✓
Bob	321 268	✓	
Wanna			
Brant ...	Billings			
Joe			
O. ...	Miscellaneous NTA	321 268	✓	
Phil ...	Helena MT FU		✓	
...	...		✓	
...	...		✓	
...	...		✓	
Jim Murray	Mont. State AFL-CIO	321 268	✓	
Rep. Tim Whalen	Billings	321 268	✓	

(Please leave prepared statement with Secretary)

HOUSE / SENATE AGRICULTURE COMMITTEE

BILL SB 321

VISITORS' REGISTER

DATE 2/13/87

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOS
Anne Black	NPRC		X	
Barbara Becker	self		✓	
Barbara Mitchell	self		✓	
Beg. Waldie	self		X	
Martin Fortune	self		X	
Wesley	Self		X	
Abel Ch. Clinton	Self		X	
John M. ...	HO. INC		X	
Charles Mike Goffen	self		X	
Kind Jean Minnie	self		X	
Anne Wilson	self		✓	
Beki Brandberg	self		X	
Van B. ...	M.F.A.		X	
Paul Hawks	self		X	
Em & Nancy Burnham			X	
Page S. ...	self		X	
Theodore E. ...	self		✓	
W. ...	MT STATE AFL-CIO		X	
Arly ...	NIPA		X	
Fern ...	M.F.A.		X	
George ...	Self		X	
Rob ...	NPRC		X	
Carolyn ...	Self		X	

DATE 2/13/87

COMMITTEE ON RAV

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Richard Lee	BCC		✓	
JARIMM Wilson	MPA			
JAMES Wilson	MPA			
MAMA Robert Lucas				
Ed Smith				
Steve Nye				
Ray Heintz	A. Landwir			
Rob Green	NPRC		x	

(Please leave prepared statement with Secretary)

HOUSE/SENATE Agriculture COMMITTEE

BILL B 268

VISITORS' REGISTER

DATE 2/13

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Anne Black	NPRC		X	
LORSA ERICKSON	NPRC		X	
Barbara Archer	self		✓	
Sue Buffell	self		✓	
Doug Waldie	NPRC		X	
Marilyn Fortune	self		X	
Kizz Run	self		X	
Chuck Christian	self		X	
Neil Smith	self		X	
S. Ross	self		X	
J. M. Kemmer	NPRC		✓	
Heathly Martin	MFL		✓	
Kay & Diana Rose	MFA		✓	
Gene Baxce				
Oda Steeding	self		✓	
Mark + Nedra's Kyle Steeding	self		✓	
Gladys Permaul			✓	
Angela Dussel	self		X	
John Judge	MT STATE AFL-CIO		X	
Caryn Klador	self		X	
Rob Greer	NPRC		X	

NORTHERN PLAINS RESOURCE COUNCIL

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

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

Field Office
Box 886
Glendive, MT 59330
SENATE (406) 865-8525
AGRICULTURE

EXHIBIT NO. 1
DATE 2-13-87
BILL NO. SB268

TESTIMONY ON SB 268

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

SB 268 would allow the immediately preceding former owner of foreclosed land the opportunity to redeem any portion of land which the former owner could afford to redeem as long as the portion redeemed does not unreasonably effect the value of the remainder of the property. Currently, MT law allows a foreclosed land owner one year to redeem the land for the full amount of the note. The problem with the law is that it's an all or nothing proposition. If for instance, I was foreclosed on, its unlikely that I could obtain the capital necessary to redeem the entire place inside of a year. I might be able to obtain enough capital to redeem a portion of my place. I could always purchase another ranch, but I would prefer the opportunity to redeem my own. I know my land and I'm probably the best person to work it.

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

SENATE AGRICULTURE
EXHIBIT NO. 1
DATE 2-13-87
BILL NO. SB 268

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

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

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

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

NAME: William Haller DATE: 2-13-87

ADDRESS: S.B. 278 Box 15-

PHONE: 485-3490

REPRESENTING WHOM? National Save the Family Farm Coalition

APPEARING ON WHICH PROPOSAL: S.B. 268

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The ability of a partial redemption to take place is beneficial to helping foreclosed farmers in their communities.

