

**2013 HOUSE AGRICULTURE**

**HB 1247**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HB 1247  
February 1, 2013  
Job # 18157

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

(Fiscal note)

Relating to agricultural wetland credits

## Minutes:

Attachments #1 and 2

**Representative Schmidt, Co-Sponsor:** This is a bill that relates to wetland banking. This is a viable option that has agriculture production benefits, economic benefits, and environmental benefits.

**Dan Wogsland, North Dakota Grain Growers Association:** (See Attached #1)  
(Microphone not on)

**Representative Larson:** (7:00) Would there be a reason to limit it to agriculture purposes?

**Dan Wogsland:** This is a first step. If there is a need, then expanding that in the future is something we can look at.

**Representative Fehr:** What are transferred are wetland credits, not title to land.

**Dan Wogsland:** It is my understanding that it could be land or credits depending on the point of view. That would be between the two landowners.

**Representative Fehr:** If it is credit only, in terms of access to the land, etc. does the land owner retain that? It doesn't have anything to do with the credits.

**Dan Wogsland:** Yes.

**Representative Headland:** How is this going to work? As a landowner I have NRCS come out and certify my wetlands. If I choose not to develop the land any further, do I have any credits available for sale?

**Dan Wogsland:** Each case will be reviewed. My vision is that I take part in a water project in a corner where I have a slough or a pothole. If I need 8 acres and that wetland isn't the

number of acres that I need. If there are 10 acres I could take the 2 extra acres and post them on this database for someone who would need that type of wetland.

**Representative Larson:** There are certain wetlands that are required for wildlife. Are those supposed to be spread out throughout the state? Are there certain flyways where we need to keep certain wetlands?

**Dan Wogsland:** Wetlands are across the state of North Dakota. They are different by county. They have an identity from NRCS. If you use these acres, they have to be the same type.

**Representative Rust:** Is this like cap and trade with tax credits for carbon?

**Dan Wogsland:** It is similar to Craigslist. If these credits are available, we are giving producers the opportunity to benefit. You also have the conservation impacts. Could you sell these, yes, on the private side.

**Representative Rust:** If they could be traded that is not bad.

**Dan Wogsland:** That could happen. It can happen now.

**Chairman Dennis Johnson:** If you have a fish & wildlife easement on your land, would there be interest for that contract to be traded?

**Dan Wogsland:** I don't know what the impact is. I could research that.

**Dane Braun, Policy Analyst of the North Dakota Dept. of Agriculture:** (15:05)  
(See attached #2)

**Representative Belter:** You say "successfully created a wetland credit." Could you explain?

**Dane Braun:** If NRCS deemed that you correctly created that wetland credit and that you have additional available acreage, then it would be a successful creation.

**Representative Belter:** (17:33) When you say "create," you take a piece of land that has 2 acres of wetland. If that landowner is able to expand to 5 acres and it meets NRCS requirements, then I have 3 acres I could sell off. Is that the vision?

**Dane Braun:** Yes, the additional 3 acres could be sold. Someone could contact our office who is looking for credits that may want to drain a 3-acre wetland and purchase those credits.

**Representative Headland:** If I, as a property owner, have not certified my acres to date, will NRCS certify the acreage less than the body of water would encompass?

**Dane Braun:** I think they would certify based on what they believe to be the wetland acreage on that property.

**Representative Headland:** How am going to develop any credit?

**Dane Braun:** I believe once the certification is completed, then you can expand or create a new wetland or a prior wetland could plug the drain and create it again.

**Representative Larson:** I have wetlands for sale. Representative Fehr buys some of those credits from me. I begin to encroach on that so the acreage isn't as much as it should be. Who is responsible for that loss in wetland?

**Dane Braun:** I believe that would be set up between you on the negotiation side and on the easement.

**Representative Larson:** If I am the one that violates it and I am using those acres, it would have to be agreed upon before the transfer of credits? Does he have to come over and monitor my land?

