

Approved March 29, 1988  
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at  
Chairperson

10:07 a.m./~~p.m.~~ on March 28, 1988 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Legislative Research Department  
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Galen Swenson, State Board of Agriculture  
Wilbur Leonard, Kansas Committee of Farm  
Organizations  
Howard Tice, Kansas Association of Wheat Growers  
Paul Fleener, Kansas Farm Bureau  
Sam Brownback, State Board of Agriculture  
Chuck Stones, Kansas Bankers Association  
Penny Geis, Director, Kansas Farmer Creditor  
Mediation  
Carol Smith, Jewish Community Relations Bureau  
Ron Wilson, Executive Director, Farm Credit  
Council, Wichita, Kansas  
Ron Schneider, Kansas Rural Center

Senator Allen called the committee to order and attention to HB 2906; he then called on the following to testify.

Galen Swenson expressed support for and requested the committee to recommend HB 2906 for passage.

Wilbur Leonard requested the committee recommend HB 2906 favorable for passage.

Howard Tice stated support for the concept of the bill and requested that it be passed favorably from the committee.

Paul Fleener expressed support for HB 2906 and for its passage.

The Chairman declared the hearing closed for HB 2906 and turned the committees' attention to HB 2966 and called on the following to testify, all as proponents of HB 2966.

Sam Brownback gave copies of his testimony to the committee (attachment 1). In answer to the committee questions Mr. Brownback stated that all the funds for the FACTS program would be available to be matched with federal funds if mediation is provided. Mr. Brownback stated that FACTS is funded for \$347,000 and that the federal will match up to \$500,000.

Chuck Stones provided copies of his testimony for the committee (attachment 2).

Penny Geis gave information and her testimony with a proposed amendment to the committee (attachment 3). Ms. Geis explained that she was hired by Prairie View Inc. to work as a mediator after Prairie View agreed to provide mediation services between farmers and lenders. Ms. Geis explained that out of about 25 cases that half had decided to be involved with mediation; she stated she felt there would maybe be as many as 400 cases for mediation if HB 2966 passes. Ms. Geis stated that people have not known about available mediation services and that is why the number of mediations is low.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,  
room 423-S, Statehouse, at 10:07 a.m./~~p.m.~~ on March 28, 1988

Paul Fleener expressed support for HB 2966 and expressed the hope that the provisions of the FACTS program would not be needed after the expiration date of July 1, 1990, but to be mindful of the expiration date and to extend that date if needed. Mr. Fleener suggested in Penny Geis's amendment that the words be eliminated, in line 2, after the word 'note,' "or when notifying of default or of a right to cure, or, in the event none of the above notices has occurred,".

Howard Tice expressed support for the FACTS program as he has expressed since the concept of the program. Mr. Tice expressed support for the passage of HB 2966 and conceptionally expressed support for the amendment submitted by Penny Geis.

Carol Smith gave copies of her testimony to the committee (attachment 4).

Ron Wilson furnished the committee with copies of his testimony. Mr. Wilson expressed a need for some clarification to be made in lines 2 and 3 of the amendment by Ms. Geis. He expressed concern that the last paragraph of her amendment concerning letters being sent to mediation services would require banks to do something that federal regulations on confidentiality prohibit.

Ron Schneider stated he had testified for the FACTS program before and expressed support for HB 2966 which he stated would help with mediation in our state. Mr. Schneider suggested that maybe letters concerning the need of mediation for a farmer could be sent to the mediation service at the time the bankruptcy is printed in the newspaper thus lenders would not, at that time, be interfering with confidentiality regulations. Mr. Schneider stated that a lender and a borrower should have to sit down and try to resolve a solution for not filing bankruptcy at least one time. Mr. Schneider questioned wondering if matching funds from the federal would all have to be spent on mediation; he requested the committee give careful study to the issue.

During committee discussion, Jim Maag, of the Kansas Bankers Association, was asked if he felt the Penny Geis amendment would interfere with federal confidentiality regulations of banks. Mr. Maag agreed that it would.

The Vice-Chairman, because the Chairman had to leave for another meeting, appointed a subcommittee to work out the differences for the amendment with staff. Senator Montgomery appointed Senator Norvell, Chairman, and Senators Arasmith and Doyen to the subcommittee. Senator Norvell asked Jim Maag and Ron Wilson to meet with Penny Geis after adjournment of the committee.

