

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

AGRICULTURE COMMITTEE

Thursday, October 28, 1999
North Central Research Extension Center
Minot, North Dakota

Representative John M. Warner, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives John M. Warner, James Boehm, Michael D. Brandenburg, April Fairfield, Gil Herbel, James Kerzman, Shirley Meyer, Phillip Mueller, Jon O. Nelson, Eugene Nicholas, Earl Rennerfeldt, Arlo E. Schmidt, Ray H. Wikenheiser; Senators Bill L. Bowman, Meyer Kinnoin, Herb Urlacher, Terry M. Wanzek

Members absent: Representatives Thomas T. Brusegaard, Rod Froelich, Lyle Hanson, Keith A. Kempenich, Ed Lloyd, Robert E. Nowatzki, Dennis J. Renner

Others present: See attached appendix

It was moved by Representative Rennerfeldt, seconded by Representative Kerzman, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

Mr. Jay Fisher, Director, North Central Research Extension Center, welcomed the Agriculture Committee to the center. He thanked the Legislative Assembly for financial support in building the center. He said the building was funded one-third by tax dollars and two-thirds by private contributions. He said the center replaces the previous building built in 1909.

DAMAGE CAUSED BY HUNTERS AND WILD GAME

Hunters - Enforcement

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, presented information on the enforcement of game and fish laws and damage to motor vehicles caused by big game. He reviewed North Dakota Century Code Sections 20.1-01-04, 20.1-02-14, 20.1-02-15, and 20.1-02-15.1, which relate to the power of law enforcement to enforce game and fish laws and the police powers of game wardens. He said game wardens received assistance from other law enforcement agencies 125 times in 1998. He said game wardens helped other law enforcement agencies 247 times in 1998.

In response to a question from Representative Kerzman, Mr. Rostvet said there are 29 wardens, including the chief game warden and four supervisors.

Deer - Damage to Vehicles

Mr. Rostvet said the deer population reached an all-time high in 1995; however, the number of deer-vehicle crashes continued to increase after that date. He attributed the continuing increase to changes in the motor vehicle collision reporting system, which made it easier to report a collision between a deer and a vehicle. In addition, he said, there are increased speed limits on secondary roads. He said over 40 percent of collisions between vehicles and deer occur between October and November. He said there is over a \$2 million cost for collisions between vehicles and deer if it is assumed there is \$1,000 damage per collision. He provided a graph comparing deer-vehicle crashes and deer permits issued in North Dakota. A copy of this graph is on file in the Legislative Council office.

Deer - Compensation for and Alleviation of Depredation Ranching for Wildlife

Committee counsel distributed and reviewed a pamphlet entitled *Hunting for Habitat: A Practical Guide to State-Landowner Partnerships* published by the Political Economy Research Center in Bozeman, Montana. He said the pamphlet offers information on ranching for wildlife programs and other similar programs that allow landowners to have control over hunting permits and thereby profit from selling those permits. He said the Political Economy Research Center and the pamphlet advocate ranching for wildlife programs; however, the pamphlet offers objective information on ranching for wildlife programs in the states. A copy of the pamphlet is on file in the Legislative Council office.

Committee counsel said ranching for wildlife is in eight states and is a managed program based on cooperative agreements between landowners and state wildlife agencies. The program encourages landowners to invest time, money, and resources to increase wildlife and hunting opportunities on their properties. In return, the state modifies hunting regulations so landowners can benefit from fee hunting. Ranching for wildlife gives landowners incentives to earn a profit from hunting through longer seasons, transferable game tags, and ranch-specific harvests. Ranching for wildlife opens opportunities for state

agencies through more precise management of game, more leverage with landowners, and greater agency savings. New opportunities for sportsmen are offered through better hunting, longer seasons, and another source of a hunting license. These programs are controversial because they involve fee hunting.

Committee counsel said Colorado's program, Ranching for Wildlife, has become the general description of these programs. In Colorado the landowner is eligible for transferable game tags, extended seasons, and flexible bag limits. The landowner must produce a wildlife management plan that includes proposed harvest levels and a schedule of habitat improvements. A participating landowner pays the same price for tags as does a hunter purchasing a tag from the state.

