

# NORTHWESTERN Banker Newsletter

Vol. 6 No. 17

Des Moines, Iowa

August 22, 1977

## Banks May Be Liable for Borrowers' Taxes

Lenders involved in resolving delinquent commercial loans should be aware of the tax consequences and liabilities because of two often overlooked provisions in the Internal Revenue Code (IRC).

That warning is given to lenders by Edward A. Dauer, associate professor of law, Yale Law School, writing in the current issue of "Counsel," MGIC Indemnity Corporation's quarterly publication for its directors' and officers' liability insurance policyholders.

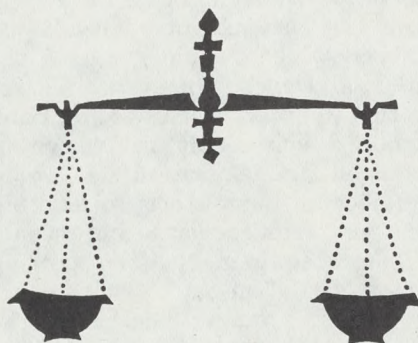
MGIC Indemnity Corporation is a subsidiary of MGIC Investment Corporation, a holding company providing diversified insurance services to the financial industry, and headquartered in Milwaukee, Wis.

Mr. Dauer noted that lenders — and even individual employees of lenders — have been held liable by the Internal Revenue Service for delinquent taxes of the borrower.

He cited the 1962 case of *Mueller v. Nixon*, whereby an officer of a finance company approved a loan to a machinery company who failed to remit federal income taxes. Following the machinery company's bankruptcy, the IRS sued the finance company and the lending officer for the back taxes and won.

"This case was decided under section 6672 of the IRC which provides that 'persons required to

collect and pay federal taxes, but fail to do so, are liable for a penalty equal to 100% of the unpaid tax," Mr. Dauer noted. He said this section normally applies to corpo-



rate officers who fail to remit the taxes of their own corporations, but the wording can be misleading.

Mr. Dauer said since the finance company had put two of its own officers in charge of the machinery company's troubled financial operations, the court ruled the lender had knowledge of the tax delinquency and authority or control over the decision to pay it, and thus was liable.

He pointed out that although this case was decided under section 6672, another similar section, 3505, is even more ambiguous.

"Under this section if a lender (or surety or other person) pays the

wages of its borrower's employees directly, the lender is liable to the IRS for any FICA and FIT wage withholdings which the borrower fails to pay," Mr. Dauer said. This situation is not uncommon with construction firms that delay paying taxes due to cash flow problems.

Mr. Dauer notes that part (b) of section 3505 covers the case of a lender who merely provides funds to a borrower to meet a payroll. "If the lender knows the borrower cannot or did not pay the withholding taxes, the lender may once again be liable to the IRS for the unpaid amounts," he said.

He said that the practical significance of these examples is not a question of placing liability, but involves paying the huge sums of defending the lawsuits.

Mr. Dauer said lenders involved in the construction loans, especially those made directly to the contractor-developer to finance the project, should be aware of the liabilities resulting from tax delinquencies of the borrower.

## Annunzio Proposes Bill On Credit, EFT Debit Cards

Legislation which would prohibit annual charges for credit card use and which would prohibit monthly charges for consumers who pay all of their bills each month was

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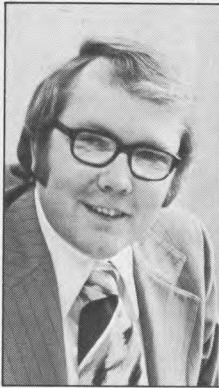
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introduced by Rep. Frank Annunzio (D-Ill), chairman of the House Banking Consumer Affairs Subcommittee. The bill also would prohibit the sending of unsolicited electronic funds transfer debit cards, would limit the liability of consumers for a stolen debit card to \$50, would require written receipts for all EFT transactions, and would permit "stop payments" on EFT transactions.

## First Stock Yards Bank Market Day is Sept. 7

The 21st Annual Market Day co-sponsored by First Stock Yards Bank and First National Bank of St. Joseph, Mo., will be held September 7, according to J. E. Karn, executive vice president of First Stock Yards. Registration starts at 9 a.m. in the bank lobby in the Livestock Exchange Building. The afternoon program at St. Joseph Country Club will feature J. Marvin Garner, executive vice president of National Pork Producers Council, Des Moines. A steak

dinner will conclude the one-day event.

