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Modern Innovations to the Homestead Concept

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MODERN INNOVATIONS TO THE HOMESTEAD CONCEPT

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The agricultural industry in South Dakota forms a major part of the state's economy. The importance of agriculture to the well being of the state and its people has long been recognized, and the need for a strong and viable agriculture base has long been stressed. During the past four decades, the state has experienced a sharp decline in the number of farms which has led to a corresponding decrease in population of rural communities. This decline has in part been caused by the escalating cost of land and the increasing amount of land needed to maintain a viable farm unit, the increasing cost of farm equipment and supplies, and high interest rates, all of which have made it extremely difficult for potential farmers to finance their entry into farming. It is obvious that a program is needed to assist and encourage young people to engage in farming as a career. The author analyzes various proposals which provide alternatives to the present sources of agricultural finance.

INTRODUCTION

In recent years, the dominant trend in South Dakota's agricultural industry has been to fewer and larger farm units. From 1930 to 1974, the number of farms and ranches in the state declined from 83,200 to 43,500.[1] On the other hand, during the same period, the average size of South Dakota farms and ranches has increased from 439 to 1,046 acres;[2] the per acre value of land and buildings has increased from $35.24 to $129.[3] One reason for this increase has been an effort to achieve an operating scale sufficient to provide an economical margin of profit. It is apparent that small farmers, or young people attempting to enter farming, are unable to compete with large landowners for available land. Thus, larger operators get larger at the expense of small operators who are squeezed out, and of potential farmers who are unable to get started.[4]

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1. SOUTH DAKOTA CROP AND LIVESTOCK REPORTING SERVICE, S.D. DEP'T OF AGRICULTURE, AGRICULTURAL STATISTICS 67 (1975).
2. *Id.*
3. *Id.* at 65.
4. The importance and desirability of maintaining family farms is treated in Abourez, *Agriculture, Antitrust and Agribusiness: A Proposal for Federal Action*, 20 S.D.L. REV. 499 (1975), and Taylor, *Public Policy and the Shaping of Rural Society*, 20 S.D.L. REV. 475 (1975).

The amount of capital necessary to start a farming operation has increased dramatically as the size of farms and ranches and the value of land have increased. It is now generally conceded that an economical farm unit requires an investment of at least $250,000 in land and equipment. The size of this figure has made it almost impossible for young persons to begin farming without some form of economic assistance. This article will discuss some of the conventional sources of agricultural finance and will outline some new and innovative approaches to land tenure and transfer.

Conventional Sources Of Agricultural Credit

Historically, conventional sources of agricultural credit have, for the most part, adequately served the needs of farmers and ranchers. Recent trends in land prices, however, have made it difficult, and in many cases impossible, for young and beginning farmers to obtain financing. In many areas land prices have increased to the point where it is not possible to generate the necessary cash flow to even come close to meeting mortgage payments. To meet this need, farmers have utilized such conventional sources of agricultural credit as the Farmers Home Administration, the Federal Land Bank, and private lending institutions such as banks and insurance companies.

The Farmers Home Administration Act[5] was passed in 1946 to assist eligible persons in purchasing agricultural land. Under the Act, loans may be made to farmers and ranchers who, among other things, are or will become owners or operators of not larger than family farms and who are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms. Consideration is given to prevailing private and cooperative rates and terms in the community in and near which the applicant resides.[6] The repayment period for Farmers Home Administration (FHA) real estate loans may not exceed 40 years, and the rate of interest may not be in excess of 5 per cent per annum.[7] By statute, the maximum that the FHA may loan for real estate to any one borrower is $100,000, and the unpaid indebtedness against the farm or other security at the time the loan is made may not exceed $225,000 or the value of the farm or other security.[8] Loans presently being made by the FHA are for a period of 40 years with an interest rate of 5 per cent per annum. This results in an annual payment of 5.79 per cent on the original principal sum.