Committee counsel said Colorado has high prices for a hunt in the program which can be attributed to the fact that Colorado limits the number of ranches allowed in the program to 30, requires there to be at least 12,000 contiguous acres in a ranch for it to be considered for the program, and requires landowners to provide access at no charge to a limited number of hunters whose names are drawn by lottery.

Committee counsel said New Mexico's program is different from other states' programs because it does not require the landowner to develop a wildlife management plan. The allocation of authorizations to landowners is based on animal populations alone. This discourages ranch-specific management, and there are elk depredation problems that remain in certain parts of the state. The allocation formula funnels numerous authorizations to a few larger ranches, and smaller ranches receive fewer authorizations even though they may be suffering more depredation. A landowner in New Mexico must allow access to a number of hunters selected by lottery who hunt for free. The program does not require that a property be a minimum size.

Committee counsel said Idaho has a program that was created in 1999 and was built on a system much like gratis tags in North Dakota. In Idaho these tags are called landowner appreciation tags, and they are transferable. They are issued contingent on the landowners providing reasonable public access to hunting. The number of landowner appreciation tags issued to a landowner is based on acreage and is limited to two in number.

In response to a question from Senator Wanzek, committee counsel said the main benefit to landowners under a ranching for wildlife program is the issuance of transferable tags that the landowner may sell for cash.

In response to a question from Senator Urlacher, committee counsel said moving wild game from areas of high depredation to other areas is a direct method of dealing with depredation. He said ranching for wildlife would provide an income to cover the expenses of depredation.

In response to a question from Representative Herbel, committee counsel said he was not aware of a ranching for wildlife program for birds. He said ranching for wildlife programs are traditionally for elk, deer, and antelope. He said ranching for wildlife programs work well when there is a lottery system for the issuance of permits and traditionally bird hunting permits are issued over the counter.

In response to a question from Representative Kerzman, committee counsel said there is increased liability when compensation is collected for providing access to property. He said the liability could be addressed in legislation.

In response to a question from Representative Rennerfeldt, committee counsel said another way of providing income to landowners is for landowners to lease hunting rights. He said this is not part of ranching for wildlife programs because the leasing of hunting rights provides for compensation but does not provide a guaranteed tag.

Game Farms and Fee Hunting

In response to a question from Senator Bowman, Mr. Rostvet said there is extreme flexibility for individuals who operate a game farm. He said the operation of a game farm falls outside most of the limits imposed by the Game and Fish Department. He said game farms are treated this way because they stock their own game. He said fee-hunting operations follow the same rules as any hunter would follow because fee-hunting arrangements use wild birds within the designated season. He said there is no restriction on the number of upland game licenses for a resident or nonresident.

In response to a question from Representative Herbel, Mr. Rostvet said game farms are treated as a business. He said they must pay a nominal fee and perform some recordkeeping to be licensed. He said fee hunting has no requirement for the operator to be licensed or for there to be any recordkeeping. He said the Game and Fish Department is prohibited from spending money on property that is used for commercial hunting.

Deerproof Hay Yards

In response to a question from Representative Meyer, Mr. Rostvet said ranchers who enter the deerproof hay yard program must sign a contract not to charge for hunting for the next 20 years. He said if a rancher violates this agreement, the contract contains a schedule of depreciation for the fence and the rancher must pay for the depreciated value of the fence. He said the average cost for the materials used in the deerproof hay yard program is \$1,600 and is up to \$3,000.

In response to a question from Senator Kinnoin, Mr. Rostvet said the Legislative Assembly has said in the past that it does not want to subsidize fee hunting.

Deer Depredation Hunt

In response to a question from Representative Mueller, Mr. Rostvet said the Game and Fish Department proposed a January hunt for deer in 1977. He said the idea was withdrawn because of the number of complaints. He said the number of deer at that time was half of what it is now. He said the idea of shooting deer on haystacks is not a popular idea. He said seasons have been extended in the past when there has been a large storm that has prevented hunting during the regular season.