**Dane Braun:** That would be up to NRCS to monitor those acres.

**Representative Trottier:** If I have a quarter of land and there are 10 sloughs, can those be drained into one?

**Dane Braun:** That would be up to NRCS.

**Representative Trottier:** Do they ever allow that?

**Dane Braun:** I believe they do in certain circumstances. When it remains on your property there would be no need to transfer credits within this program.

**Representative Trottier:** It seems like it would be good farming practice to make it one.

**Dane Braun:** Yes, but a producer may not have the time to do that.

**Representative Fehr:** You used the term "easement." Is a credit an easement? Is it a perpetual easement, a time-limited easement?

**Dane Braun:** When you create a wetland, you need documentation that it will remain there. I wouldn't have the details on that

**Representative Fehr:** Easements follow certain rules. An easement can be unilaterally released back to the original person. Is that also true of credits?

**Dane Braun:** I don't know. I can get back to you.

**Vice Chair John Wall:** Would the passage of this bill reduce the overall number of wetland acres in the state?

**Dane Braun:** I don't see that. About 98% of the farmers in North Dakota are in the farm program. If you stay in the farm program you can't drain wetlands.

**Chairman Dennis Johnson:** Would you envision zones? If you have a bank of land available for credits, could they be moved to another county?

**Dane Braun:** You have to match the wetland types. Wetlands on one side of the state are not the same as the other side.

**Chairman Dennis Johnson:** Those would that be determined in your office?

**Dane Braun:** The wetland type, location, and acreage are determined by NRCS. We are posting that information for potential buyers.

**Chad Weckerly, Director of North Dakota Farm Bureau:** Representative Larson was concerned about acres currently under easement and what the impact would be. The U.S. Fish & Wildlife has easements on over 4.7 million acres in the state. This will not change that.

Can you combine wetlands into one? NRCS is watchful of that. If each one is 10 acres they won't combine to create 100 acres. The goal is to take the little fractions of acres of wetlands which are a nuisance and can be combined. The greatest asset of this is it would link these people together.

NRCS has identified watersheds in the state. They don't allow moving wetlands from one watershed to another. They are watching for the soil types and watersheds. We have moved wetlands from one township to another township. The creation of these wetlands is monitored by NRCS. The penalty is under the farm bill. It would be expensive to abuse this. This would be a one-to-one trade.

The process is as follows: On our farm before we prepare for drain tile we go to NRCS and ask for a wetland certification. We had to wait 2 ½ years until NRCS got to our farm. It is a science-based approach. They look over slides from the last 20 years to identify depressions in the field that may hold or pond water for a period of 14 days during the growing season. This is offsite work.

They then bring their offsite map to the onsite. They dig to test soil hydrology. Just because you see cattails doesn't mean it is a wetland. The science-based approach is a key difference between how the NRCS and the U.S. Fish and Wildlife look at things. We have some land that has a series of potholes. Some of the problem isn't that the wetlands have grown. The problem is we have raised the water table and the salt level. I may have in a half section lost 10 or 15 acres. Also, the 10 acres around the edges of the ponds will not grow crop anymore. We want to install wetland pipe to bring ground back to production and keep wildlife happy.

Another area we are trying to install irrigation. We are working with NRCS to move wetlands to the end of the field.

How does that title trade hands? I wanted to be careful to limit the amount of titles on our farm that get marked up. We decided not to mitigate every wetland to the end of a specific field. It was best for us to buy a more desirable piece of property to develop for wetland habitat. We bought property that lies very flat. The NRCS certified that property. Now I can add more wetland to that. We are making a series of 3 to 5 to 7 acres wetlands. They are required to have grass buffer strips. It has to have grass between them. Otherwise we have kochia.

**Representative Belter:** Many of the areas you talked about we have experienced on our own farm. About 28% of the state is affected by salty soils because of high precipitation. Many of the properties are not potholes that have ducks in them. They are unproductive for the farmer as well as wildlife.