Another possible method of financing the purchase of land is the Federal Land Bank Program.[9] Loans presently being made

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5. 7 U.S.C. §§ 1921-92 (1970).
6. *Id.* § 1922.
7. *Id.* § 1927.
8. *Id.* § 1925.
9. 12 U.S.C. §§ 2011-55 (Supp. 1974).

by the Land Bank are for a period of 35 years with an interest rate of 8.75 per cent per annum.[10] This results in an annual payment of 9.19 per cent on the original principal sum. The current regulations of the Land Bank require that the applicant have an established equity in land or equipment; the Land Bank will loan a maximum of 85 per cent of the appraised value of the land.[11]

Private sources of agricultural finance, including banks and insurance companies, are presently loaning money at an interest rate of approximately 10 per cent. The higher interest rate and shorter repayment period, generally from 20 to 30 years, makes it difficult to generate the necessary cash flow to meet the annual payments. As a practical matter, this source of financing is generally available only to persons who have adequate non-farm income to assist in meeting the payments on a particular parcel of land. Small and beginning farmers who require substantial financing are unable to utilize these sources of private financing.

The present situation with respect to agricultural land financing has prompted studies to find alternatives to conventional financing sources. New forms of land tenure and transfer have been examined and new programs presented. The results of some of these studies are presented in the following analyses of existing and proposed programs.

SASKATCHEWAN LAND BANK PROGRAM

The Saskatchewan Land Bank Program began in 1972 as a new and adventurous approach to land tenure. It provided an alternative for farmers who did not wish to commit themselves to a lifetime of investing in land; it also facilitated the transfer of family farms from generation to generation. The purposes of the program as stated in the Saskatchewan Land Bank Act[12] were to assist Saskatchewan citizens in establishing and maintaining family farms in the province by increasing the opportunities for them to acquire land for farming, and by increasing the opportunities for owners of farm land to dispose of their land at fair prices.[13]

The Saskatchewan Land Bank Commission is an incorporated provincial governmental agency authorized to purchase agricultural land from anyone who wishes to sell, and to make that land available to young people who intend to make farming a career. The chairman of the Commission reports directly to the Saskatchewan Minister of Agriculture. The Commission staff consists of 40 per-

10. 12 C.F.R. § 614.4180(2) (1976) provides that mortgage terms may range from 5 to 40 years. *Id.* § 614.4280 allows each district land bank to set rates, subject to the approval of the Farm Credit Administration.
11. *Id.* § 613.3040(h).
12. Land Bank Act of 1972, SASK. STAT. ch. 60 (Can.); for commentary, *see* B. Young, *Saskatchewan Government Buys Up Land to Help Keep Farmers Down on the Farm*, Wall Street Journal, Feb. 5, 1975, at 32, col. 1.
13. Land Bank Act of 1972, SASK. STAT. ch. 60, § 3 (Can.).

sons including three full-time commissioners, one part-time commissioner, thirteen counselors, and six appraisers.[14] The three full-time commissioners are responsible for general administration of the program and policy development. They also review and make final decisions on all purchases and allocations. Money to operate the Commission and purchase land is obtained from the Canadian government through an intergovernmental loan. During the first two and one-half years of the program, ending December 31, 1974, the Commission purchased 521,500 acres for a total price of slightly over $37,000,000.[15]

The Commission is authorized to make offers to prospective sellers at prices that are consistent with established market values, as determined by the Commission with the aid of experienced appraisers who compare the subject properties with recent sales of land of similar nature and quality in the same region.[16] A nominal appraisal fee is charged to the seller. This tends to discourage landowners who are seeking only an appraisal, but it is low enough not to discourage serious sellers. The fee is returned to the seller if the land is purchased by the Commission.

Persons applying to lease land from the Commission are required to complete an extensive form describing their present educational and financial status and their goals. To be eligible, an applicant must have an average annual net income for the preceding three years of less than $10,000, and a net worth of less than $60,000.[17] Applicants must, in addition, declare an intention of making or continuing to make farming their principal occupation, and an intention of maintaining residence in Saskatchewan during the lease.[18] Provisions are also made for the Commission to lease land to cooperatives, partnerships and corporations.[19] Where more than one application is made to lease the same parcel of land, each applicant is rated on the basis of such factors as income potential, utilization of resources, ability, age, and vendor preference.[20] The applicant receiving the most points, and all applicants within 10 per cent of him in total points, are invited for an interview with the Commission. Points are then given for the interview and the final selection is made.[21]

