

2011 SENATE AGRICULTURE

HCR 3040

2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HCR 3040
February 18, 2011
Job #14741

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging the Secretary of the United States Department of Agriculture to change prevented planting provisions in crop insurance policies for the purpose of providing compensation to producers affected by Devils Lake flooding.

Minutes:

Chairman Johnson, Co-Sponsor: This resolution is trying to address the situation in the Devils Lake Basin with inundated agricultural lands. It is a devastating situation. We don't have an answer on how to address the agriculture economy. This is a resolution to try to generate some revenue back to the people that own this land. We've gone from a 40,000 acre lake to an 180,000 acre lake. If preventive planting is claimed three years in a row, you are out of the program. We are trying to have the people who make the rules find some way to change the rules.

Representative Mueller: I think it is a good idea. We could potentially fix it by including some language that we could do the same for Barnes County when the Devils Lake water comes through.

Chairman Johnson: If we could have done that 10 years ago, we wouldn't be here. I'll share the story of my uncle. In his lifetime he accumulated 1260 acres and seeded 31 acres last spring. That was supposed to be his life retirement. He is at age 81.

Eric Aasmundstad, Farmer from west of Devils Lake, President of ND Farm Bureau: We will have lost 90% of our farm by this spring which has gone on over the last 17 years. We have a disaster with no compensation. We haven't asked for compensation. We just wanted to go about our business and be left alone. We know what the solution is but the government has prevented us from relieving it so it should be the government's problem. We will probably have 220,000 acres under water by this spring and another couple hundred thousand in the basin are affected by the high table that are out of production. With what the markets are doing you can gross \$400/acre. Take 220,000 acres affected by the lake times \$400/acre, that is \$88 million in lost income in 2011.

NDSU tells us that \$1 turns 3.8 times in the economy. If we do that, the State of North Dakota is shorted \$334 million in lost income annually. There isn't another community or business that wouldn't try to stop it. We've been living with it for 18 years. This is the first

time we have asked for anything. Help us change a rule in the RMA (Risk Management Agency) that has been changed once. This rule that we lose after two years hasn't always been this way. When it started we could collect prevented plant for five years. Then they went to three, now two, and will be going to one year. I am the chairman of the largest domestically domiciled insurance company in the state. The money given to the farmers is a pass through. It goes to town to the local businesses that are now suffering. When there is income coming from the land they won't get the real estate tax abatements. We have to pay more tax on the land to get some money back into the counties and townships that are broke. Every person in our township will drive through water to get to their house. We have no money to fix roads. We are not paying property tax any more. We are going to lose our community.

Bob Christman, Deputy Agriculture Commissioner: (See attached #1)

Dan Webster, Farmer in Devils Lake Basin: We started losing land in 1993. In the beginning we received water storage payments from the state. Later when it became part of the lake they quit paying water storage. Then we were getting prevented planting on it until that time ran out. Then we lost another 1,000 acres. In 2000 we lost our farmstead. Last year we had about 2,000 acres that we haven't farmed for about ten years. About half we own and half is rented from retired farmers that rely on that income. This year we will lose another 2000 acres of rented land. There is no program. The only program now is the Federal WRP (Wetland Reserve Program) program which is a 30-year program. It is not farmer friendly. They pay half the value of your land up front. They have it for 30 years. If the water goes off, you have to plant grass and spray the weeds and then the taxes will probably go back on. When you divide it out over 30 years it is not a very good program. Several years ago I met with Senator Conrad. I suggested prevent plant. At that time we were in the area where the lake was fluctuating. One year we would gain acres and then the next year we would lose acres. This seemed like a win-win. He said it was too difficult to do.

I get calls from my landlords asking what to do. The water will go down eventually. I can't imagine 50,000 acres in grass and Canadian thistle on some of the best farmland in the state.

Representative Rust: Since 1993 what is your total lost acres of land?

Dan Webster: About 2,000.