In response to a question from Representative Brandenburg, Mr. Rostvet said an extended deer hunting season has not been popular with agricultural groups; however, he does not know about the popularity of a January or February depredation hunt.

In response to a question from Representative Mueller, Mr. Rostvet said this state has had a five-week season. He said the present 16½-day season is a compromise between landowners and hunters.

In response to a question from Senator Bowman, Mr. Rostvet said depredation problems are not continuous but are dependent on the weather. He said overpopulation intensifies depredation problems; however, there would be depredation complaints if there were 100 deer in this state, under the right circumstances.

In response to a question from Senator Bowman, Mr. Rostvet said a depredation season may cause the deer congregated in one area to disperse to another area, thereby merely transferring the problem to that area.

Geese

Representative Schmidt said because geese are arriving later than usual from Canada this year, nonresident hunters are having to leave the state without being able to hunt because they are limited to hunting a total of 14 days.

In response to a question from Representative Nicholas, Mr. Rostvet said the number of days allowed for nonresident goose hunting is statutory. He said the limitation was placed in the law when there was low water in Devils Lake and that area was a major staging area. He said because the state has abundant water, the original purpose of the limitation has lost some of its validity. In addition, he said, the Game and Fish Department has created more areas to hunt which has resulted in less pressure on historical staging areas. He said some wildlife clubs are strongly opposed to removing the 14-day limit. He said the limit was 10 days in 1975, and hunting was limited to eight units.

In response to a question from Representative Schmidt, Mr. Rostvet said there are no additional restrictions on nonresident hunters of upland game as there are for ducks and geese.

In response to a question from Representative Warner, Mr. Rostvet said this state has the highest

level of goose harvest in the nation. He said this state has had three goose hunting seasons--spring, early September, and regular.

In response to a question from Senator Bowman, Mr. Rostvet said the 109 days allowed for this state's waterfowl season are more than enough because hunters are limited not by the 109 days as much as they are limited by geese leaving the state due to the weather.

Expanded Study

Chairman Warner announced the Legislative Council chairman authorized the study of the extent of and remedies for damage caused to landowners from depredation by big game animals, waterfowl, and turkeys and damage caused to property by hunters to include damages caused to landowners by all game and nongame animals.

At the request of Chairman Warner, Mr. Phil Mastrangelo, State Director, Animal and Plant Health Inspection Service, Wildlife Services, United States Department of Agriculture, presented information on federal programs to alleviate depredation. He said Wildlife Services assists the public with wildlife conflicts. He said his agency has nothing to do with hunting and is a nonregulatory agency that uses memorandums of understanding to operate. He said Wildlife Services began by dealing with depredation caused by predators. He said in the mid-1980s Wildlife Services began dealing with blackbirds and waterfowl. He said recently Wildlife Services has begun to deal with beavers. In addition, he said, Wildlife Services answers complaints on rabid skunks.

Blackbirds

In response to a question from Representative Mueller, Mr. Mastrangelo said in 1999 Wildlife Services began a study on the chemical baiting of blackbirds by using DRC1339 applied to rice and scattered in sunflower fields in a selected 40-township area. He said the increased rain limited the effect of the chemical and provided disappointing study results. He said Wildlife Services has a cattail spraying program that removes the habitat for blackbirds. He said the program is free of charge but is limited by funds and is administered on a first-come, first-served basis. He said the cattails are sprayed with Rodeo.

In response to a question from Representative Nelson, Mr. Mastrangelo said the baiting program uses a two percent concentration of the active ingredient. He said the bait is placed on the ground in a sunflower field. He said one grain is a lethal dose for a blackbird. He said other birds do not like rice.

Representative Nelson said farmers are reluctant to enter the program because of the low concentration of poison. He said farmers suspect not enough blackbirds will be killed by the chemical. He said a drawback of the baiting program is that the land cannot be cropped in the following year.