The annual cash rental rate under the lease is set at a rate of one per cent below the prime rate. The range, however, cannot

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14. SASKATCHEWAN LAND BANK COMM'N, Annual Report 5 (1974).
15. *Id.* at 12. For a more detailed breakdown of the early activities of the Commission, *see* McClaughry, *Rural Land Banking: The Canadian Experience*, 7 N.C. CENTRAL L.J. 73, 82 (1975).
16. Sask. Land Bank Comm'n Reg. § 11(1975).
17. *Id.* § 9.
18. Land Bank Act of 1972, SASK. STAT. ch. 60, § 12 (Can.).
19. *Id.*
20. Sask. Land Bank Comm'n Reg. § 15(2) (1975).
21. *Id.* § 16.

be lower than 5 per cent nor higher than 6½ per cent of the market value of the land.[22] The market value will be adjusted when land values in the area go up or down by 5 per cent or more.[23] Buildings and improvements located on Commission land at the commencement of a long-term lease will be sold to the lessee under a long-term agreement.[24]

The lease terminates when the lessee reaches the age of 65 or on the death of the lessee.[25] The lessee may stipulate in writing that at his death the land be leased to his spouse or to any direct descendant who is eligible to lease land from the Commission, and the Commission is obligated to do so if proper application is made.[26] The Commission may terminate a lease if the lessee is in default on any rent payment due to the Commission, if the taxes become delinquent, if the lessee is in breach of any term of the lease, if the lessee obtained the lease through fraud or misrepresentation, or if the lessee is no longer principally engaged in farming.[27]

After a lessee has leased the land for five years, he may apply to the Commission to purchase the land at the price at which it was purchased by the Commission or at its market value at the time of sale, whichever is greater.[28] Once an agreement is reached to purchase the land, the applicant will be given a period not exceeding six months in which to pay the full purchase price.[29] Financial arrangements to purchase Commission land and improvements must be obtained from sources other than the Commission.

A three member appeal board hears complaints arising from decisions made by the Commission. Persons may appeal from decisions regarding lease allocation, refusal to sublease, lease termination, sale of Commission land, and removal of and payment for improvements.[30]

Opponents of the program note that the statute, which authorizes the Commission to sell the land to the lessee after he has leased it for five years, reads "may sell," and accuse the Commission of intending to increase their land holdings while depriving lessees of the opportunity to purchase.[31] Since the statute was enacted in 1972, and provides that the lessee must rent for at least five years, no land can be sold before 1977. The Commission has stated that if the lessee desires to purchase the land, the Commission will sell

22. *Id.* § 4(1)(a)(i).
23. *Id.* § 4(4).
24. *Id.* § 4(1)(b).
25. *Id.* § 6(1).
26. Land Bank Act of 1972, SASK. STAT. ch. 60, § 4(2) (Can.).
27. *Id.* § 28.
28. Sask. Land Bank Comm'n Reg. § 26 (1975).
29. Land Bank Act of 1972, SASK. STAT. ch. 60, § 19 (Can.).
30. *Id.* § 60.
31. Telephone Interview with David Steuart, Liberal Party Leader in Saskatchewan, Sept. 30, 1975 [hereinafter cited as Steuart Interview].

to him.[32] If the government did sell the land to the lessee, it would be at the higher of the present market value or the price at which the government purchased the land.[33] Favoritism in the selection of lessees has been cited as the major reason for opposition to the program.[34] Opponents also contend that the government is already too deeply involved in farming operations.[35]

YOUNG FARMERS' HOMESTEAD ACT OF 1975

The Young Farmers' Homestead Act of 1975[36] was introduced in the United States Senate by Senators McGovern and Abourezk of South Dakota and seven other Midwestern senators. The stated purpose of the Act is "to provide the assistance necessary to permit and encourage young people to engage in farming as a career."[37] The Act would create an agency within the Department of Agriculture, to be known as the Federal Farm Assistance Corporation, which would be authorized to negotiate for and purchase farm land and lease it to eligible applicants for periods of not less than two nor more than seven years.[38] No lessee would be able to lease a unit valued in excess of $200,000.[39] The rent charged for the lease of any farm unit would be a sum sufficient to cover the cost of real estate taxes levied against the property, plus an amount sufficient to reimburse the corporation for the debt service expenses.[40]