**Chairman Dennis Johnson:** When you tile land, how long before it is back in production.

**Chad Weckerly:** It is a long-term process. The first plant that would grow would be grass plant. Soybeans, it might be 7-10 years. The quicker you can get vegetation, it will use up nutrients. A soil test might show 1,000 pounds of nitrogen because it hasn't been able to use any. There is a fertility issue. Planting grass and getting it established is a step to bring it back to production.

**Representative M. Nelson:** When you do this, what is recorded on a land title? Any recording would exist with the NRCS. This would be on there forever.

**Bart Schott, North Dakota Corn Growers Association:** We are in support of this bill. This gets the ball rolling to deal with wetland issues.

**Scott Rising, North Dakota Soybean Growers:** We are also in support. The Grain Growers have led the charge.

**Richard Schlosser, North Dakota Farmers Union:** We support this bill.

**Opposition:** none

**Chairman Dennis Johnson:** Closed the hearing

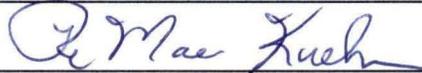
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HB 1247  
February 11, 2013  
Job #18643

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**  
(Committee Action)

Relating to agricultural wetland credits.

**Minutes:**

**Chairman Dennis Johnson:** We have a proposal from the Grain Growers to strike lines 10 & 11.

**Representative Headland:** Moved to amend to strike lines 10 & 11.

**Representative Belter:** Seconded the motion.

Voice Vote taken. Motion passes.

**Representative Belter:** Moved Do Pass as amended.

**Representative Headland:** Seconded the motion.

**A Roll Call vote was taken:** Yes 10, No 0, Absent 3. (Reps. Wall, Heilman, and Haak)

Motion passed.

**Representative M. Nelson:** will carry the bill.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/15/2013**

Bill/Resolution No.: HB 1247

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$8,500	\$0	\$8,500	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates a program to allow the exchange of wetland credits between agricultural landowners.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating). Subsection 2 of Section 1: The North Dakota Game and Fish Department indicates there will be no fiscal impact because the evaluations and monitoring of the wetlands occur at the federal level.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating). No additional FTEs will be required. Subsection 2 of Section 1: The North Dakota Game and Fish Department indicates there will be no fiscal impact because the evaluations and monitoring of the wetlands occur at the federal level.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Dane Braun

**Agency:** ND Department of Agriculture

**Telephone:** 328-4764

**Date Prepared:** 01/21/2013

13.0546.01001  
Title.02000

Adopted by the Agriculture Committee

February 11, 2013

2/11/13  
JMR

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1247

Page 1, line 7, remove "1."

Page 1, remove lines 10 and 11

Renumber accordingly

Date: 2/11/13

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1247**

House **Agriculture** Committee

Legislative Council Amendment Number 13.0546.01001

Action Taken:  Do Pass  Do Not Pass  Amended  Consent Calendar  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Belter

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Boschee		
Vice Chairman John Wall			Rep. Jessica Haak		
Rep. Wesley Belter			Rep. Marvin Nelson		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Joe Heilman					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. David Rust					
Rep. Wayne Trottier					

*voice vote passed*

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Strike Lines 10 & 11.

Date: 2/11/13

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1247**

House **Agriculture** Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Consent Calendar  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Belter Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman John Wall	AB		Rep. Jessica Haak	AB	
Rep. Wesley Belter	X		Rep. Marvin Nelson	X	
Rep. Alan Fehr	X				
Rep. Craig Headland	X				
Rep. Joe Heilman	AB				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. David Rust	X				
Rep. Wayne Trottier	X				

**Total** Yes 10 No 0

Absent 3

Floor Assignment Representative Nelson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1247: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1247 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "1."