## St. Germain Seeks Increase In Bank Stock Regulation

Rep. Fernand J. St. Germain (D-RI), chairman of the House Banking Subcommittee on Financial Institutions, introduced legislation which would require the Federal Deposit Insurance Corporation to approve sales of any bank stock which result in change of control. The legislation also would subject all bank stock to existing margin requirements and would tighten requirements for reporting to the FDIC on bank stock sales.

Mr. St. Germain also asked the FDIC and the Federal Reserve Board to conduct an in-depth nationwide survey of ownership of banks, the use of loans to purchase bank stock, and the market for bank stock.

## Iowa News

In response to the drought problem the Iowa Bankers Association's agricultural committee has formulated a special program to assist bankers in working with the drought stricken customer. These programs will be held in areas most affected by the poor growing conditions as follows:

Tuesday, Sept. 20, First National Bank, Creston (lunch at Bernings Cafe).

Wednesday, Sept. 21, Iowa Memorial Union, Iowa State University, Ames.

Thursday, Sept. 22, Holiday Inn, Ottumwa.

Topics included are: identifying the program, adjusting the farm business to adverse crop conditions, tax management, FHA emergency and guaranteed loan programs, SBA guaranteed loan program, ASCS disaster payment program and long term financing.

CENTERVILLE: Kelly G. Kauzlarich has been promoted to loan officer in charge of the credit card department of Centerville National Bank.

FORT DODGE: David E. Freiberg has joined the State Bank as agricultural representative. He is a recent graduate of Iowa State University, Ames.

LAKE PARK: Dick Scott has been promoted to assistant cashier at the Security State Bank.

## Nebraska News

BLAIR: Russell Moseman has joined the Blair Bank as a loan officer. He previously was with the Hartford Insurance Company.

OSCEOLA: Randy Helgren has been elected cashier of The First National Bank. He previously was an officer at The National Bank of Neligh.

WAUNETA: John W. Green, retired chairman of the Wauneta Falls Bank, recently celebrated his 88th birthday. He has been with the bank since 1907.

## Minnesota News

BROOKLYN CENTER: Pamela Carlson has been promoted to assistant cashier in charge of the bookkeeping department of First Brookdale State Bank here. Dr. Greg Swenson has been elected to the board of directors.

BUFFALO: Oakley National Bank has named Joann Beilke assistant vice president and Janet Streich assistant cashier.

DASSEL: Hildur Carlson has been elected cashier of the Dassel State Bank.

HOPKINS: Clifford Jacobsen has joined the Northwestern National Bank as vice president and manager of commercial loans. He most recently was with the credit department of Northwest Bancorporation, Minneapolis. The bank also announced the promotions of Millie Navara to credit officer, Dorothy Fenske to instalment loan officer, and David Harnish to vice president and director of retail banking.

MANTORVILLE: The Citizens State Bank of Hayfield has filed an application for a permit to open an

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Dorothea Wolfe

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**DES MOINES, IOWA**

**NEW ISSUE**

**\$1,910,000**

**MOODY'S: "A-1"**

**LINCOLN COUNTY, WISCONSIN**

**General Obligation Refunding Bonds**

Dated: September 1, 1977

Denomination: \$5,000

Both principal and semiannual interest (March 1 and September 1, first coupon due March 1, 1978) payable at a bank to designated.

IN THE OPINION OF COUNSEL INTEREST ON THESE BONDS IS EXEMPT FROM ALL PRESENT FEDERAL INCOME TAXES

### MATURITIES

	<u>6.00%</u>				
\$ 80,000	September 1, 1978	3.25		\$105,000	September 1, 1987 4.60
95,000	September 1, 1979	3.40			<u>4.80%</u>
105,000	September 1, 1980	3.70		105,000	September 1, 1988 4.70
105,000	September 1, 1981	3.90			<u>4.90%</u>
	<u>5.70%</u>			110,000	September 1, 1989* 4.80
105,000	September 1, 1982	4.00			<u>5.00%</u>
	<u>4.30%</u>			110,000	September 1, 1990* 4.90
110,000	September 1, 1983	4.10			<u>5.10%</u>
	<u>4.40%</u>			110,000	September 1, 1991* 5.00
110,000	September 1, 1984	4.25			<u>5.25%</u>
	<u>4.50%</u>			110,000	September 1, 1992* 5.00
110,000	September 1, 1985	4.35		110,000	September 1, 1993* 5.10
	<u>4.60%</u>				<u>5.30%</u>
110,000	September 1, 1986	4.45		110,000	September 1, 1994* 5.20
				110,000	September 1, 1995* 5.20

\*Optional beginning September 1, 1988 at 102%.