The Vice-Chairman called for committee action on minutes.

Senator Karr made a motion the committee minutes of March 25 be approved; Senator Arasmith seconded the motion; motion carried.

Senator Montgomery adjourned the committee at 11:01 a.m.



STATEMENT OF SAM BROWNBACK  
SECRETARY OF THE  
KANSAS STATE BOARD OF AGRICULTURE  
BEFORE THE  
SENATE AGRICULTURE COMMITTEE  
ON  
HOUSE BILL 2966

March 28, 1988

Mr. Chairman and members of the Committee it is my pleasure to appear in front of you in support of House Bill 2966.

The basic thrust of this proposal is to allow the FACTS program to enter into contracts, accept gifts, grants and federal funds. The bill further specifies that FACTS can perform personal and family support services and voluntary mediation.

The primary thrust of this bill is to allow the FACTS program to provide voluntary mediation services as required by the Farm Credit Bailout bill. That piece of federal legislation requires the Farmers Home Administration to participate in state recognized mediation programs. The Farm Credit Bailout bill furthermore has matching funding available to states that have mediation programs. This mediation service will also have some impact on the Farm Credit System although the language in the bill is different concerning Farm Credit System than the Farmers Home Administration. But let me be very clear here, our thrust is to be able to provide mediation services as mandated by the federal farm credit bailout bill to the Farmers Home Administration and its borrowers who are in financial distress and unable to meet their obligations to FmHA. This bill does not establish mandatory mediation for all farm financial distress situations.

Other provisions of the bill provide for confidentiality of the mediation sessions and information exchanged. Furthermore contract bids to FACTS are exempt from competitive bid and we are allowed to receive grants and gifts.

Mr. Chairman, I would be happy to respond to any questions. Thank you.

*attachment 1*  
*3-28-88*

The Kansas Bankers Association  
1500 Merchants National Bank Bldg.  
Topeka, KS 66612  
913-232-3444

3-1-88

TO: Senate Committee on Agriculture  
From: Charles Stones

RE: HB 2966

Mr. Chairman and Members of the Committee:

The KBA appreciates the opportunity to testify before this committee on the topic of mediation. As we understand the bill, it is intended to lay the groundwork for the voluntary mediation program already in existence to take advantage of federal matching dollars provided for in Federal legislation. We favor this concept. At a meeting of the original sponsors of the voluntary mediation program held January 5 these same topics were discussed at length. In attendance were representatives of the Kansas Bankers Association, Rural Assistance Corp., Kansas Bar Association, Farm Credit System, FACTS, Kansas Farm Bureau, and Prairie View, Inc.. Kansas Farmers Union, one of the sponsors, was unable to attend. The general conclusions of that meeting were to wait for final regulations to be written from the federal act before making any final decisions, for the sponsors to renew efforts to publicize the program, and to start work on getting the current program certified and get matching money. We realize this bill was amended in the House Committee to read that mediation will be voluntary. However, based on events that occurred in the House, we feel it necessary to review the KBA's position on the subject of mediation.

The KBA has always seen the benefits of mediation. We were the first group to be contacted by an attorney about the concept of voluntary mediation. The leadership of the KBA was quick to see its merits. The KBA was an original and contributor to the program. We also held a series of seminars across the state and have included the topic of mediation in several other meetings. We have encouraged banks to participate in the program because we felt that voluntary mediation could prove helpful in facilitating dialogue between borrowers and lenders thus saving both parties considerable money and stress.

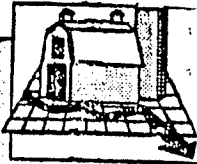
However, the KBA has been and continues to be opposed to mandatory mediation. True mediation cannot be effective the system is voluntary. Mandatory mediation has proved to be time consuming, costly, and even counter-productive. Attempts to compare Iowa and Minnesota to Kansas can be misleading. Iowa has 53% more farms and Minnesota has 31% more farms than does Kansas. Naturally the number of mediation cases in those states would be higher. USDA records show that Iowa lost 2,000 farms from June 1986 - June 1987 and Minnesota lost 1,000. The same study showed that Kansas showed no change in the number of farms. (See attachment) This tends to show that the situation is much worse in those two states than in Kansas. In Kansas mediation is a process rather than a one time event as in those other states. That process starts with financial counseling and negotiation. Stan Ward, in our January 5th meeting mentioned earlier stated that even though a relatively small number of cases had gone to actual mediation that approximately 100 cases have been resolved through the counseling and negotiation process with financial consultants and an actual mediator was not necessary. **This has been the strength of the program.** Another reason for the relatively small number of mediation cases in Kansas is the improvement of the Agriculture economy. Reports of record farm net income and stabilizing land values have been encouraging and would tend to decrease the number of cases requiring mediation.