A lessee would be allowed to purchase the land at the end of the lease period upon a determination that the lessee could successfully manage and operate the farm unit.[41] The selling price would be 75 per cent of the fair market value at the time of the sale or the purchase cost to the corporation, whichever is larger.[42] The purchaser may obtain financing through any available source, but in the event private financing is not available, the Farmers Home Administration would furnish it.[43] Capital gains realized in the five years subsequent to the sale would be vested in the purchaser at the rate of 20 per cent per year.[44]

32. Address by Gilbert Wesson, Chairman, Saskatchewan Land Bank Commission before Governor's Committee on the Future of Agriculture, Pierre, South Dakota, Oct. 21, 1974.
33. Steuart Interview, *supra* note 28.
34. *Id.*
35. Governmental involvement in land policies is already evident in the urban setting where the use of public land banking through methods such as advance land acquisition is increasing as an attempt to control urban sprawl. *See* Note, *Public Land Banking: A New Praxis for Urban Growth*, 23 CASE W. RES. L. REV. 897 (1972).
36. Young Farmers' Homestead Act of 1975, S. 2589, 94th Cong., 1st Sess. (1975).
37. *Id.* § 2.
38. *Id.* § 7(c).
39. *Id.* § 7(a).
40. *Id.* § 7(d).
41. *Id.* § 8(b).
42. *Id.* § 8(c).
43. *Id.* § 8(d).
44. *Id.* § 8(c).

The corporation would be authorized to obtain funds through the public or private sale of its bonds, debentures, notes and other evidences of indebtedness.[45] The amount of corporation debentures outstanding at any one time may not exceed $1 billion during the first year following the date of enactment of the Act, and it may not exceed $2 billion at any time thereafter.[46]

The corporation created by the Act would be managed by a board of directors composed of five members.[47] In addition, the Secretary of Agriculture would appoint an advisory council to advise the board on the administration of the Act, and on the eligibility qualifications of applicants and terms of leases.[48]

SOUTH DAKOTA HOMESTEAD LAND ACT

The South Dakota Homestead Land Act[49] proposed to establish a Homestead Commission to provide assistance to persons who wish to engage in farming as a career. The Homestead Commission would be authorized to purchase agricultural property from willing sellers at the appraised value of the property.[50] The Commission would lease the land to applicants who meet the eligibility requirements stated in the Act—that they declare their intention to establish or maintain their residence in South Dakota, and that their

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45. *Id.* § 9(a).
46. *Id.* § 9(b).
47. *Id.* § 4(a).
48. *Id.* § 13.
49. The South Dakota Homestead Land Act was introduced in 1976 in identical form in both houses of the South Dakota Legislature. House Bill 770 was defeated on the floor by a vote of 27-43. *See* S.D.H.R. JOUR. 818-19 (1976). Senate Bill 200 did not receive a floor vote.
50. The South Dakota Homestead Land Act, H.R. 770, 51st Sess. § 15 (1976) reads as follows:

> Consistent with the provisions of this Act and other applicable laws, the commission shall have powers and duties which shall include, but shall not be limited to, the following:
> (1) The commission may purchase, lease or otherwise acquire any chattels or land that is being used or is capable of being used for farming or agricultural purposes which the commission deems necessary to carry out the purposes of this Act;
> (2) The commission shall be authorized to purchase land only from willing sellers at a price established by appraisal which reflects the agricultural production capability of the land and is consistent with the going price of land in the locality in which the land is located;
> (3) The commission shall have control and management of all acquired lands which have not been leased under this Act and shall take adequate steps to protect and to preserve the land for agricultural uses;
> (4) The commission may require that certain terms and conditions be attached to any lease entered into pursuant to this Act if, in its discretion, such terms and conditions are necessary to maintain or enhance the character, quality and fertility of the soil of such land;
> (5) The commission may lease agricultural homestead lands to beginning or operating farmers in accordance with the provisions of this Act and shall promulgate regulations designed to determine priority for allocating leases among competing qualified applicants.

