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# Capitol Link

## This Week at the Capitol

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Committee hearings are where the action is this week as the first committee deadline approaches on March 10 for committees to act favorably on bills in their house of origin.

The second committee deadline is March 17 and the third is March 31. The second deadline is for committees to act favorably on bills (or companions of bills) that met the first deadline in their other respective chamber. The third deadline is for committees to act favorably on major appropriation and finance bills. Bills that do not satisfy these deadlines are "dead" and either must go to the Rules Committee in each body to receive a special exemption to proceed or be added as amendments to other bills.

### Week in Review

The week of February 27 could have been called "ICBM's Ag Week." ICBM testified three times in the House Agriculture Policy Committee, and successfully stopped a bill that would have taken away members' lien positions in many livestock-related loans. ICBM also was able to keep a Farmer-Lender Mediation Modification Bill on track while defeating an amendment that would have reduced the amount of debt that triggers mediation from \$15,000 (as proposed in HF 1511) to \$5,000, while preserving living expense increases for farmers as proposed in HF 1511. The amendment was authored by Rep. David Bly, DFL-Northfield, but was likely initiated by the Minnesota Farmers' Union lobbyist.

### Reports

#### Farmer Lender Task Force Report

Minnesota Agriculture Commissioner David Frederickson presented the Farmer-Lender Mediation Task Force Report to members of the House Agriculture Policy Committee on February 28.

Calling it a "consensus report," the commissioner listed the various recommendations agreed to by task force members. ICBM's Representative was Scott Wakefield, who did an excellent job representing members. Recommendations included:

- If a debtor accepts mediation, the same debtor should not be

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eligible for mediation with the same creditor within a two-year period of acceptance. This clarifies current law.

- If the minimum debt level for mediation (which is currently \$5,000 in statute) is increased, it should be adjusted for inflation to no more than \$13,800. The Department of Agriculture determined this is the amount \$5,000 would be today after inflation. ICBM's representative was not happy with this very low amount, but the politics involved left no possibility for increasing it. Rep. Paul Anderson's legislation increases the trigger amount to \$15,000 in House File (HF) 1511.
- The amount released for living expenses to an entity going through mediation should be raised to meet the current cost of living standards. In subsequent years, this amount should be adjusted for inflation.
- If a debtor accepts mediation, the mediator should be authorized to perform a credit search and financial statement verification as necessary in order to facilitate completion of a financial statement prior to the first mediation meeting. If the mediator finds a significant amount of unsecured debt unreported by the debtor, that may be grounds for a mediator to declare bad faith and end the mediation process.
- In order to best use the state's resources, consideration should be given for a maximum debt level that would exclude farms from mediation if they exceeded this amount. Being unable to define a "large farm," HF 1511 does not have a proposal implementing this recommendation. Wakefield was the only task force member advocating for this concept, and he was successful getting it into the report.
- The task force recommends that "in a timely manner" be added to Minnesota Statute 583.27, Subdivision 1(a)(2). This means not providing all necessary financial statements in a timely manner, violates "good faith" requirements.

### Proposed Legislation

#### **ICBM Testifies in Support of HF 1511**

Authored by Rep. Paul Anderson, R-Starbuck, HF 1511 implements most items in the Task Force Report described above. HF 1511 was heard in the House Ag Policy Committee on February 28, immediately following the commissioner's presentation of the task force report.

A change noted between the report and legislation is that Rep. Anderson raised the debt amount triggering mediation from \$13,800 (as it was in the report) to \$15,000. Secondly, he proposed a dollar amount to reflect the recommendation to increase living expenses, namely \$3,800. The author stated this feature needs work to reflect family size and how to determine inflation in the future. That will be done as the bill moves through the process.

#### **ICBM Testifies in Opposition to Reducing Trigger Amount**

After the bill was presented to members of the House Ag Policy Committee, Rep. David Bly, DFL-Northfield, offered an amendment to reduce the debt amount which triggers mediation from \$15,000 to \$5,000. Bly's amendment, however, preserved the proposed increase

to members only.

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in living expenses for farmers.

Rep. Anderson opposed the amendment. ICBM testified in opposition as well, and was the only group to do so. Our argument used was the proposed increases in both the trigger and living allowance are based on the same assumption--cumulative inflation since 1986. If you increase one, you must increase the other.

The Bly amendment failed on a 7-7 vote. HF 1511 was passed and re-referred to the House Civil Law and Data Practices Committee, chaired by Rep. Peggy Scott, R-Andover.

### **HF 983/SF 993--Feeder Lien Modifications**

This bill was heard in the House Ag Policy Committee the evening of February 28. It proposes modifications to the liens available to persons who supply feed and labor used to raise livestock. It would eliminate the existing Livestock Production Input and Temporary Livestock Production Input liens and modify the existing Feeder's Lien to state that it covers all three liens. The effect would be to give all these liens priority over any other security interests.

Furthermore, HF 983 proposes to repeal the law requiring feeders to notify lenders if they provide feed to livestock. Instead, notification to lenders would not need to be made until 60 days after the last delivery of feed. The consequences would be feeders could provide feed for days, weeks, or months without notifying lenders--compiling what could be a very large unpaid bill, and keep their priority lien status. In the meantime, if that livestock were a lender's collateral, the value of that collateral would decline every time a feed delivery was made and the lender may not even know.

### **The Hearing on HF 983**

HF 983 was heard in the House Ag Policy Committee the evening of February 28. ICBM testified in opposition to the bill, focusing on the dramatic and negative consequences this would have on lending to livestock producers.