attachment 2  
3-28-88

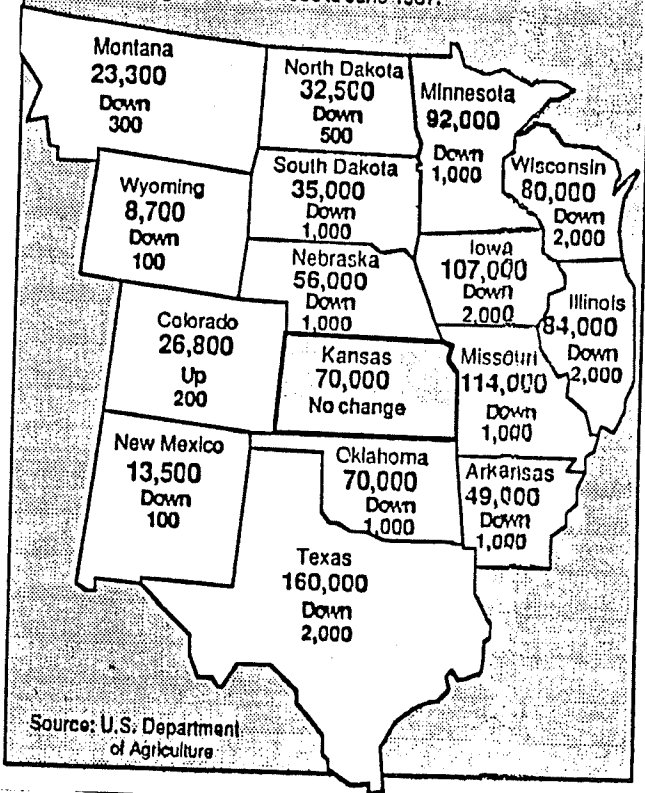
Finally, the KBA has always had concerns about the neutrality of the mediation program when it is associated heavily with the FACTS program. This has also been a concern of the administrative personnel of the mediation program. In fact the original printed material was revised (see attachment) in order to downplay FACTS involvement and maintain neutrality. FACTS was, is and always will be an advocate for the farmer. It was designed to be that way and is that way. We are not critical of that fact but if mediation is to work, it must be administered by someone who is perceived to be "neutral" by both sides. When creditors see FACTS involvement they automatically think "farmer advocate", and rightly so. We do not feel a program administered by FACTS could be perceived as neutral by creditors any more than a program administered by the KBA could be perceived as neutral by the farmer. Both may be perfectly neutral, but as stated earlier, perception is reality in the eyes of the beholder. We support this bill which would place the administration of the program directly under the Secretary and allow him to sub-contract for the mediation services directly.

We also support the amendments which call for notification of the program. The Federal statute requires that both lenders and borrowers receive notification of the program. The KBA has and will continue to inform our bank members of this program. We also support the amendment proposed by Penny Geis which would put the notification process within the normal flow of due process.

# Midwest's Declining Farm Numbers



First number indicates number of farms in state. Second number indicates change from June 1986 to June 1987.



Source: U.S. Department of Agriculture

## Farm recession bottoming out, article asserts

The "long, painful recession" in agriculture is bottoming out, according to Mark Drabenstott, economist with the Federal Reserve Bank of Kansas City.

Drabenstott's conclusion, in a signed article in the Kansas City Fed's December 1986 Economic Review, was based on signs that prices have stabilized, land values have generally ceased to drop, and farm loan problems have crested.

"In the coming year," he wrote, "agriculture is likely to find itself on a plateau. Conditions in the industry may not improve much, ... but they may not decline much either thanks to generous farm programs."

While the road to recovery will be long, particularly for crops, Drabenstott said there are some bright spots.

Livestock producers can expect good profits in 1987, he said. "Feed will be extremely cheap, and consumer demand likely will be strong."

Cattle prices will be much stronger and, though pork production will decline, disciplined lenders and slow expansion plans by producers could mean record profits. Broilers production will increase, possibly by 6 percent, and turkey may register a production increase of 16 percent after a strong 12 percent increase in 1986.