### LEGALITY TO BE APPROVED BY FOLEY AND LARDNER, ATTORNEYS, MILWAUKEE, WISCONSIN.

Lincoln County encompasses 900 square miles (576,000 acres) in north central Wisconsin. The County is located 192 miles east of the Twin City area, 15 miles north of Wausau, and 210 miles northwest of Milwaukee. The County presently has 16 townships and two major cities - Merrill and Tomahawk. Merrill is the County Seat. The median family income for Lincoln County in 1970 was \$10,068. The average family income in Lincoln County in 1970 was \$8,261 and the State average was \$11,135. The per capita income in Lincoln County in 1970 was \$2,399; the State average was \$3,046. Agriculture in Lincoln County is represented by 720 farms consisting of an average of 205.6 acres each. According to the most current figures available, farm marketings in the County totalled \$12.5 million last year. (Source - 1977 Wisconsin Agricultural Statistics, Wisconsin Department of Agriculture.) Principal industries and commercial entities, largest taxpayers include: Georgia Pacific (Tomahawk); Harley-Davidson (Tomahawk); Anson & Gilkey Co., Inc. (Merrill); Church Mutual Insurance Co. (Merrill); Merrill Manufacturing Corp. (Merrill); Northern Door Corp. (Merrill); Lincoln Wood Products, Inc. (Merrill); Semling-Menke Co. (Merrill); Ward Paper Co., Division of Arvey Corp. (Merrill); Weinbrenner Shoe Co., Division of Bata Shoe Co., Inc. (Merrill) and Wisconsin Window Unit, Co. (Merrill).

The bonds are being issued to provide funds for refunding the entire principal amount of the County's General Obligation Corporate Purpose Bonds, Series 1975. In the opinion of counsel, these bonds are legal and binding general obligations of Lincoln County, Wisconsin, and all taxable property located therein is subject to the levy of sufficient taxes to pay the principal and interest on the bonds without limit as to rate or amount.

### FINANCIAL STATEMENT

Equalized valuation, 1976	\$307,371,900
Direct debt, including this issue	1,910,000
Total direct and overlapping debt	7,046,651
Population, 1977 estimate: 25,281	Direct debt per capita: \$ 75.55
	Total debt per capita: 278.73
Area: 576,000 acres	Direct debt per acre: 3.31
	Total debt per acre: 12.23

Under Wisconsin Statutes, a City always receives 100% of taxes levied for it, as the County is responsible for any delinquent taxes.

We own and offer subject to prior sale and change in price and subject to our attorney's approving opinion.



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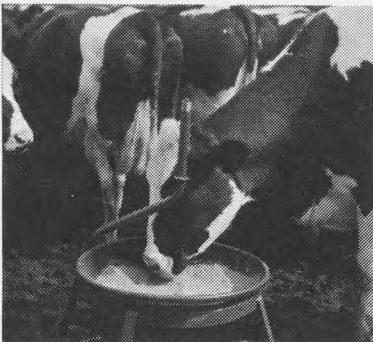
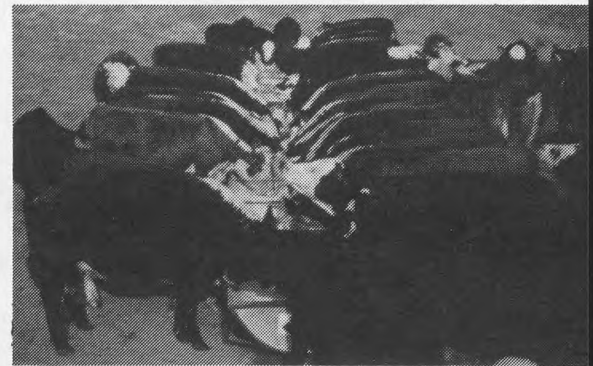
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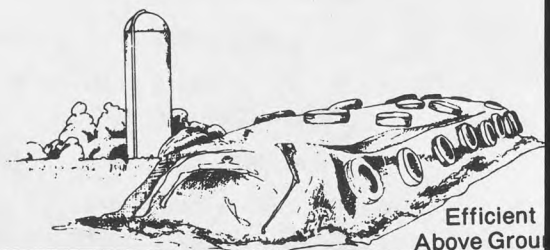
A program for getting that extra stretch and growth, which means extra red meat and not fat.