ICBM discussed this bill with a member prior to the hearing and used their quote in a letter to committee members: "If this bill were to pass, livestock lending in Minnesota just ended. A bank would never use livestock as collateral again."

The bill's House author, Representative Anderson, laid the bill on the table after testimony was taken by opponents. The next day, Senate author Bill Weber, R-Luverne, was informed how controversial this bill is and how it drastically changes Minnesota's lien process in this area. Senator Weber stated he would not hear the bill after learning it is not technical, is very controversial, and makes a huge change in Minnesota's ag lien policies.

### **HF 983/Senate File (SF) 993 Background**

This bill was proposed by the Minnesota Grain and Feed Association. ICBM is confident their lobbyist sold it to the authors as a "technical bill," intended to clarify issues presented when the case: *First National*

*Bank vs. Profit Pork* was heard before the Minnesota Court of Appeals in 2012. ICBM is also confident the authors of the proposal, Rep. Paul Anderson and Sen. Bill Weber, were totally unaware how dramatic the policy change in this bill is and how controversial it is as well.

ICBM members can rest assured this bill is dead for the year and these two lawmakers are to be commended for their decisions. ICBM encourages members who are constituents of either Weber or Anderson to thank them for not moving ahead with HF 983/SF 993.

### **Reminder--Reporting "Debt" When Completing Farmer-Lender Mediation Notice**

At ICBM's request, the 2009 Legislature passed a law that changed one of the forms lenders use to initiate the mediation process. The change requires creditors/lenders to report the amount of debt which initiates mediation. When doing so, please make sure you report "the actual principle owed" on the loan at the time of completing that form. Some lenders have reported the total amount of delinquent payments.

ICBM has been trying to increase the amount of debt that triggers mediation for some time. The updated forms provide ICBM with additional information about the amount of debt that triggers the first mediation notice so that data can be considered when determining what amount should replace the \$5,000 currently in law.

### **February Forecast**

Minnesota's state February forecast was released last Tuesday. It projects the state surplus will increase from \$1.4 billion to \$1.65 billion by June 30, 2019, the end of the 2019 fiscal year. The Governor and lawmakers will use this forecast as they work through May to create a state budget for the next two years.

### **Forecast Growth**

Although the forecast projected spending increases in the areas of education and health care, revenue increases offset that additional spending to result in a \$250 million net increase in the budget surplus. Increased collections of individual income taxes provided the largest change in revenue.

### **Improved National Economic Outlook**

The February forecast indicated stronger national economic growth the past few months than previously projected as well. That improved growth came from four areas: Personal income; business spending on capital improvements; improved employment figures; and increased consumer spending. In addition, Minnesota's national economic consultant, IHS Economics (IHS), incorporated into their baseline outlook, assumptions that the President and Congress will pass a Federal fiscal stimulus plan in the form of reduced individual and corporate taxes as well as increased infrastructure spending.

### **Long-Term Budget Outlook**

IHS is very bullish when it comes to their long-term economic outlook. At this point, they foresee budget surpluses rising in 2020-2021. Their current forecast projects a budget surplus of \$2.1 billion over current

tax and spending laws, by the end of fiscal year 2021.

### **Politics Causes Caution**

The very optimistic forecasts by IHS in both the short and long term are based on three political assumptions. If any one of them doesn't pan out as assumed by IHS, these budget projections will change drastically, and most likely towards the negative.

The first assumption is that President Trump and the new Republican-controlled U.S. Congress not only pass significant tax cuts and make significant infrastructure investments, but they do it soon. The second is that as Federal lawmakers "repeal and replace" the Affordable Care Act, it will not cause financial losses to local and state government treasuries. The third is the 2018 off-year elections will not derail the Federal fiscal stimulus the new president has proposed.

### **RFA Gets New Funding**

HF 14 authorizes the Rural Finance Authority (RFA) to sell \$35 million in bonds to make ag loans in collaboration with Minnesota's community banks.

HF 14, authored by Rep. Tim Miller, R-Prinsburg, passed the Minnesota House of Representatives on February 6 by a vote of 129-0. It passed the Senate 62-0 on February 16 and was signed into law by Minnesota Governor Mark Dayton on February 17.

ICBM testified in support of the bill, noting that the extremely low losses over 30 years of the program were because of the very careful underwriting done by Minnesota's community bankers.

Since the RFA was created in 1986 as part of the Farmer Lender Mediation Act, RFA has made 2,883 loans, providing \$215 million in funding. Only 20 loans have lost money and total losses have been just \$500,000.

### **Minnesota's "Crowdfunding Law" Amended**

In 2015, the Minnesota Legislature established the "MNvest" Act as another way for small business start-up companies to raise capital. It is called "crowdfunding." The Minnesota Department of Commerce governs MNvest regulations, which includes exemptions for securities registration. In response to recent regulatory changes by the U.S. Securities and Exchange Commission, the House passed a bill 129-0 on March 2 that would clarify state law to conform to new Federal laws. HF 444 is authored by Rep. Jenifer Loon, R-Eden Prairie. The proposal now goes to the Senate, where it's authored by Sen. Eric Pratt, R-Prior Lake.

### **State Meetings**

#### **Town Hall Meetings**

Last Saturday, Minnesota Management and Budget Commissioner Myron Frans was scheduled to be in Duluth to talk about the legislative session, the state budget, and proposed pension reforms at two town halls. Frans is Governor Dayton's top aide related to tax and spending issues. More meetings like this are likely leading up to the final days in

May of the 2017 Legislative Session. Watch for notices of meetings in your area.

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