Congressional debate is likely during the year, the Kansas City economist wrote, about the costs of government support to agriculture. "The crop surplus will be enormous, and exports offer no immediate prospects of emptying U.S. bins," he said.

Farm income, bolstered by government payments, is likely to increase, he said, and the value of agricultural land will be stable if government payments continue.

"Current land values accurately reflect returns when government payments are included. But if investors look only at the returns generated by the market, land bought at current prices will not cash flow in most cases... If government farm spending is reduced, or if investors have good reason to believe programs will be cut, farmland values will adjust accordingly," Drabenstott said.

The agricultural financial sector will continue to wrestle with the problems of the past five years, including farm bank closings, which "may keep pace with the high number of failures in 1986," he said.

However, the problems will be holdovers, with no further deterioration in the situation, he said.

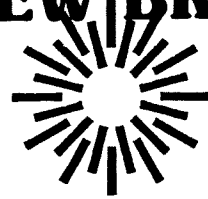
From: Chuck Stones

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ABA Bankers Weekly



## NEW BROCHURE



### How much does mediation cost?

Fees begin at \$100 per hour for a mediation involving one farmer and one creditor. As additional creditors are involved, each creditor's share decreases according to the following scale:

	Farmer Pays	Creditor Pays
1 cred.	\$20 per/hr	\$80 per/hr
2 cred.	20 per/hr	65 per/hr
3 cred.	20 per/hr	60 per/hr
4 cred.	20 per/hr	56 per/hr

A five-hour retainer fee is required, two hours of which are refundable. Checks or money orders, payable to KS Farmer/Creditor Mediation, should be mailed to Prairie View Inc. only after calling to receive an identifying number.



For more information contact:

**Prairie View inc.**

1901 East First Street  
Newton, KS 67114

1-316-283-2400, Ext. 462

## Kansas Farmer/Creditor Mediation Services

A Program of Prairie View Inc.



## OLD BROCHURE

## FARMERS ASSISTANCE COUNSELING & TRAINING SERVICE

Offers:

Kansas Farmer/Creditor  
Mediation Services



COMMENTS  
on  
U.S. Agricultural Credit Act of 1987 -- Mediation Title  
  
CERTIFICATION REQUIREMENTS  
and  
KANSAS FARMER/CREDITOR MEDIATION SERVICE

Kansas FmHA will be allowed to participate in mediation in Kansas only if FmHA certifies the state program, in which case it will be required to participate. FCS is required to "cooperate". Up to \$500,000 federal matching funds have been authorized (not yet appropriated) for certified programs.

The act provides that within 15 days after the U.S. Secretary of Agriculture receives a description of a State program, he shall certify the program if it:

1. provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

This is the essence of our program. In conversations with Senator Harkins staff, I understood it was the intent to include our program, even knowing it had not been created by state legislation. What FmHA's Vance Clark will consider sufficient evidence is another question.

2. is authorized or administered by an agency of the State government or by the Governor of the State;

The existing program is administered by Prairie View, Inc., a private, not-for-profit corporation in Newton which also provides mental health, management and consulting services. An executive order of the Governor is probably the most straight-forward way to satisfy this requirement, according to Tam Orniston, Assistant Attorney General for Iowa. Tam continues to be heavily involved in this issue and has offered to serve as a resource to Kansas. (Tam Orniston, Assist. Atty. Gen., Hoover State Office Bldg, Des Moines, IA 50319, 515-281-6634). Another option would be for a state agency to contract with Prairie View to provide the mediation service. It would be important to choose an agency viewed as neutral by farmers, creditors, and the general public. In Iowa, the mediation service is contacted to a neutral not-for-profit agency through the Attorney General's office. The Kansas House has passed HB 2966, requested by the Department of Agriculture, to allow the FACTS office to provide, refer or contract for mediation services. The FACTS hotline is viewed as a farmer advocate service by creditors, since it provides important legal and financial advice to farmers in mediation. (Funds used for those services could probably be justified as part of our match for funds.)

*attachment 3*  
*3-28-88*

3. provides for the training of mediators;

Our mediators have received 40 hours of training in farm credit mediation from the Center for Dispute Resolution from Colorado. CDR is one of the premier mediation training groups in the country. Continuing education is provided by staff and guest speakers. New mediators will be required to have comparable training.