In response to a question from Representative Nelson, Mr. Mastrangelo said there are reports on blackbirds feeding on other grains besides sunflowers. He said Wildlife Services is trying to have the Environmental Protection Agency lift its restriction that no crop may be planted in the year following a baiting program. He said Wildlife Services is confident that the dilution ratio is enough to kill blackbirds but not harm other birds.

In response to a question from Senator Kinnoin, Mr. Mastrangelo said there are restrictions placed on cattail eradication by the federal Fish and Wildlife Service. He said they require the cattail area to be 15 acres or larger and that only 70 percent of an area be sprayed with Rodeo. He said this allows enough cattails for waterfowl habitat while making the area unattractive to blackbirds.

In response to a question from Representative Nelson, Mr. Mastrangelo said the 70 percent level for the spraying of cattails was arrived at through agreement with the federal Fish and Wildlife Service. He said the percentage is higher than Wildlife Services thought would be accepted by Fish and Wildlife Service. He said cattails provide nesting habitat and winter refuge for other bird species. He said the total removal of cattails would most likely not be good resource management.

In response to a question from Senator Kinnoin, Mr. Mastrangelo said Wildlife Services could spray cattails on highway rights of way if a request were made from the proper administrator with oversight over that right of way.

In response to a question from Senator Urlacher, Mr. Mastrangelo said Rodeo is effective for at least five years in eradicating cattails.

In response to a question from Representative Mueller, Mr. Mastrangelo said at one time there was a product used to control blackbirds that was a soap-like solution that destroyed the oil in the feathers of birds. He said the problem with the solution was that to be activated it needed a sufficient amount of rainfall. He said the product is no longer available.

In response to a question from Senator Urlacher, Mr. Mastrangelo said blackbirds are the most numerous in North America and pass through many different parts of the state in their migration.

Coyotes

In response to a question from Senator Wanzek, Mr. Mastrangelo said there are reports of coyotes killing 200- to 300-pound calves. He said Wildlife Services has been unable to confirm this through an investigation. He said if the investigation is not close in time after the kill, it is difficult to tell whether the animal has been scavenged after death or killed by coyotes before death. He said wolves are able to kill large calves, and they sometimes enter the eastern part of this state.

In response to a question from Senator Wanzek, Mr. Mastrangelo said an individual who has a problem with coyotes could contact one of the 10 local wildlife specialists who trap coyotes.

In response to a question from Senator Urlacher, Mr. Mastrangelo said mange in coyotes is transferable to domesticated dogs. He said there has been an outbreak of mange in the eastern part of this state, so coyote numbers are down. He said the number of requests for assistance with coyotes has declined.

In response to a question from Representative Meyer, Mr. Mastrangelo said South Dakota has a program in which private landowners can use cyanide in M44s or coyote getters. He said the program was approved upon petition to the Environmental Protection Agency. He said approval is required because cyanide is a restricted use pesticide. He said a state would have to have a training program and oversee the program for there to be approval. He said an M44 is a short stake in the ground with a spring-operated ejector on the top. The ejector contains a capful of sodium cyanide covered with bait. When a coyote investigates the bait, the M44 shoots the cyanide in the coyote's mouth.

Committee Discussion

Hunters

Representative Kerzman said the counties need to have more money for roads to address damage done by hunters.

Damage Done by Wildlife

Representative Warner said who should pay for damage caused by big game is a theoretical question based on whether the damage is done as an act of God or as an act of the state. He said damage by big game is an act of God and it would overwhelm state resources if it were considered to be an act of the state.

Ranching for Wildlife

Representative Brandenburg said landowners are able to manage wildlife and to charge a fee for hunting. He said this fulfills the goals for ranching for wildlife programs without adopting a program.

Senator Wanzek said he is supportive of cooperative efforts between public and private entities. He said he agrees with the concept of ranching for wildlife. He said the program recognizes that the private landowners have a stake in the local wildlife.