Page 1, remove lines 10 and 11

Renumber accordingly

**2013 SENATE AGRICULTURE**

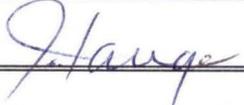
**HB 1247**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee  
Roosevelt Park Room, State Capitol

HB 1247  
March 14, 2013  
19911

Conference Committee



Relating to agricultural wetlands credits

**Minutes:**

*Written testimony*

**Chairman Miller** opened the hearing on Engrossed HB 1247. All committee members were present.

**Representative Jim Schmidt**, District 31, introduced Engrossed HB 1247 and testified in support. The bill relates to agricultural wetland credits but may be better referred to as wetland banking. The wetland banking concept is when an ag producer has a number of acres of wetlands and those acres are available for another ag producer to utilize in mitigation when there is an action taken, when mitigation is required. So what this bill does is basically creates a Craigslist for wetland credits, so that they are available for other producers to utilize as part of mitigation. It is another tool in the tool box with respect to wetlands and agriculture production.

**Dan Wogsland**, Executive Director of the North Dakota Grain Growers Association, testified in support of Engrossed HB 1247. **Written testimony #1**

**Senator Miller** asked if this would be accessible by non-North Dakotans.

**Dan Wogsland** replied that this would only be for North Dakota agriculture. These are only agricultural credits used in the state of North Dakota. He said that he would expect that out of state people could access the database but the transaction is only for North Dakotans.

**Senator Miller** asked if he farmed in North Dakota and owned and farmed a quarter section in Minnesota, could he use his North Dakota credits for mitigation.

**Dan Wogsland** answered that he was unclear on that, but this bill does not change anything in existing state law or regulations or policy. This bill just lists available wetland credits.

**Senator Klein** asked if this was a new program and to explain.

**Dan Wogsland** replied that this is new to the state of North Dakota because we are creating the database. All existing policies and laws that are in place today would be in

place tomorrow. This changes nothing in terms of laws and policies. What it does allow for is to speed up the mitigation efforts in the state. He gave an example.

**Senator Klein** asked how this is being done now, negotiating for these credits.

**Dan Wogsland** said that the law and policy is in place to do it now but what this does is compiles a database of wetland credits available. It should help to promote mitigation that has not been used extensively in the state of North Dakota. It is bringing buyers and sellers together.

**Senator Luick** said that it might make it clearer if we had a definition of a credit.

**Dan Wogsland** replied that to him a credit is an acre, a mitigation acre.

**Senator Luick** believes there will be differences in a definition of a credit because of soil types.

**Representative Schmidt** said he worked for NRCS as an employee and biologist for 33 years and dealt with these issues on wetlands. He gave an example of exchange credits and what it could do (12:00). He further explained what this credit system does is it takes the one acre in the example, and the value of that one acre would be mitigated by what is on his place. It may be based on an acre per acre if the wetland types are the same. If the wetland types are different from the temporary wetland to a permanent wetland then he may have to get more acreages than what he had on his place. This bill allows him to go to the data base and find some credits he can negotiate to buy. Then he has to go to NRCS and show them the wetlands that he needs to mitigate and get them approval. If they don't approve he has to find different wetland credits that they will approve. He can do this with the data base.

**Senator Heckaman** asked for clarification that NRCS would be the final place where all the information on the wetlands is stored.

**Representative Schmidt** said NRCS would make the determination of whether or not the transaction could be made. They keep all the records and make sure you maintain your eligibility to the farm bill programs.

**Senator Heckaman** asked who would notify the website.

**Representative Schmidt** said that would be the landowners who notify the Department of Agriculture.

**Senator Miller** clarified the steps.

**Representative Schmidt** said that the idea is that the government does not enter into any of the negotiations between landowners. It only develops a Craigslist for producers so they know what is out there for wetlands that they can mitigate with.

**Senator Luick** asked about the owner that lives in Texas and is renting his land out in North Dakota. Does he have the opportunity to negotiated wetland credit transfers?

**Representative Schmidt** said that out of state land owners can as long as the renter can maintain his eligibility to the farm program.

**Senator Miller** asked if it would be clearer if the language in the bill said "should establish a database" rather than a program.

**Representative Schmidt** said he would leave it up to the Ag Department to answer that.

**Dane Braun**, Policy Analyst for North Dakota Department of Agriculture (NDDA), testified on behalf of Agriculture Commissioner Doug Goehring in support of engrossed HB 1247.  
**Written testimony #2**

**Senator Larson** asked if he had a field that he wanted to drain a wetland on to make it easier to farm and more productive, he could go to the website and find property somewhere else in the State and buy credits.