4. provides that the mediation sessions shall be confidential;

KSA 60-452A provides for the confidentiality of all mediation in Kansas, protecting mediators from being required to testify in court regarding information learned in mediation. HB 2966 has been amended to provide that mediation sessions and records are not subject to open meetings and open records acts.

and

5. ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

This is our weakest point. Every farmer facing foreclosure (and probably lenders facing bankruptcy) should receive information about the mediation option. Public education is extremely important, but even if there were budget and staff for the most thorough effort, it's unrealistic to expect each person involved to be aware of mediation without individual notice at the appropriate time.

Notification of the mediation program before a foreclosure is filed seems to be the very minimum requirement for the potential success of a mediation program, whether voluntary or mandatory. Currently, farmers who have not called the FACTS crisis hotline and been evaluated as suitable for mediation, are unlikely to know about it. People are not going to choose the mediation option if they do not know it exists.

The proposed notification language would likely meet the requirements for certification -- and more importantly, ensure that farmers facing foreclosure are at least aware of the mediation option.

If lenders were also required to send, at the same time, notice to the mediation service, information could be sent to the farmer directly from the mediation service. An additional, and extremely important, benefit would be statistical information on the number of foreclosures filed in Kansas. (Alternately, perhaps statistical information could be collected by the Ag Statistics office or by the Office of Judicial Administration in their upcoming study of tort cases.)



HB 2966 AG CREDIT MEDIATION

SUGGESTED AMENDMENT:

NOTICE TO BORROWER OF AVAILABILITY OF STATE MEDIATION SERVICES

A creditor of a farm borrower, when notifying a farm borrower of intent to accelerate or call such note, or when notifying of default or of a right to cure, or, in the event none of the above notices has occurred, before filing suit to foreclose on a deed of trust or mortgage on agricultural land, shall notify the borrower of the availability of the Kansas Farmer Creditor Mediation Service, and shall prominently include on or with the notice the address and telephone number of the mediation service.

A copy of the notice, including names, addresses and phone numbers of creditor and borrower, shall be sent to the mediation service at the same time it is mailed to the borrower.

The exceptionally high percentage of agreements in cases mediated in Kansas can probably be attributed to

1. the voluntary nature of the program
2. selection and training of the mediators, and
3. preparation of the participants  
(every farmer had both financial and legal counsel).

The low number of cases served may also be a result of the voluntary nature of the program. Other factors may be a staff of only one person, only two days a week, and a limited publicity effort, both functions of a small budget.

The original funds have been exhausted. The service is now being subsidized by Prairie View and the mediators because they have been impressed by the results they have seen in individual cases.

When farmers and bankers have stopped talking to each other, when they have expressed "severe dislike and mistrust", our mediators have helped them sit down and work out a plan they could agree to. When court action has been threatened, and even initiated, people have come to agreement. Loans have been bought out, property voluntarily liquidated, interest rates and principal reduced, cattle and machinery recovered, and "bad debts" are performing loans again. Most farmers have stayed on the farm, though sometimes with a reduced operation. Some have left, with dignity, usually transferring ownership and operation to another family member. Families severely divided over farm problems have begun to heal. The delay, expense and stress of court actions have been avoided. People have listened to each other.

KANSAS FARMER/CREDITOR MEDIATION SERVICE

1986-87 INCOME AND EXPENSES

INCOME

Rural Assistance Corporation	10,317
Farmer fees	810
Creditor fees	3,265
Speaker reimbursement	2,443
	16,835

EXPENSES

Mediator expenses	2,519
Speaker expenses	128
Brochures and posters	2,707
Travel	3,873
Administrative support *	7,561
Director	9,663
Miscellaneous	247
	26,698
	(9,863)



# Resolving farm credit problems through mediation...

## What is Farmer/Creditor Mediation?

Mediation is a negotiation between a farmer and his creditors assisted by an impartial person trained to keep the discussion productive.

## What does mediation offer?

- An opportunity to resolve problem credit situations outside the courtroom.
- A private setting to discuss confidential financial matters.
- A forum for taking into account both financial and emotional aspects of the situation.
- A process that focuses on finding solutions for the future, not on placing blame for the past.
- The power to make your own decisions about what you can do based on an understanding of your own and others' needs.

**Farmer/Creditor Mediation:** An opportunity for farmers and creditors to make joint decisions about how they will respond to problem loan situations—loans which both once thought were sound.