Senator Bowman said the problem with deer depredation is that they group together when there is severe weather that has decreased the food source for deer. He said when this happens, deer tend to congregate around feed stored by ranchers. He said this problem occurs after the regular hunting season. He said hunting season changes, like those in

ranching for wildlife programs, will not affect the problem of deer depredation.

Deer Depredation Hunt

Representative Brandenburg suggested a special late hunting season after the regular hunting season for shooting deer causing depredation. He suggested allowing hunters with unfilled tags from the regular season to be able to use them during the special season.

Senator Bowman said there has been an increase in the number of wildlife because of programs like the conservation reserve program. He said this creates more depredation problems. He said the no-mow program draws deer into the ditches which increases the number of collisions between vehicles and deer. He said a special late season is justified because of these increased problems.

Representative Nelson said allowing hunters with unfilled tags to hunt in a late season would reward hunters for not hunting during the regular season. He said this may create a larger problem than deer depredation.

Representative Herbel said a late season raises issues of whether the license would be good state-wide or only in specific areas and whether a deer is a buck or doe if in an especially late season. He said a depredation hunt may chase deer out of a particular area into another area and thus increase depredation issues in the new area.

Deerproof Hay Yards

Representative Herbel said the Game and Fish Department provides for a deerproof hay yard fencing program. He said this program addresses the midwinter and late winter depredation caused by deer.

Representative Brandenburg said the fence program is not attractive to ranchers because it limits the use of property for 20 years.

Senator Kinnoin said a special season would not solve the problem. He said the problem is the damage caused by deer, and deerproof hay yards would work and be used if there were no limitations placed on the use of the land for receiving fencing materials. He said he has not used the deerproof hay yard program because of the 20-year limitation. He said he has suffered financial loss and should be provided assistance without being limited for 20 years or having to pay for the materials at a later time.

Representative Meyer said it was not legislative intent that deerproof hay yards come with conditions. She said the Game and Fish Department treats the materials as a gift. She said ranchers want the Game and Fish Department to remove the deer they are responsible for from the rancher's feed supply.

Senator Wanzek said he provided the amendment that created the deerproof hay yard program. He said if wild game belongs to the public and is eating private

hay, then the public should pay to fence out the wild game.

Senator Urlacher said there needs to be some guidelines in providing fencing material or the program could be abused.

Geese

Representative Schmidt said the 14-day limit on goose hunting creates a problem if there are no geese in the state at the time out-of-state hunters arrive to go hunting. He said the limitation is resulting in the loss of money from this state. He said there should be an extension for a particular hunter if there is no opportunity to hunt.

Representative Warner said an ad hoc determination would be administratively burdensome.

Turkeys

Representative Herbel said turkeys are as big of a problem as deer in some parts of the state and you cannot fence them out.

Prairie Dogs

Senator Bowman said by increasing habitat on the national grasslands it will create more animal problems.

Representative Meyer said Representative Froelich is concerned with increasing prairie dog habitat on the national grasslands.

Senator Bowman said prairie dogs are pests under state law.

It was moved by Representative Meyer, seconded by Senator Bowman, and carried on a roll call vote that the Legislative Council chairman be requested to approve a statement to the appropriate parties stating the committee's opposition to the expansion of prairie dog habitat in the national grasslands program. Representatives Warner, Boehm, Brandenburg, Fairfield, Herbel, Kerzman, Meyer, Mueller, Nicholas, Rennerfeldt, Schmidt, and Wikenheiser and Senators Bowman, Kinnoin, and Urlacher voted "aye." No negative votes were cast.

Chairman Warner said the committee has addressed three different areas for potential legislation. He said these areas include an extended goose hunting season for nonresidents, a ranching for wildlife program, and a deerproof hay yard program without conditions.

AGRICULTURAL MARKETING STUDY

Ag Marketing 101

Mr. Mike Krueger, Vice President, Agri-Mark Grain Marketing Consultants, Fargo, presented information on grain marketing. He gave a history of government programs and information on changes in world grain production. He said the major cause of low crop prices is the record world crop production for several years in succession and the higher value of the dollar. He said pools and compacts have not worked

historically and cannot be effective when supplies are abundant. He said United States producers have to spend more time and money on the marketing of their products.