**Dane Braun** replied that he would have to be sure to check with NRCS since they are the keeper of the wetlands. He said, you would want to make sure that the type of wetlands you have on your property and the types you want to purchase are similar and if NRCS allow that.

**Senator Luick** said that 10 years ago NRCS wouldn't even let you move those wetlands even a half a mile and then it got extended up to two miles. He said that sometimes it is not very far away.

**Dane Braun** hopes that this bill will push that boundary a little further.

**Jessie Bateman**, Administrator for North Dakota Ag Coalition, testified in support of HB 1247. **Written testimony #3**

**No opposing testimony.**

**Senator Miller** closed the hearing on HB 1247.

**Senator Klein** said he would not look to try to expand this further than what we have. He stated that this is an infant that needs to get walking a little to see if it works in North Dakota.

**Senator Larsen** had a concern about moving these wetland around.

**Senator Luick** said that the years he has been working with wetlands, mitigating wetlands is very important. He said that moving wetlands around is beneficial to farming, agriculture industry, along with the wildlife industry. He explained (28:17). He said this is a win win for everyone if we can get this mitigation process simplified

**Senator Heckaman** said that the only thing this bill is doing is establishing a database. She said if we change the word program to database, we have a simple bill.

**Senator Miller** adjourned.

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Agriculture Committee**  
Roosevelt Park Room, State Capitol

Engrossed HB 1247  
March 15,, 2013  
19978

Conference Committee

*Hauge*

Relating to agricultural wetlands credits

**Minutes:**

*Do Pass as amended 5-0-0*

**Chairman Miller** opened discussion on Engrossed HB 1247. All committee members were present.

**Senator Heckaman** moved to adopt amendment 13.0546.02001.

**Senator Klein** seconded.

**Senator Heckaman** said the purpose of the bill is to create a database.

Roll call vote: **5-0-0**

**Senator Heckaman** moved a **Do pass as amended** on Engrossed HB 1247.

**Senator Luick** seconded.

Roll call vote: **5-0-0**

**Senator Larsen** is the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/18/2013**

Amendment to: HB 1247

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$8,500	\$0	\$8,500	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the agriculture commissioner to create and maintain a database to track wetland credits that are available for purchase by agriculture landowners.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1: The agriculture commissioner is tasked to create and maintain a database to track wetland credits that are available for purchase by agriculture landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating).

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Section 1: The agriculture commissioner is tasked to create and maintain a database to track wetland credits that are available for purchase by agriculture landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating).

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Dane Braun

**Agency:** ND Department of Agriculture

**Telephone:** 328-4764

**Date Prepared:** 03/18/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/12/2013**

Amendment to: HB 1247

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$8,500	\$0	\$8,500	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates a program to allow the exchange of wetland credits between agricultural landowners.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating).

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating). No additional FTEs will be required.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Dane Braun

**Agency:** ND Department of Agriculture

**Telephone:** 328-4764

**Date Prepared:** 01/21/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/15/2013**

Bill/Resolution No.: HB 1247

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$8,500	\$0	\$8,500	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates a program to allow the exchange of wetland credits between agricultural landowners.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating). Subsection 2 of Section 1: The North Dakota Game and Fish Department indicates there will be no fiscal impact because the evaluations and monitoring of the wetlands occur at the federal level.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Subsection 1 of Section 1: The agriculture commissioner is tasked to develop a program to exchange wetland credits between agricultural landowners. The agriculture commissioner will incur costs of \$8,500 (\$3,500 salaries and \$5,000 operating). No additional FTEs will be required. Subsection 2 of Section 1: The North Dakota Game and Fish Department indicates there will be no fiscal impact because the evaluations and monitoring of the wetlands occur at the federal level.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Dane Braun

**Agency:** ND Department of Agriculture

**Telephone:** 328-4764

**Date Prepared:** 01/21/2013

March 14, 2013



3/15/13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1247

Page 1, line 2, after "to" insert "a database of"

Page 1, line 6, replace "**Establishment of program**" with "**Database**"

Page 1, line 7, remove "implement a program under which wetland credits may"

Page 1, replace lines 8 and 9 with "create and maintain an electronic database of wetland credits that are available for purchase by an agricultural landowner."