## Who are the mediators?

Mediators for this program have been selected for their background in issues related to the Kansas ag-economy, their ability to understand the issues and viewpoints represented in these disputes, and for their ability to remain impartial.

They bring a wide variety of experience including banking, farming, pastoral work, administration, counseling, law, business, mediation and conflict resolution. In addition, they have 40 hours of training in farm credit mediation from the Center for Dispute Resolution in Denver.

## Where does mediation take place?

Joint meetings with all parties present take place in a neutral location acceptable to all. You may also meet individually with the mediator in a convenient location, such as your farm or office. Meetings can be scheduled at any mutually convenient time.



## How can I prepare for mediation?

Workable solutions depend on preparation. Your mediator can help you understand the negotiation process. You can find help with financial, legal and psychological aspects of your situation from local accountants, lawyers and counselors, or contact the Farmers Assistance Counseling and Training Service (FACTS) office at 1-800-321-FARM for referral to these and to farm finance consultants.

## How can I initiate mediation?

Any farmer or creditor can begin the process by calling Prairie View (316) 283-2400, ext. 462, or 1-800-362-0344.

## What are the next steps?

A mediator will be assigned to the case when one party's administrative fee is received. The mediator will then contact all parties to explore the possibility for mediation. If there is no mediation, none of that fee is refundable. If the mediation proceeds, the initiator's fee will be handled the same as all others.

## How long does it take?

You can expect a mediator to contact you within 12 days after your retainer fee is received at Prairie View. The length of the mediation is dependent on the complexity of the situation, the preparation of the parties, and the decisions by the parties about appropriate time limits. Each person decides whether continued involvement is productive.



*“The open communication that is taking place here today is all about. Regardless of what may happen, what’s gone on today has made it all worthwhile!”*

*—Participant in  
Farmer/Creditor Mediation*

**How much does mediation cost?**

A \$100 administrative fee is paid by each party when they decide to participate in the mediation. Hourly fees begin at \$100 per hour for a mediation involving one farmer and one creditor. As additional creditors are involved, each creditor’s share decreases according to the following scale:

	Farmer Pays	Creditor Pays
1 cred.	\$20 per/hr	\$80 per/hr
2 cred.	20 per/hr	65 per/hr
3 cred.	20 per/hr	60 per/hr
4 cred.	20 per/hr	56 per/hr

A five-hour advance on hourly fees is required. Unused fees will be refunded. Checks or money orders, payable to KS Farmer/Creditor Mediation, should be mailed to Prairie View Inc. only after calling to receive an identifying number.

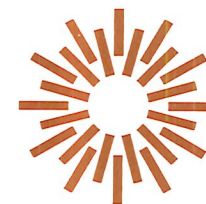


**For more information contact:**

**Prairie View inc.**

1901 East First Street  
Newton, KS 67114

1-316-283-2400  
1-800-362-0344



**Kansas  
Farmer/Creditor  
Mediation  
Service**

**A Program of Prairie View Inc.**





# the jewish community relations bureau

## JCRB

25 east 12th/kansas city, mo 64106/(816) 421-5808

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My name is Carol Smith. I staff the Farm Crisis Project of the Jewish Community Relations Bureau. I am here to testify on behalf on H.B. 2966 because of the opportunity it creates for Kansas farmers and their creditors to use mediation services. Mediation is one of the creative, bright ideas that came out of state legislature's response to the federally created "debt-crisis" in agriculture.

The unique attribute of state mediation programs is that they are truly directed to those farm and ranch operations under financial stress. We know that farm debts are unevenly held by farm operations. The Midwest 1987 Farm Finance Report notes that roughly 1/3 of Kansas farmers had no debt in 1986. Whereas, the same report notes 1/4 of Kansas farmers had debt to asset ratios greater than 0.40. This category of heavily stressed farmers had debt to asset ratios averages of .77 of debt for every dollar of asset. These figures suggest that farmer/lender mediation is a program that can help the approximately 1/4 of Kansas farmers still struggling with heavy debt loads.

But it is not just financially stressed farmers that stand to gain from strengthening the mediation services we have available in Kansas. Hubert Humphrey III states in the Wall Street Journal that mediation "keeps farmers on the land and creditors in business." Humphrey went on to say that "mediation has reduced significantly the threat of violence in rural areas." Mediation is a program to benefit the entire rural economy.