A system of conditioning cattle on grass and roughages whereby it takes less time and cost to finish cattle to the desired grade. A system to allow you to help utilize more roughages and less grain in finishing cattle.



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# Marketline

A semi-monthly letter of comment and information  
on the livestock marketing scene.

August 5, 1977

**THE MARKET:**  
**Analysis by LMI Founder**  
**C. O. EMRICH**  
**Norfolk, Nebraska**

Vol. 1 Number 10

If you are a reader of MARKETLINE, by now you probably have guessed that I was born an optimist -- almost to the degree that it prevents me from being realistic concerning the "bad signs" in the market. In fact, recent trends in the cattle market makes some of my former predictions look pretty sick; and I must confess that recent marketings of my own cattle have put a dent in my optimistic outlook. Nevertheless, constant appraisal of facts and figures keeps me glued to the optimistic side.

One needs only to look at the futures market and you find it easy to determine that the "morale" of cattle people is at a very low ebb. Remember, however that it always gets the darkest just before the dawn.

The recently released cattle population count seemed to trigger the drop in morale, in turn triggering a drop in the "futures" and "cash" market. I just cannot believe that the report was that pessimistic. 130,565,000 cattle and calves -- yes, only 2% below the count of 1976 -- but 7% under the count of 1975. 52,282,000 cows and heifers that have calved, only 3% below the count of 1976 -- but 10% below the count of 1975. Beef cows 41,303,000 head, 4% under the count of 1976 -- but 12% under the count of 1975.

The report revealed that the milk cow count was only 1% below the count of both 1975 and 1976; and the count of heifers 500 lbs. and over was down only 3% from both of the previous years. However, the count on heifers for beef cow replacement was down 10% as opposed to 1976 and down 21% from 1975.

Another classification is less optimistic -- that's the count on steers 500 lbs. and over. The report reveals that this count is the same as the count of 1976 but 8% above the account of 1975. This classification, of course, represents the 1976 crop of calves. Here it should be pointed out that another statistic shows that the 1976 calf crop is the smallest since the year 1970, and to this you can add one other optimistic note -- many 1976 calves have already hit the slaughter channels, and many are now being slaughtered at lighter weights than normal, and at an earlier point in time than normal.

One other report of classification also lends itself to at least a degree of optimism. That is the report of heifers, steers, and bulls under 500 lbs. This revealed a 2% decrease as opposed to the 1976 count and a 10% decrease as opposed to the count of 1975.

The one other statistic that I feel is definitely constructive is the fact that this July 1 cattle inventory reveals less total cattle than any inventory count since the 1972 report.

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Biozyme Enterprises feels the above analysis is the most comprehensive view  
written on the market situation today and we hope you'll put it to good use.

## **ATTENTION: Vita Ferm and GX Dealers - Bankers and Cattlemen:**

Finally - the cattle business has put you and the cow calf man in the drivers seat!

With all grain prices the lowest they've been since March 1973, the time is here for all cattlemen to cash in on the situation. By taking advantage of the cheap grain, the cost of production is going to drop sharply. This will show up on the bottom line for the cattlemen.

The following points help to build our case and, we hope, will help you in visiting with your customers and potential customers. By utilizing this cheap grain and the Vita Ferm System, your cow calf operators will be in a position they haven't seen for several years.

- 1) According to reports we receive, feedlot capacity is presently running about 50% occupied, and competition will be good.
- 2) The packing industry is overbuilt and will need large numbers to operate efficiently.
- 3) There will be more profit for the calf producer to carry 1 calf to 800 lbs. than to carry 2 calves to 400 lbs. each. Many producers could make their best profit by carrying their calves to market weight.
- 4) The cheapest creep feeding program we know of is Vita Ferm Cow Calf right along with the cows.