Renumber accordingly



Date: 3-15-13  
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. Eng 1247**

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senator	Yes	No
Chairman Joe Miller	✓				
Vice Chairman Larry Luick	✓				
Senator Jerry Klein	✓				
Senator Oley Larsen .	✓				
Senator Joan Heckaman	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Larsen

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1247, as engrossed: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1247 was placed on the Sixth order on the calendar.

Page 1, line 2, after "to" insert "a database of"

Page 1, line 6, replace "**Establishment of program**" with "**Database**"

Page 1, line 7, remove "implement a program under which wetland credits may"

Page 1, replace lines 8 and 9 with "create and maintain an electronic database of wetland credits that are available for purchase by an agricultural landowner."

Renumber accordingly

**2013 TESTIMONY**

**HB 1247**



#1

Your voice for wheat and barley. [www.ndgga.com](http://www.ndgga.com)

North Dakota Grain Growers Association  
Testimony on HB 1247  
House Agriculture Committee  
February 1, 2013

Chairman Johnson, members of the House Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. We appear here before you today in support of HB 1247. NDGGA would like to thank Representative Schmidt and the other sponsors of the bill, including you Mr. Chairman, for introducing this very important legislation that will be a benefit not only for agriculture water management, but for conservation efforts in our state.

First the mechanics of the bill; HB 1247 sets up a “clearinghouse” in the North Dakota Department of Agriculture for agricultural wetland mitigation acres. This would allow agricultural landowners who conduct wetland restoration projects and who have excess mitigation acres available upon completion of the project the opportunity to list those acres on a database housed in the North Dakota Department of Agriculture. Other agricultural landowners who also are in need of mitigation acres could access the database and then privately could acquire or attempt to acquire the necessary acreage. In essence this is the “Craigslist” for North Dakota wetland mitigation acres.

I would like to say this is a novel concept within the North Dakota Department of Agriculture; it’s not. The North Dakota Department of Agriculture conducts similar programs such as linking custom harvesters with farmers needing the service as well as connecting coyote hunters to landowners needing the service. As you can see by the fiscal note the cost is minimal, and while it would be easy for me to say that the North Dakota Department of Agriculture can “easily” absorb this service, I have spoken to North Dakota Agriculture Commissioner Goehring about the program. I will let the North Dakota Department of Agriculture give its take on the workload.

Mr. Chairman, if possible, I would ask the Committee to amend the bill to strike lines 10 and 11 from the legislation. Upon review we have found that the USDA-Natural Resources and Conservation Service (USDA-NRCS) already conducts evaluations and monitoring of wetland mitigation acres so including North Dakota Game and Fish in this effort would be duplicative and unnecessary.

*NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.*

Mr. Chairman, members of the House Agriculture Committee, orderly water management is critically important to the citizens of our state. Since the 1990's North Dakotans have watched from 50 yard line seats at the devastating impacts water, and the lack thereof, has created for our citizens. Floods, droughts, soil health, infrastructure effects, all have a major impact on North Dakota. As we look to the present and we look to the future orderly water management is pivotal to the continued success of our state.

Something that has been lost in this water debate has been the positive impacts of wetlands mitigation, not only for agriculture, but for conservation as well. An explanation; when a water management project is commenced existing wetlands may be affected. To minimize, to mitigate if you will, those impacts agricultural landowners are allowed to restore or even improve those wetland acres on another site. The type of restoration and the amount of acres that must be used in the restoration or mitigation effort is determined by the USDA-NRCS. In many cases, because of various reasons such as the existing terrain of the mitigation site or the type of acres involved, a mitigation site will exceed the mitigation requirements. In such cases agricultural landowners through HB 1247 could post those acres and their information on the North Dakota Department of Agriculture database for purchase and use by other agricultural landowners.