Mr. David Lambert, Chairman, Agricultural Economics Department, North Dakota State University, presented information on marketing and economics. He said the per capita income of Americans has increased, but food expenditures have stayed about the same. He said the income elasticity for beef is higher than salt; however, he said, food is less elastic than cars and homes. As a result of increasing incomes, he said, people want more free time and do not want to cook. He said the processing component of food products is increasing, but the need for food products is fairly constant. He said big food companies increase profits by purchasing large sums of food at low prices.

Mr. Lambert said there are five circumstances that will increase prices:

1. Dramatically increase domestic demand--but this is unlikely.
2. Bad weather in major growing areas--but this is not predictable.
3. Better export levels--but this is not going to be seen for a few years.
4. Lower prices squeeze out higher cost producers thereby reducing the world supply of grain.
5. Federal farm policy.

In response to a question from Senator Bowman, Mr. Lambert said farmers can increase prices by producing different crops and by forming alliances to market crops.

In response to a question from Senator Wanzek, Mr. Lambert said greater wealth increases food elasticity because with more wealth people become more critical as to the quality of their food. He said higher quality usually means more processing which means higher costs. He said producers can take advantage of these higher prices by taking over marketing functions. He said family farmers cannot be independent. He said they need to work together to add value to their crops or lower production costs with larger operations.

Market Concentration

Mr. Lambert said the slaughtering business for beef is dominated by four firms. He said conventional wisdom states that when there is a concentration of market power, there is collusion. He said there was collusion with the Organization of Petroleum Exporting Countries in the 1970s as to the price of oil. He said studies have shown there is no significant price distortion in meat-packing on the meat coming into or the meat going out of meat-packing plants. He said technology and rivalry between the firms result in competition.

In response to a question from Senator Bowman, Mr. Lambert said the reason beef prices stayed the same during the summer when demand is highest may be because of the stocks of beef. He said demand is down this fall and prices are up. He said this could be caused by trade issues, for example, the lawsuit brought by the Ranchers-Cattlemen Action Legal Fund (R-CALF).

In response to a question from Representative Fairfield, Mr. Lambert said in the aggregate, there is no effect of the big four meatpackers through captive supply on the market, although there may appear to be an effect of captive supply on local markets.

In response to a question from Senator Bowman, Mr. Krueger said major grain companies are investing outside the United States because the United States market is very mature, and there is no place to invest in this country. He said the growth will come in South America.

In response to a question from Representative Schmidt, Mr. Krueger said clarity of the market has been lost because price discovery is difficult with so few buyers.

Vertical Integration

Mr. Lambert said vertical integration places suppliers in close relation to manufacturers. He said this helps spread the risk and save money. He said there is a potential for injury in vertical integration when the players are not of an equal power base. He said this is the case with farmers and major corporations. He said legislation can give farmers an equal power base.

Productivity

Mr. Lambert said commodity prices have consistently decreased for the last 100 years. He said this trend is not likely to change because there are new areas in this world that are coming into production. He said farmers have increased production threefold over the last 40 years in wheat and corn. He said productivity has increased by two and one-half times from 1949 to 1994 because of technology. He said there has been a 10 percent increase per year in productivity in North Dakota. He said farmers do not share in the income from this increased productivity. He said if government payments are ignored, over time net farm income has gone down. He said it costs more to produce more, and world competition keeps prices low. He said there has been an increase in prices for things such as tractors and seeds with improved growing traits. He said low production costs give Canada an advantage.

In response to a question from Senator Bowman, Mr. Lambert said the benefits from increased productivity have not benefited farmers but have benefited consumers and manufacturers.

Federal Programs Policy

Representative Warner said in 1980 gold was \$680 an ounce and wheat was \$6.50 per bushel. He said gold is now under \$300 an ounce and wheat is \$2.80 per bushel. He said it appears the Secretary of the Treasury is more important to agriculture than the Secretary of Agriculture.