Chairman Johnson: When you talk about the WRP programs, payments are about \$690/acre. You apply to get into the program, have to get approved, Fish and Wildlife has to approve. Then you are about two years out before getting money.

Dan Webster: I put a couple of quarters in for one of my landlords. We got tied up in the state because the feds wouldn't accept the easement because the state says it wants the land that is under water. It took a year and a half to get that ironed out. We applied in 2009 and just got the money in January. It's a wildlife program. The program was originally for Devils Lake. When they wrote the rules they said anything with six feet of water or more did not qualify. That threw out a lot of the acres for the people around Devils

Lake that needed it. It went to other counties instead. This program is wildlife friendly not farmer friendly.

Chairman Johnson: Two years ago we saw the lake come up three feet, last year it came up two feet, and it is projected to come up three feet this year.

Representative Schmidt: I managed a wetland reserve program in ND from 2002-2007. I also managed a wetland reserve program for NRCS in Washington, DC in 2005. I have a wetland reserve on my farm in McClusky. I wouldn't do it again. The payment is based on the appraised value of your land. After I retired they put in a separate section of the WRP program specifically for the Devils Lake Basin. I believe this last year NRCS got about \$20 million for the program. For some reason it takes a long time to go through ownership and title searches. I agree with you. It is not farmer friendly. It is not the best game in town. My first check, 33% went to the federal government. Now I was down to \$10,000. It cost me \$3,000 to spray my weeds. Now I'm down to \$7,000. The next year I had to do it again. Then I was down to \$5,000. They have a 30-year easement on my 90 acres. I guess if it is inundated in water it is better than nothing if you can get it. But you can't.

Senator Oehlke, Co-Sponsor: It goes by the 80/20 rule now. 80% water and 20% land. Historically they can make changes in midstream to a government program. If we get the right people in the right places, I think it is possible to get that changed. We know the water is going to go down. The climatologist people have told us in the last 12 months that this wet cycle is likely to maintain for another 10-30 years. But most of their projections have been 90% inaccurate for the last 20 years. If we can give our land owners some hope with something simple like preventive plant, it will go into production again when the water goes down.

Karen Hausmann, Churches Ferry: My husband and I farm in the area. We farm for my father. In 2008 we had 90% of his farm planted. In May of 2009 there was eight feet of water behind his house. In 2009 we harvested about 1/3 of his acres. In 2010 we harvested about 20% of his acres. My husband drove through miles of water with the air seeder, sprayer, and combine. We had to buy a 30-year old combine in order to get it in there on the roads and a grain bag to be able to bag what he was able to harvest. That is still out there. All this snow has kept the ground muddy. This year there will be nothing planted there. There is an island here and there but it is inaccessible. My parents are in their 80s. Two of the others that we farm for will have nothing left. I want to impress upon you, these people are losing 100% of their acres.

Scott Thompson, Ramsey National Bank: We are a community bank. We are a \$220 million bank. We are extremely impacted. Before selling land we have to get an elevation map out. We go through a strategic planning process every year. The number one risk to our bank is the flood situation. We haven't had significant direct losses. After 20 years in Devils Lake, our customers are like family.

Chairman Johnson: One other point to stress, there are 40,000 acres of islands that you can't get to with machinery.

Scott Thompson: It is like taking two townships out of your county. We can't finance because we don't know when it will go under water.

Dan Wogsland, Executive Director of ND Grain Growers Assn.: (See attached #2) About a month ago, the ND Grain Growers went to Washington, DC. We did meet with RMA officials. There is extreme reluctance by RMA to move on these regulations. This is a positive first step in the process.

Richard Schlosser, ND Farmers Union: We stand in support of this resolution. I have used preventive plant provisions on my farm. I can't imagine two years of my land not in production.

Chairman Johnson: Thank you to everyone that came. This is affecting a lot of lives.

Opposition: None

Representative Belter: Moved Do Pass on HCR 3040.

Representative Boe: Seconded it.