While other states have embraced this concept and have even set up wetland mitigation banks to address wetland restoration issues, North Dakota is still in the pioneering phase of the concept. To be sure, agricultural wetland mitigation projects have been in place for quite some time; however widespread adoption of mitigation as a tool for orderly water management is in its infancy in North Dakota agriculture. HB 1247 seeks to be another tool to aid in the goal of orderly water management in the state.

Mr. Chairman, Members of the House Agriculture Committee, HB 1247 is not the be-all, end-all for mitigation issues in North Dakota; but it is a start. It is low-cost potentially high reward attempt to not only address our water management needs in our state, but to positively address conservation needs as well. Therefore, Mr. Chairman, Members of the House Agriculture Committee, the North Dakota Grain Growers Association would respectfully ask that the Committee adopt the proposed amendment to strike lines 10 and 11 of HB 1247 and upon adoption of the amendment give a Do Pass recommendation to HB 1247.

COMMISSIONER  
DOUG GOEHRING



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#2

**NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL  
600 E BOULEVARD AVE DEPT 602  
BISMARCK ND 58505-0020

**Testimony of Dane Braun, Policy Analyst  
North Dakota Department of Agriculture  
House Bill 1247  
House Agriculture Committee  
Peace Garden Room  
10:00am, February 1, 2013**

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Chairman Johnson and members of the House Agriculture Committee, I am Dane Braun, Policy Analyst at the North Dakota Department of Agriculture (NDDA). I am here today on behalf of Agriculture Commissioner Doug Goehring in support of HB 1247, which will create a wetland exchange program within our department.

This bill requires the commissioner to implement a program where wetland credits may be exchanged between agricultural landowners. At this point, we envision the program mirroring other programs within the department where we help match a service provider with a consumer. Such programs include our "Harvest Hotline" or more recently working with the North Dakota Game and Fish, our "Coyote Catalog." Essentially, we would create a "craigslist" for wetland credits.

When an agricultural landowner has successfully created a wetland credit, that landowner could contact our office with the details of that wetland such as acreage, type, location, etc. We would place that information in a database and put it on our website. An agricultural landowner looking to purchase a wetland credit would be able to visit the website or contact our office to determine if there were appropriate credits for sale. If yes, we would then provide the seller's contact information to the potential buyer.

The actual price negotiation and exchange of the wetland credits would occur between the landowners; the department would have no role in that matter. Additionally, all monitoring and evaluations of wetlands would take place at the federal level.

Chairman Johnson and committee members, Commissioner Goehring is in support of HB 1247 and would be happy to take on this low-cost and very beneficial program. I would be happy to answer any questions you may have.

Thank you.



#1

Your voice for wheat and barley. [www.ndgga.com](http://www.ndgga.com)

**North Dakota Grain Growers Association  
Testimony on HB 1247  
Senate Agriculture Committee  
March 14, 2013**

Chairman Miller, members of the Senate Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. The North Dakota Grain Growers Association appears before you today in support of HB 1247.

HB 1247 sets up a “clearinghouse” in the North Dakota Department of Agriculture for agricultural wetland mitigation credits. The bill would allow agricultural landowners who have wetland mitigation credits available the opportunity to list those credits on a database housed in the North Dakota Department of Agriculture. Agricultural landowners who need wetland mitigation credits for water management projects could then access the database and would have the opportunity to privately obtain the credits needed. In essence this would be a “Craigslist” for North Dakota wetland mitigation credits.

The legislation only applies to the formation of a database for agricultural wetland credits and it has no impact on existing water management laws or policies on either the state or federal level. The cost of the program is \$8500 for the biennium according to the fiscal note provided by the North Dakota Department of Agriculture.

Chairman Miller, members of the Senate Agriculture Committee, there are several components to orderly water management in the state. Mitigation is one of these components. HB 1247 would simplify and speed up the wetland mitigation process in the state of North Dakota by providing farmers better information on the availability of wetland credits. This information could then be used to further mitigation efforts in water management for North Dakota agriculture.