In response to a question from Representative Mueller, Mr. Lambert said farm policy has not become an emergency because of the good economy resulting in no great opposition to disaster payments. He said a plan that provided stability from year to year would be better. He said this could be offered through some sort of insurance.

In response to a question from Representative Nelson, Mr. Lambert said in the long run, American farmers will do better under the present farm policy if United States farmers weather the low prices and other countries cannot do the same. Representative Nelson said there is some credence to the present philosophy; however, there may be no one around to take advantage of the higher prices.

In response to a question from Representative Nicholas, Mr. Krueger said the marketing loan rates for wheat and barley are not comparable to those for oilseeds. He said if marketing loans work, they will prevent importation of grain from foreign countries.

Mr. Krueger said the problem with the Freedom to Farm Act is that the export enhancement program has not been used and insurance is based on past yields and yields have not been good.

In response to a question from Representative Nicholas, Mr. George Flaskerud, Extension Specialist, Agricultural Economics Department, North Dakota State University, said direct payments leave producers to choose crops that make the most money. He said farmers need higher market loan rates for barley and corn.

In response to a question from Representative Kerzman, Mr. Neal Fisher, Administrator, Wheat Commission, said he predicts the export enhancement program will not be used again any time soon. He said the program worked by paying the difference between what an exporter had to pay for American grain and the amount the buyer would have to pay for grain at a lesser price from other countries.

Representative Rennerfeldt said the export enhancement program gave the United States a bigger market share and more competition with the European unit and Canada. He said the export enhancement lessened the amount the United States had in reserves, increased the amount other countries had in reserves, and thereby lowered the amount of grain planted in those countries.

Marketing Clubs

Mr. Flaskerud presented information on marketing clubs. He said he has encouraged clubs to charge a fee to bring in experts on marketing at each meeting.

He said marketing clubs are to become centers of learning for risk management strategies and marketing. A copy of the slides used for his presentation is on file in the Legislative Council office.

Sunflowers

Mr. Larry Kleingartner, Executive Director, National Sunflower Association, presented information on the marketing of confectionery sunflowers. He said the acreage for confectionery sunflowers has increased threefold since 1985. He said United States farmers produce 90 percent of the confectionery sunflowers in the world market. He said farmers control the market. He said one-half of the acres for confectionery sunflowers are in North Dakota. He said the prices in North Dakota for confectionery sunflowers were \$11.20 per bushel in 1991, \$15.50 per bushel in 1993, and \$15 per bushel in 1998. He said there has been a sharp drop in oilseed prices but not in confectionery seeds. He said the gross return rate per acre in 1998 was \$196. He said the confectionery sunflower producers have tried to match production with demand, increase demand, have control over their hybrid seed, and contract approximately 70 percent of the acres planted. He said this produces the higher price. He said Europeans cannot use production subsidies for confectionery sunflowers because of trade agreements. He said import restrictions on confectionery sunflowers have been lifted in China. He said the difficulties with confectionery sunflowers include that they must be of high quality, and if they are not, trust is lost and business greatly suffers. He said the Argentineans are becoming a big competitor. He said the cost of production in Argentina is \$3 or \$4 per bushel less.

In response to a question from Representative Nelson, Mr. Kleingartner said there are serious concerns with head rot. He said there is an excellent crop in Kansas this year which can meet the needs of most of the high-quality market.

In response to a question from Representative Kerzman, Mr. Kleingartner said the industry has encouraged research into genetically modified sunflowers that are Roundup ready and insect-resistant. He said such sunflowers would not be introduced if they were available because of concerns in Europe.

In response to a question from Representative Herbel, Representative Mueller said the cost of production for confectionery sunflowers is 15 percent in excess of that for oilseed. He said it is under \$100 per acre.