net worth, including that of their spouse, does not exceed $60,000.[51] Provision was also made for corporate, cooperative and partnership leases.[52] Lease agreements could not exceed a period of seven years; the Commission, however, could authorize an emergency three-year extension if it found that agricultural conditions had been poor and the lessee, through no fault of his own, had been unable to obtain financing.[53] At the end of the lease period the lessee would have the option to purchase the land at the price which the Commission paid for it, or 75 per cent of the market value of the land at the time of the purchase, whichever was higher.[54] The bill also provided that if the Commission purchases the land from a person who designates himself, a lineal descendent or the spouse of a lineal descendent to lease the land, the Commission shall enter into a lease agreement with that person if he meets the eligibility requirements.[55] If the seller specifies that he wishes the land to be leased to a particular individual other than those specified above, that person will be given priority to lease the land if he otherwise meets the elibibility requirements.[56] Thus, a landowner wishing to sell to the Commission may designate a neighbor or the present lessee who then would have priority to lease the land. The purpose is to provide the landowner the opportunity to sell his land and also to designate a person of his choosing to farm that land. The amount of land which an individual lessee would be allowed to lease under the Act could not exceed a value of $200,000; in the case of a corporation, cooperative, or partnership lessee, the maximum value would be determined by multiplying the number of families relying on such organization for their support by $200,000, but under no circumstances more than $600,000.[57]

Landowners who wish to sell their land under the provisions of the Homestead Land Act must contact the Commission indicating their desire to sell. The Commission would then appraise the land, utilizing appraisers on the staff of the Department of School and Public Lands.[58] The Commission would be authorized to offer to purchase the land at a price not exceeding the appraised value.[59] In conducting the appraisal, consideration is to be given to the agricultural productivity of the land as well as the going market price of land in the locality.[60] It is imperative that the operations of the Commission avoid inflating the market value of land. Thus, the Commission could not purchase land at a price above the

51. *Id.* § 20.
52. *Id.*
53. *Id.* § 22.
54. *Id.* § 36.
55. *Id.* § 21.
56. *Id.*
57. *Id.* § 34.
58. *Id.* § 19.
59. *Id.*
60. *Id.* § 15(2).

appraised value. The Commission, however, must be in a position to offer to purchase land at a price consistent with the going market price in the locality.

The Homestead Commission would be set up as an independent public corporation and would exercise essential public functions.[61] It would be given the powers and duties incident to a corporate structure and would have the authority to issue bonds and other evidences of indebtedness.[62] The total amount of outstanding notes and bonds that could be issued by the Commission is limited to $50,000,000.[63] The Act provided that obligations issued by the Commission would not be deemed to constitute a debt, liability or obligation of the state or of any political subdivision thereof, or a pledge of the faith and credit of the state or any political subdivision thereof. Thus, the notes and obligations of the Commission would not be general obligations of the State of South Dakota. The security for the obligations would be provided by, and only by, the assets and revenues of the Commission.[64]

The Homestead Land Act designated the Secretary of Agriculture to be executive director of the Commission and authorized him to administer the business of the Commission subject to the policies, control and direction of the Commissioners.[65] It was the intent to utilize existing personnel in state government to as great an extent as possible. For this reason, appraisers from the Department of School and Public Lands would be utilized to appraise the land and existing personnel in the Department of Agriculture would be utilized to administer the activities of the Commission.

The purpose of the Act was to provide temporary assistance to beginning or operating farmers. Thus, at the end of the lease period, the lessee must either discontinue operating the land or purchase the leased land. If he decided not to purchase the land, the land could be leased to another lessee under the established criteria. The Commission, however, may not own a parcel of land in perpetuity. If the Commission has owned a parcel of land for 14 years and no lessee has purchased the land, the land must be offered for sale.[66] All lessees have the same opportunity to purchase the land at any time prior to six months from the expiration of their lease. The Commission would be obligated to approve an application to purchase if the lessee can show proof of a commitment for financing.[67]

The lessee would have full discretion in the management of leased lands, subject only to provisions incorporated into the lease