- 5) Beef supplies will be shrinking. 1976 beef consumption added up to 129 lbs. per person. It's predicted, by 1980 per capita beef output should back off to 115 lbs.

office here. Marquette Bank and Trust Co. of Rochester also has submitted an application for a Mantorville branch facility.

**MENAHGA:** W. E. Froemming, president, has announced the appointment of Robert A. Brolin as vice president and operations officer of The First National Bank. Mr. Brolin formerly was with the First National Bank in Alexandria.

**SANTIAGO:** Darlene Ness has joined the Santiago State Bank as an assistant cashier. She formerly was with the Northwestern National Bank in Minneapolis and the Bank of Willmar.

**STAPLES:** The Staples State Bank has filed an application for a detached banking facility in Motley.

**WINDOM:** Dennis Larsen has joined the Windom State Bank as instalment loan officer. He is a recent graduate of Mankato State University.

### Illinois News

**CHICAGO:** A charter has been issued to Upper Avenue Bank, 875 North Michigan Avenue, as a result of its conversion from Upper Avenue National Bank.

**EL PASO:** Erman E. (Wink) Schairer has been promoted to vice president and farm manager of the Woodford County Bank. Mr. Schairer joined the bank's staff in 1974 as an assistant vice president.

**PEOTONE:** An application by Peotone Bancorp, Inc., to become a bank holding company by acquiring Peotone Bank and Trust Company, has been approved.

**TUSCOLA:** Douglas M. Kratz has been appointed vice president, cashier and a director of the First National Bank & Trust Co. He also has been elected a director of the First Bank & Trust Co. of Gridley. Mr. Kratz formerly was vice president and cashier of First Newton National Bank in Iowa.

**WONDER LAKE:** An application for a permit to organize Wonder

Lake State Bank on Hancock Drive has been filed. The bank's capitalization of \$400,000 would consist of \$160,000 in both capital and surplus and \$80,000 in reserve. The 16,000 shares of stock would have a par value of \$10 each. Organizers are : Morris B. Squire, Wonder Lake; Edward Marsh, Woodstock; Edward L. Mecum, Rockford; Herbert H. Franks, Robert W. Kling, Helen Lindow, Edward F. Mrkvicka, Jr., all of Marengo.

### South Dakota News

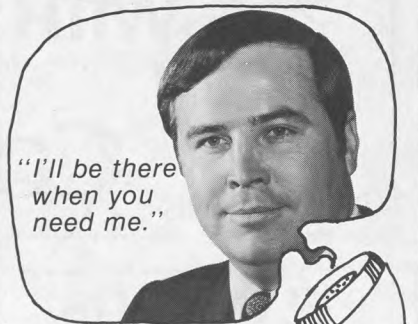
**BELLE FOURCHE:** An application has been submitted for a new bank here. The Tri-State National Bank would have a total capitalization of \$1,500,000 with 75,000 shares authorized for sale at \$20 per share. Organizers are: Carl H. Moore, Jr., Norman E. Durr, Boyd Klingler, Laurence Bentz, Frank Hoffmeyer, Alvin C. Shaw and A. W. Jones, of Belle Fourche; Helga Gilbert, Buffalo; Francis K. McDonald, Aladdin, Wyo.; Lyle H. Tauck, Hammond, Mont., and William A. Smeenck, Newell. A. W. Jones, Belle Fourche will be the representing agent.

### Wyoming News

**CHEYENNE:** A charter has been approved for a new bank, The Equality State Bank, which will be located at 19th and Pioneer. Initial capitalization will be \$1 million.

**LUSK:** Charles L. Bruch has been named executive vice president and chief executive officer of the First Wyoming Bank. He also became a director. Andrew McMaster, chairman has assumed the office of president, an office he had held many years prior to the purchase of the bank by Wyoming Bancorporation. Mr. Bruch succeeds Thomas Raines who recently resigned.