Economic reasons for doing so have been adequately stated. Aside from the economic reasons, there are social and humanitarian reasons to allow people to remain in their homes & communities.

I urge support of S.B. 268

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 2-13-87
BILL NO. SB 268

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Chairman and Members of the Committee, my name is Billy My JB 268

family ranches in the Bull Mts. southeast of Roundup. I'm testifying on behalf of Northern Plains Resource Council in support of SB 268.

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

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

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

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

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

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

S. _____
EXHIBIT 3
DATE 2-13-57
BILL NO. SB 268

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

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

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

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

Thank you.

EXHIBIT NO. 3

DATE 2-13-57

BILL NO. SB 268

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

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- 2) Document how proposed credit reforms would ^{actually} "dry up credit"
- 3) Compare credit availability in states which have passed credit reforms with states which have not passed these reforms

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

Thank you.

NAME: Jeanne Charter DATE: 2/13/86

ADDRESS: Rt 1 SENATE AGRICULTURE
EXHIBIT NO. 4

PHONE: Shepherd Mt DATE 2-13-87
BILL NO. SB 268

REPRESENTING WHOM? Musselshell Agricultural Alliance

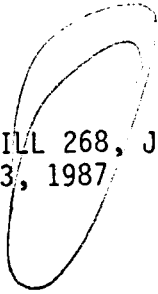
APPEARING ON WHICH PROPOSAL: Partial Redemption

DO YOU: SUPPORT? AMEND? OPPOSE?

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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



because

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

~~→~~ It is morally right and economically prudent.

~~It~~ It is fair and just to allow farm and ranch families to salvage their homes ~~from~~ ^{from} the financial disaster that has descended upon them.

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

give a nod
We urge you to ~~pass this~~ legislation. Thank you.

SENATE AGRICULTURE

EXHIBIT NO. 4

DATE 2-13-87

BILL NO. SB 268

NAME: Mary Ka DATE: 2-13-87

ADDRESS: 16345 Hwy 13, W Roundup, MT 59072

PHONE: 323-2557 SENATE AGRICULTURE

REPRESENTING WHOM? MT Peoples Action EXHIBIT NO. 6

DATE: 2-13-87

BILL NO. SB 268

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

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME A L Haslebacher BILL NO. 268

ADDRESS T AFC-5 Spokane Wash 99220 DATE 2-14-87

WHOM DO YOU REPRESENT? Farm Credit Services - Spokane

SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. SENATE AGRICULTURE

Comments: EXHIBIT NO. 7

DATE 2-13-87

BILL NO. SB268

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

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

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

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

Al Haslebacher

NAME:

John Franklin

DATE:

ADDRESS:

2311 Highland Court

PHONE:

Bozeman, Montana

482-3212 office

587-9141 Home

REPRESENTING WHOM?

1st United Bank - Sidney

APPEARING ON WHICH PROPOSAL:

#5B 268

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

GENERIC AGRICULTURE

EXHIBIT NO. *8*

DATE *2-13-87*

BILL NO. *5B 268*

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Alans L. Terjen DATE: 2/13/87

ADDRESS: Box 1679 Helena 59624

PHONE: 447-3420

REPRESENTING WHOM? MT Stockgrowers & Cattlewomen

APPEARING ON WHICH PROPOSAL: SB 268

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: We believe that this legislation is unnecessary as most lenders would probably allow partial redemption if the individual had the financial resources to do so.

If the bill only applied to a home site (1 acre or less) we could probably support.

This whole proposal seems to be directed toward making credit less available to those who remain

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 9
DATE 2-13-87
BILL NO. SB 268

SB 268

SENATE JOURNAL
SENATE BILL NO. 10
DATE 2-13-87
BILL NO. SB 268

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

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

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

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

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

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

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

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

EXHIBIT NO.

12

DATE

2-13-87

BILL NO.

SB 321

DATE:

2-13-87

NAME:

Terry Murphy

ADDRESS:

Box 2447 Great Falls, MT. 59403

PHONE:

452-6406

REPRESENTING WHOM?