61. *Id.* § 4.
62. *Id.* § 39.
63. *Id.* § 41.
64. *Id.* § 42.
65. *Id.* § 13.
66. *Id.* § 37.
67. *Id.* § 35.

agreement.[68] These provisions would insure that necessary soil conservation procedures would be practiced on leased land. The intent of the Act was to make the status of the lessee as close as possible to that of owner. Thus, once the lease agreement was entered into, the lessee would have full authority to determine such things as crops produced, crop rotation, and other practices in accordance with normal land management. The Commission would be authorized to provide assistance and advice only to lessees who are in default on some provision of the lease agreement or when the lessee requests assistance from the Commission.[69]

The Commission would be authorized to purchase buildings situated on land being purchased. Buildings so purchased would be the property of the Commission and would be sold along with the land at the termination of the lease. If a lessee desired to make improvements on the land during the term of the lease, such improvements would belong to the lessee.[70] If the lease terminated without the lessee purchasing the land, the Commission would reimburse the lessee for the appraised value of such improvements, taking into consideration depreciation, obsolescence and future usefulness of the improvements.[71]

Land owned by the Commission would have an assessed valuation for tax purposes consistent with the valuation of similar land in the same taxing district.[72] The lessee must pay the local taxing district an amount equal to the sum of all real property taxes and other taxes and assessments which would be levied on the property if it were owned by the lessee.[73] Thus, the tax revenues and tax base would not be affected by the program.

COMPARISON OF EXISTING AND PROPOSED PROGRAMS

The conventional sources of agricultural finance discussed above adequately serve the needs of individuals and organizations who have substantial equity in land or equipment. In many cases, small farmers and potential farmers are refused credit from these sources because they lack sufficient equity. Even the Farmers Home Administration, whose liberal credit terms require annual payments of only 5.79 per cent on the original principal balance, requires that the applicant show some equity in land or equipment before such a loan is approved. A further difficulty results from the fact that traditionally FHA funds have been limited. Other sources of agricultural credit have even more stringent requirements than does the FHA. Thus, the existing credit sources do not

68. *Id.* § 24.
69. *Id.* § 25.
70. *Id.* § 33.
71. *Id.*
72. *Id.* § 28.
73. *Id.*

adequately meet the needs of many small or potential farmers. This fact led to the institution of the Saskatchewan Land Bank Program and to proposals to establish similar agricultural credit programs in this country.[74]

The South Dakota Homestead Land Act proposed to assist small and beginning farmers by providing them with the opportunity to lease land. The farmer would not be required to have an established equity in land or equipment nor would he be required to make a down payment. In addition, during the lease period, the lessee would reap the benefits of any appreciation in land value as he would be able to purchase the land at the end of the lease period at the price the Commission paid for it or 75 per cent of its present market value, whichever is greater.[75] Assuming a situation in which land values appreciate, the lessee would have an established equity at the end of the lease period and would be in position to qualify for loans from conventional sources.

The South Dakota Homestead Land Act envisioned that the lessee would pay a rental charge in an amount sufficient to pay the costs of the debt obligation incurred in acquiring such land, plus expenses of administration.[76] The cost of the debt obligation would be the interest rate at which the Commission bonds would be issued. A bond issuing agency similar to that envisioned under the Homestead Act is the South Dakota Housing Development Authority,[77] which may provide some guidelines as to the interest rate which would have to be paid on bonds issued by the Homestead Commission. The Housing Development Authority first issued bonds in November, 1974, at a net interest cost of 7.68 per cent.[78] A second issue was made in January, 1976, at a net interest cost of 7.37 per cent.[79] The interest rate at which such bonds are issued depends on the economic situation, thereby affecting the size of the rental payments charged to lessees. Thus, outside factors would, to a certain extent, establish the degree of difficulty lessees would have in meeting their rent payments.

In addition to including costs of the debt obligation, the rental rate to a lessee would also include expenses of administering the program.[80] The Homestead Act envisioned that existing state gov-

74. In addition to the proposals discussed in this article, similar bills have been introduced in North Dakota and Minnesota proposing to establish agricultural credit programs. For a discussion of public acquisition and land banking suggestions, *see* McClaughry, *Farmers, Freedom, and Feudalism: How to Avoid the Coming Serfdom*, 21 S.D.L. REV. 486, 524 (1976).