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### Colorado News

**DENVER:** United Bank of Denver has announced the appointment of Stephen P. Baltz as vice president. He handles correspondent banking services for the metropolitan Denver area, Utah and Arizona.

all year

Is The Time To Promote

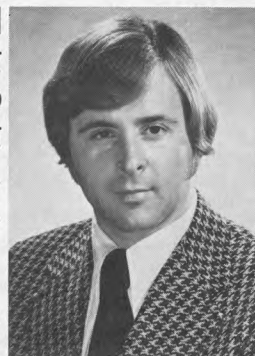
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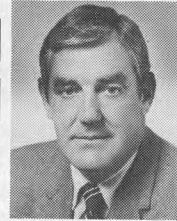
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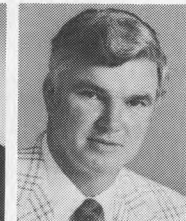
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Recent graduate or person with short work experience for bank training program. Progressive, growing \$40MM bank located in a very desirable central Illinois town. Farm background and /or farm education very desirable. Bank operates with team approach—its officers have capacity and ability to work in all areas. Individual must look forward to challenge of overall in-depth banking career. Write Box PSL, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

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### POSITION AVAILABLE

Centrally located Iowa bank has a position open in its installment loan department. Write Box PTG, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

### POSITION AVAILABLE

Need executive officer for \$10MM Iowa bank. Write Box FLE, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

### NOTICE OF PUBLIC SALE OF PLEDGED BANK STOCK

NOTICE IS HEREBY GIVEN THAT THE MARQUETTE NATIONAL BANK OF MINNEAPOLIS ("Marquette") will hold a public sale in the Executive Conference Room, Corporate Loan Division, Second Floor, The Marquette National Bank of Minneapolis, Multifoods Building, Minneapolis, Minnesota, on the 8th day of September, 1977, at 10:00 o'clock a.m., for the purpose of foreclosing its security interest in and selling 999.6 shares of common capital stock of The First National Bank of Hinsdale, Hinsdale, Montana. This stock represents a controlling interest, in that there are 1,400 shares outstanding. The subject bank stock secures obligations of the pledgor to Marquette amounting in the aggregate to \$342,039.54 (principal and interest) as of July 25, 1977. Terms are cash. To bid, you must register with Marquette prior to August 31, 1977. For further information, contact William Rosacker, The Marquette National Bank of Minneapolis. Telephone: (612) 370-2222.

### LOAN OFFICER

Central Iowa bank of \$30MM offers an excellent opportunity for commercial loan officer with at least three years experience. We will offer an attractive salary and excellent future to the right individual. Write Box LEC, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

- I would like to sell my majority bank stock.  
 I would like to buy majority bank stock.

Please Contact: J. Mason Henry,  
President

**Charles E. Walters Co., Inc.**

P.O. Box 1313, Omaha, Nebraska 68101  
Phone: (402)553-6400

### POSITION AVAILABLE

Southwestern Minnesota bank has opening for bank insurance agency manager and assist in bank. Please send resume to Box HUE, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

### CASHIER

Southwestern Minnesota bank of \$40MM. Must be experienced in operations, personnel and investments. Please send resume to D. O. Aschbrenner, president, Western Bank & Trust, Marshall, MN 56258—Phone 501/532-4421.

### POSITION AVAILABLE

Person with general banking experience, preferably with ag-credit and some operations. \$30MM bank in central Iowa town. Write Box ABJ, c/o NORTHWESTERN BANKER, 306 15th Street, Des Moines, IA 50309.

### BANKERS WANTED

- PRESIDENT**—\$20MM Iowa bank. Should be strong administrator and have excellent loan background. . . . \$25,000  
**CASHIER**—\$15MM Nebraska bank. All reports and operations with good knowledge of data processing. Could be #2 man \$18,000  
**COM'L LOAN**—Small bank in fast growing area seeks officer with background in small business lending. Credit analysis & installment loan helpful. No ag lending necessary. Good chance to advance . . . \$18,000  
**SENIOR LENDING OFFICER**—\$30MM suburban bank. Primary duties will be in the commercial area and supervising installments. Opportunity to be EVP . . . \$22,000  
**PLATFORM OFFICER**—\$6MM Nebraska bank. Prefer operations background with some lending and insurance license. Excellent opportunity — run shop in the absence of the CEO . . . \$18,000

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