Wheat

At the request of Chairman Warner, Mr. Fisher presented information on the marketing of wheat. He provided transparencies on world wheat production, world wheat usage, world wheat stocks, wheat production among major exporters, wheat exports

among major exporters, wheat stocks among major exporters, durum production and use in major exporter countries, durum stocks in major exporting countries, regional and national partnerships to expand markets for United States wheat, hard red spring and durum exports, production and disappearance of United States hard red spring wheat, production and disappearance of United States durum, trends in the United States wheat industry, United States export trade policy and programs, and United States wheat priorities for World Trade Organization talks. A copy of the transparencies is on file in the Legislative Council office.

In response to a question from Representative Kerzman, Mr. Fisher said South Dakota Wheat Growers, Inc., is not related to the South Dakota Grain Growers.

Representative Nicholas said Harvest States has a monopoly on 70 to 80 percent of the purchasing of grain in certain parts of the state. He said North Dakota farmers helped finance Harvest States, and they use Canadian grain.

In response to a question from Representative Nelson, Mr. Fisher said 70 percent of the durum originating in Canada and coming to the United States is going to Harvest States.

Representative Nelson said the purchase of Canadian grain by Harvest States does not help the American farmer and shareholders in value-added cooperatives.

Credit-Sale Contract Protection

At the request of Chairman Warner, committee counsel distributed and reviewed state statutes in Illinois, Minnesota, and Ohio on protection to farmers for credit-sale contracts.

Committee counsel said the Illinois system was studied during the 1987-88 interim and was reviewed in detail in the background memorandum presented at the last meeting. He said the indemnity fund in Illinois covers credit-sales and has replaced a bond requirement. He said the indemnity fund is funded by assessment on grain dealers and warehousemen. He said Commodity Credit Corporation grain is covered by the indemnity fund; however, it is not covered by the indemnity funds in Idaho, Indiana, Kentucky, Oklahoma, and Tennessee. He said Illinois has a provision that requires 90 percent of the unpaid balance for a price later contract to be held by a grain dealer in grain, rights to grain, or proceeds for the sale of grain. He said valid claims in an insolvency proceeding for a deferred payment or price later contract will receive 85 percent of the amount of the claim or \$100,000, whichever is less. He said regular claims receive 100 percent.

Committee counsel said the state of Minnesota requires a bond; however, the bond only covers cash sales. He said protection for credit-sales comes from a requirement, like Illinois, for the grain buyer to hold grain, rights to grain, or proceeds for sale of grain totaling 90 percent of an obligation.

Committee counsel said Tennessee requires a bond and has an indemnity fund. He said the indemnity fund does not cover Commodity Credit Corporation grain. He said the bond and fund cover credit-sale contracts and regular sales. He said the Tennessee grain indemnity fund was created by referendum in which grain producers imposed an assessment or checkoff on themselves. He said the assessment stops when the fund reaches \$3 million. He said a producer may receive a refund of the checkoff amount. He said claims for the failure of a commodity dealer, including price later contracts, are compensated at 85 percent to a maximum of \$100,000, and regular claims, e.g., warehouse receipts, are paid at 100 percent.

Committee counsel said Ohio protects credit-sale contracts through an indemnity fund that covers Commodity Credit Corporation grain. He said Ohio does not require a bond because of the indemnity fund. He said Ohio has an agricultural commodity depositors fund that is funded by a per bushel fee remitted by licensed handlers. He said the fee is adjusted by the Director of Agriculture to keep the fund within statutory limits. He said the statutory limits state if the assets of the fund exceed one-half of the sum of all claims approved during the preceding four years or \$4 million, whichever is greater, the fee is waived. He said regular agreements are covered for 100 percent and that other grain is covered for 100 percent for the first \$10,000 and 80 percent for the remaining loss. He said Ohio has a 90 percent rule similar to Illinois and Minnesota. He said Ohio has two unique provisions. He said a producer who sells a commodity to a handler under a delayed-price agreement may demand security for payment in an amount equal to 100 percent of the national loan rate value of the commodity or 75 percent of the average price being paid for the commodity in this state, whichever is less. Also, he said, it is a felony for not having 90 percent of the rights in commodities as required by the 90 percent rule.

Chairman Warner adjourned the meeting at 4:25 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:1