75. The South Dakota Homestead Land Act, H.R. 770, 51st Sess. § 36 (1976).

76. *Id.* § 22.

77. S.D. COMPILED LAWS ANN. ch. 28-19 (Supp. 1975).

78. Telephone Interview with Robert Hiatt, Director, South Dakota Housing Development Authority, Feb. 19, 1976.

79. *Id.*

80. The South Dakota Homestead Land Act, H.R. 770, 51st Sess. § 22 (1976).

ernment personnel would, for the most part, administer the program. Thus, it would not be necessary that a large number of personnel be added. Under these guidelines, it is anticipated that the annual expenses of administering the program would be approximately .5 per cent of the value of the land being administered. Adding this figure to the interest rate to be paid on the bonds would result in an approximate annual rental figure of between 7.50 per cent and 8.00 per cent of the price which the state paid for the land.

The South Dakota Homestead Act was intended to provide temporary assistance to small and beginning farmers. Many of the provisions of the Saskatchewan program which have been the subject of much opposition were revised or omitted from the proposed South Dakota program. Under the Saskatchewan program, a lease does not terminate until the lessee reaches 65 or dies. In contrast, the South Dakota proposal limits the term of a lease to seven years and limits the period during which the state may own the land to 14 years. The proposal makes it clear that assistance to any individual will be only temporary and that the land will be returned to private ownership within the stated period. It is the intent of the proposal to equate, so far as possible, the status of the lessee with that of owner.[81] The Homestead Commission would only be authorized to provide assistance to lessees when they are in default or when they so request.[82] Thus, the state is restricted from becoming too deeply involved in the management and operation of the lessee's unit.

Selection of lessees under the South Dakota proposal is, to as great an extent as possible, left to the seller. He may require the Homestead Commission to lease the land to a lineal descendant if that descendant meets the eligibility qualifications, or he may designate any other person who would then receive priority to lease the land. Thus, to a great extent, criticism involving favoritism in the selection of lessees should be eliminated.

The program as envisioned by the South Dakota Homestead Land Act would not require an outlay of funds by state government. The cost of the program would be paid by the lessees whose rent would include interest on the bonds issued as well as their share of administrative expenses.[83] The program would involve no direct subsidy, but would take advantage of low interest rates on tax exempt securities.

CONCLUSION

The present agricultural economic situation makes it imperative that a program be adopted to assist young persons in entering farm-

81. *Id.* § 24.
82. *Id.* § 25.
83. *Id.* § 22.

ing and to assist small farmers in expanding their operations into economically viable units. The problem, obviously, is how this assistance can best be given. The South Dakota Homestead Land Act proposed temporary government ownership of agricultural land. Such an innovative concept has met with considerable opposition. In analyzing the merits of such opposition, it is necessary to examine the purposes of the proposal. The stated purpose is to strengthen the economic, social and political well being of the state through a program designed to strengthen the family farm system of agriculture.[84] The effects of such a program go well beyond the farming sector and extend to all areas, rural and urban, in the state. An increase in the rural population in a locality has a multiplying effect upon the business community serving the locality. A decline in rural agricultural popuation also has a multiplying effect on the business community, but that effect is a decrease in business activity rather than an increase.

It is apparent that many young persons who could make an adequate living on the farm if they had the opportunity to do so, are denied the opportunity because of a lack of financial support. As the cost-price squeeze became more intense, farmers with the ability to borrow increased their land base with the result that land prices were forced beyond the reach of beginning farmers. A program to assist young persons in obtaining and maintaining viable farm units would help to provide an equilibrium farm population. It is imperative that young persons are not forced to live on farm units too small to provide an adequate standard of living. The South Dakota Homestead Land Act provides an opportunity to engage in farming on an economically viable unit by establishing a feasible program for temporary governmental assistance. A source of financial assistance would be provided to supplement those already in existence. Such a program merits serious consideration not only in South Dakota but in other states and on a national level as well.

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84. *Id.* § 2.