Therefore Chairman Miller, members of the Senate Appropriations Committee, the North Dakota Grain Growers Association appear in support of HB 1247 and would ask the Committee and the Senate to concur.

*NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.*

COMMISSIONER  
DOUG GOEHRING

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**NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL  
600 E BOULEVARD AVE DEPT 602  
BISMARCK ND 58505-0020

**Testimony of Dane Braun, Policy Analyst  
North Dakota Department of Agriculture  
House Bill 1247  
Senate Agriculture Committee  
Roosevelt Park Room  
9:00am, March 14, 2013**

Chairman Miller and members of the Senate Agriculture Committee, I am Dane Braun, Policy Analyst at the North Dakota Department of Agriculture (NDDA). I am here today on behalf of Agriculture Commissioner Doug Goehring in support of HB 1247, which will create a wetland exchange program within our department.

This bill requires the commissioner to implement a program where wetland credits may be exchanged between agricultural landowners. At this point, we envision the program mirroring other programs within the department where we help match a service provider with a consumer. Such programs include our "Harvest Hotline" or more recently working with the North Dakota Game and Fish, our "Coyote Catalog." Essentially, we would create a "craigslist" for wetland credits.

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The actual price negotiation and exchange of the wetland credits would occur between the landowners; the department would have no role in that matter. Additionally, all monitoring and evaluations of wetlands would take place at the federal level.

Chairman Miller and committee members, Commissioner Goehring is in support of HB 1247 and would be happy to take on this low-cost and very beneficial program. I would be happy to answer any questions you may have.

Thank you.



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**MEMBERS**

- AmeriFlax
- BNSF Railway Company
- Garrison Diversion Conservancy District
- Independent Beef Association of ND
- Landowners Association of ND
- Milk Producers Association of ND
- Minn-Dak Farmers Cooperative
- ND Ag Aviation Association
- ND Ag Consultants
- ND Agricultural Association
- ND Agri-Women
- ND Association of Agricultural Educators
- ND Association of Soil Conservation Districts
- ND Barley Council
- ND Beef Commission
- ND Corn Growers Association
- ND Corn Utilization Council
- ND Crop Improvement and Seed Association
- ND Dairy Coalition
- ND Department of Agriculture
- ND Dry Bean Council
- ND Dry Edible Bean Seed Growers
- ND Elk Growers
- ND Ethanol Council
- ND Farm Bureau
- ND Farm Credit Council
- ND Farmers Union
- ND Grain Dealers Association
- ND Grain Growers Association
- ND Irrigation Association
- ND Lamb and Wool Producers
- ND Oilseed Council
- ND Pork Producers
- ND Soybean Council
- ND Soybean Growers Association
- ND State Seed Commission
- ND Stockmen's Association
- ND Wheat Commission
- NDSU Agricultural Affairs
- Northern Canola Growers Association
- Northern Food Grade Soybean Association
- Northern Plains Potato Growers Association
- Northern Pulse Growers Association
- Red River Valley Sugarbeet Growers

**Testimony of Jessie Bateman  
Administrator, North Dakota Ag Coalition  
In Support of HB 1247  
March 14, 2013**

Chairman Miller and members of the Senate Agricultural Committee:

My name is Jessie Bateman, and I am here today as the administrator of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I would encourage your support of HB 1247.

The Ag Coalition has provided a unified voice for North Dakota agricultural interests for over 30 years. Today, we represent more than 40 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. The Ag Coalition takes a position on a limited number of issues, brought to us by our members, that have significant impact on North Dakota's agriculture industry.

The North Dakota Ag Coalition is supporting this bill as it provides agricultural landowners in need of purchasing wetland mitigation credits access to other landowners who have wetland mitigation credits available. This bill provides an additional tool to ensure that agriculture and water conservation continue to work hand in hand. This is essential for the advancement of North Dakota's agricultural industry into the future.

We appreciate your past support of North Dakota's agriculture industry and encourage your favorable consideration of HB 1247.