The figures from Kansas' first year with a totally voluntary mediation program suggest that whatever you can do legislatively to strengthen the use of mediation services is also needed. In particular, the notification process that mediation services are available needs your special attention, or Farmer/Creditor Mediation will remain an under-utilized, excellent program.

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An Affiliate and Beneficiary of the Jewish Federation of Greater Kansas City

attachment 4  
3-28-88

The Farm Crisis Project of the Jewish Community Relations Bureau/Women's American ORT was initiated in 1986 by the Jewish Community Relations Bureau with the sponsorship of a national Jewish women's organization - Women's American ORT. The Jewish Community Relations Bureau serves as the social action agency for the Jewish communities of the state of Kansas. Through the Farm Crisis Project we work to educate Jews in Kansas about the farm crisis that grips rural America and then encourage participation in efforts to alleviate the economic and social problems affecting such a large segment of Kansas's farm belt population.

KANSAS ECUMENICAL MINISTRIES  
INTERFAITH RURAL LIFE COMMITTEE

The Interfaith Rural Life Committee of Kansas Ecumenical Ministries recommends consideration of Mandatory Farmer/Creditor Mediation in Kansas. Farmer/Creditor Mediation has demonstrated throughout the midwest that it is one of the creative ways to solve problems and settle disputes between farmers and their creditors by using an impartial third party to facilitate discussion and arrive at an agreement without costly, time-consuming litigation.

MANDATORY VS. VOLUNTARY:

Kansas has had an excellent, respected voluntary Farmer/Creditor Mediation Service for over a year. The debtor/creditor relationship, however is not conducive to voluntary mediation, and therefore less than two dozen cases were mediated in the first year of Kansas' voluntary program. In contrast, Iowa handled over 4,800 mediation cases in its first year as a legislatively mandated program, and approximately 60% of those cases resulted in agreements.

Historically, farmers and their lenders have had amiable, trusting relationships built upon years of shared community life. The economic problems of agriculture in the 1980's have driven a wedge into that relationship. Mediation is one way to bring framers and their lenders together to open the lines of communication. Improved communication is a worthwhile goal, in and of itself.

WHAT IS MEDIATION?

Mediation brings a farmer and his/her creditors together with a neutral third party to reach a mutual agreement on the future of the farm operation. The mediator's only role is to set the ground rules for the meeting and assist communication. Agreements may include reamortizing loans, liquidation, lowering interest, and writing down debt. If a mutual agreement is not reached, the lender can continue debt collection, which may result in court actions, foreclosure, or bankruptcy.

The benefits of Mediation include:

- 1) Mediation saves time. In Iowa, the average case takes 21 days to come to the table and is usually resolved in one three-hour session. The Chapter 12 bankruptcy code gives a farmer 90 days to submit a plan; it gives the court 45 days to approve the plan; and the plan can literally last for years.

- 2) Mediation saves money. The average mediation session costs no more than a few hundred dollars. In a Chapter 12 bankruptcy, a private attorney may charge \$2,000 - \$3,000, and the trustee's fees may be 10% of the first \$450,000 of debt, and 3% thereafter. Realistically, both farmer and lender bear these costs in a bankruptcy.
- 3) Mediation won the support of federal matching grants in the recently passed Farm Credit System refinancing legislation. Funds up to \$500,000 per year/per state for state mediation programs will be made available. These funds could assist Kansas to set up an effective, low-cost mediation program.
- 4) Mediation will help our rural banks. Mediation would help reduce the losses incurred by banks through both foreclosure and bankruptcy, and as a result keep valuable lines of credit open to our farmers.
- 5) Mediation will help our rural communities. Five to seven farm liquidations means the loss of a business on a rural main street. Each successful mediation agreement can make a difference.

The debt crisis created by deflating land values and falling commodity prices continues to cause foreclosures and land loss in record numbers. For the sake of those families still losing land and home, Kansas should seriously consider the benefits of a state mandated mediation program.

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The Interfaith Rural Life Committee is a program of nineteen religious bodies in Kansas addressing the difficulties in agriculture during the 1980's. Its statement of purpose is:

The purpose of the Interfaith Rural Life Committee is to empower the people of Kansas to work toward wholeness of community and personhood that values vital rural communities. Within this purpose, the Committee will work to assure:

- a) a stewardship of creation that embodies God's intention for air, land, and water;
- b) a system of justice that will assure sustainable agriculture; and
- c) a continuation of the Biblical and American traditions of individual family land ownership and operation.

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