Montana Farmers Union

APPEARING ON WHICH PROPOSAL:

SB 321

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENT:

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



SENATE AGRICULTURE
EXHIBIT NO. 13
DATE 2-13-87
BILL NO. SB 321

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

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

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

We support this bill because:

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

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

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

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

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

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

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

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

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

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

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

SEARCHED _____
SERIAL NO. 13
DATE 2-13-87
BILL NO. SB321

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

all individual sentences were shortened

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

Kathy Mangum / *MN Coordinator of the Minn. Farm Credit Mediation Program*

Said that MN has "right to" and voluntary as a part of their '85 Farm Bill and that 99% of their mediation has come in under "right to".

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

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

KM cited numerous benefits of the program:

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

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

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

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

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

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

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

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

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

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

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

(over)

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The Iowa breakdown is as follows:

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

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

Conclusions

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

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

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

Miscellaneous

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

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

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

SENATE
EX. 14
DATE 2-13-87
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Are Lenders Better Off?

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

Q18. How did mediation improve the situation of lenders?

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

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

Description of Benefits to Lenders

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NAME: Wendy Walker DATE: 2-13-87

ADDRESS: SR. 275 Box 15 - Circle, MT. 59215

PHONE: 455-3490

REPRESENTING WHOM? National Save the Family Farm Coalition

APPEARING ON WHICH PROPOSAL: SB 321 ~~SB 321~~

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: I come here to speak specifically on the

importance of the ^{provision § 301} right to mediation as it
relates to activities at the National Bus. Emergency
Loan & Debt restructuring legislation has been
introduced in Congress which, if passed, requires
a state mediation board to be in place in
order for Montana farmers & ranchers to be
eligible for ^{these federal} emergency loans, ^{state administered} ~~state administered~~
~~state~~ which is a potential credit source
~~the amount of money in the~~ ~~provision~~
which should not be lost by default
the one speaking at the possibility of a maximum of \$3.5 million per year for 3 years
I hope you'll support SB 321 - if interest free
Thank you

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE SIGNATURE
EXHIBIT NO. 15
DATE 2-13-87
BILL NO. SB 321

NORTHERN PLAINS RESOURCE COUNCIL

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

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

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

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

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

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

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

SENATE RESOLUTION

EXHIBIT NO. 16

DATE 2-13-87

BILL NO. SB321

(2)

FAMILY-FARM DEBT PROBLEMS.

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

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

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

NEW MEASURE
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(3)

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

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

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

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

NAME: JARIANN Wilson DATE: 2-13-87

ADDRESS: RT1 box 174 Polson Montana 59860

PHONE: 883-4896

REPRESENTING WHOM? Montana Peoples Action

APPEARING ON WHICH PROPOSAL: SB 321 (right to mediate)

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: - over - please -

SENATE AGRICULTURE
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

please excuse my errors!

mediation is nothing more than a ~~lender~~ ^{borrower} & a lender sitting ^{down} with a 3rd party that has helped to bring about a workable farm plan, that will bring about the ultimate goal of both the borrower & the lender - payment of debt & the continuation of a farm operation.

Farmers walk a thin ~~line~~ line year in & year out, - all it takes is ~~to~~ an Act of god - too little Rain or too much ^{of Frost} Rain to put a farmer in ~~the~~ financial difficulty.

Farmers need flexibility to ~~restructure~~ restructure their farm plans to meet these difficulties. mediation will help to meet these needs.

& will help stop the decline of a Way of Life, The Family Farm - Montana's # 1 Industry,

Jessie Wilson

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

NAME: Bud Mehlberg DATE: Feb 13, 1987

ADDRESS: PO 1 North Washington - Estes, Colo 80743

PHONE: 303 246 3414

REPRESENTING WHOM? Colo Coalition to Save Rural America

APPEARING ON WHICH PROPOSAL: Mediation SB 321

DO YOU: SUPPORT? AMEND? OPPOSE?

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 19
DATE 2-13-87
BILL NO. SB 321

T E S T I M O N Y

SENATE RESOLUTIONS

EXHIBIT NO. 20

DATE 2-13-87

BILL NO. SB 321

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

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

I support mediation because:

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

2-13-87

I'm Mary Lee from Roundup MT & member
of MPA & testifying in behalf of the Ag coalition

When voluntary mediation passed last March
I requested it & was refused. Mr Hasibaker
told me today he was in favor of voluntary
mediation but that some farm Credit Dept
denied that right. He now says he favors SB 142 also.

The National Family Farm Act requires
that mediation be in place for Montana
to make it applicable

I support SB 321

Mary Lee

SENATE AGRICULTURE
EXHIBIT NO. 21
DATE 2-13-87
BILL NO. SB 321

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

NAME: Howard F. Lyman DATE: 13 Feb 87

ADDRESS: Box 1158 St. Falls

PHONE: 452-8119

REPRESENTING WHOM? Self.

SENATE AGRICULTURE
EXHIBIT NO. 22
DATE 2-13-87
BILL NO. SB 321

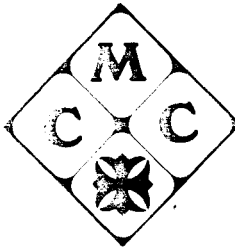
APPEARING ON WHICH PROPOSAL: 321

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Montana Catholic Conference

February 13, 1987

MEMBERS OF THE HOUSE AND SENATE AGRICULTURAL COMMITTEES:

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

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

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

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

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

SENATE AGRICULTURE

EXHIBIT NO. 23

DATE 2-13-87

BILL NO. SB 321



Tel. (406) 442-5761

P.O. BOX 1708

530 N. EWING

HELENA, MONTANA 59624



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

NAME: AL Haslebacher DATE: 2-17-87

ADDRESS: TAF C 5 Spokane Wash 99220

PHONE: 509-838-9208

REPRESENTING WHOM? Farmer Credit Services

APPEARING ON WHICH PROPOSAL: S 321

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENT: Agree neutral 3rd party offer provides

valuable benefits---we consider S321 a mandatory
mediation bill & believe if it is mandatory it raises
false hope on cases that are beyond hope---main
concern is undue delay on these hopeless cases thus
adding costs---As a cooperative lender owned by
our borrowers these added costs are borne by the
paying borrowers

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 24
DATE 2-13-87
BILL NO. S 321

122

NAME: John WHITE DATE: 2/13/87

ADDRESS: Desby St

PHONE: 487-2282

REPRESENTING WHOM? Citizen State Bank

APPEARING ON WHICH PROPOSAL: Mediation of Daryl Buckingham

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 25
DATE 2-13-87
BILL NO. SB 321

NAME: Phillip B Johnson DATE: 2-13-87

ADDRESS: c/o Montana Drovers Assoc

PHONE: 443-4121

SENATE AGRICULTURE

EXHIBIT NO. 26

REPRESENTING WHOM? M.B.A.

DATE 2-13-87

BILL NO. SB 321

APPEARING ON WHICH PROPOSAL: SB 321

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

- COMMENTS:
- ① Time involved (per bill) and extensions involved.
 - ② Cost limitations
 - ③ Credentials of Analysts; Experience; what quality can you expect @ \$20/hr.
 - ④ How many mediators are needed? Section 10
 - ⑤ Mediators practicing law - not qualified p71
line
10-20
 - ⑥ Places state dept of Agr. in position of a bankruptcy judge.
 - ⑦ Meritorium of Foreclosure
 - ⑧ Applications will be further scrutinized & rejected.
 - ⑨ This is an additional tax to be passed on to the public's

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mrs. Terpen DATE: 2/13/87

ADDRESS: Helena 59124

SENATE AGRICULTURE
EXHIBIT NO. 27
DATE 2-13-87
BILL NO. SB 321

PHONE: 442-3420

REPRESENTING WHOM? MT Stockgrowers + Cattlewomen

APPEARING ON WHICH PROPOSAL: SB 321

DO YOU: SUPPORT? AMEND? OPPOSE? ^{SB} 321 X

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

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 28
DATE 2-13-87
BILL NO. SB 321

SB 321

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

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

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

(3)

NAME: John White DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE AGRICULTURE
EXHIBIT NO. 29
DATE 2-13-87
BILL NO. SB 321