A Roll Call vote was taken. **Yes: 11, No: 0, Absent: 3,**
(Representatives Schatz, Trottier, and Wrangham)

DO PASS carries. HCR 3040 will be placed on the eleventh order.

Representative Johnson will carry the bill.

Date: 2/18/2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HCR 3040

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended

Rerefer to Appropriations Place on the eleventh order

Motion Made By Representative Belter Seconded By Representative Boe

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	X	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland	X		Phillip Mueller	X	
David Rust	X				
Mike Schatz	AB				
Jim Schmidt	X				
Wayne Trottier	AB				
John Wall	X				
Dwight Wrangham	AB				

Total Yes 11 No 0

Absent 3

Bill Carrier Chairman Johnson

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

REPORT OF STANDING COMMITTEE

HCR 3040: Agriculture Committee (Rep. D. Johnson, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HCR 3040 was placed on the
Eleventh order on the calendar.

2011 SENATE AGRICULTURE

HCR 3040

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

HCR 3040
March 17, 2011
Job #15563

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging the Secretary of the United States Department of Agriculture to change prevented planting provisions in crop insurance policies for the purpose of providing compensation to producers affected by Devils lake flooding.

Minutes:

Attachments: #1, #2, #3, #4

Senator Flakoll: Meeting called to order this 17th day of March, 2011; HCR 3040 at 9:00am. Clerk take the roll.

Clerk: 7-0

Rep Dennis Johnson: District 15: Devils Lake. We are trying to bring effort for the relief to the inundated land owners in the Devils Lake basin. Many people are here to testify and share with you as to what is happening with the rising waters in the DL area. We would like to tell you what we are trying to accomplishthe federal crop insurance at one time if you collected more than 5 years in a row, you were out of the program and reduced it to 3 years, then 2 years, and possibly to looking at one year now if you collected crop insurance for preventive planting by the ineligible to collect the following year. In the immediate basin, 200,000 acres and the DL basin is 2 ½ million acres and looking upwards to 400,000 that are eligible for this preventive planting. We would like to do with this resolution is to sending it on to congressional delegation ...they have all seen it and we want to move it forward to see if there is some way we can have risk management and work with the federal crop to take another look at this to go back to '93 when this lake started to rise to see if there has been any crop planted on this acreage that they would take it into consideration of some type of preventive planting. The farmers can give all sorts of anecdotal evidence. (Examples listed.)

Curt Hofstad: District 15 (Attachment #1) It is obvious the issues and concerns we are experiencing in the Devils Lake basin. We have been enduring a flood for the past 18 years and need help. Categories of problems and how we have tried to solve the problems: Raised the roads, moved infrastructure, moved homes out of harms way, done a good job of protecting the city of DL. Second problem: infrastructure that lies outside of DL....the rural roads...it doesn't get the same attention as state and fed roads. Third problem: Inundated lands....we have 400,000 acres land that is inundated that has risen,

liquefied with no relief for the farmers. A loss of livelihood....these people have invested a lifetime in building a business and retirement that is now gone. The lake comes up 3 feet and it is gone. Our attempt is to take a vehicle which is federal crop insurance and apply it to the inundated lands. An economic analysis done by the state university (attachment #1) This will give you a feel as to how it is affecting our community and people affected by it.

Senator Heckaman; A comment on document.....there are a couple other counties that should be included on this as Towner and Nelson counties.....included in the lost yield.

Curt Hofstad: Exactly true. The report is misleading as only deals with land that is contiguous with the lake itself. It doesn't deal with all that land that has been inundated....it is about 400,000 acres.

Senator Miller; Also Welsh County

Eric Aamundstad: Devils Lake; President of ND Farm Bureau (Attachment #2) NoDak Mutual. Should be more concern with the loss of equity.

Dan Wogsland: Executive Director Grain Growers Association (Attachment #3)

Bob Christman: Deputy Department of Agriculture (Attachment #4) Representing Doug Goehring who offers his services to work with other ND state officials, the US Dept of Agriculture and Risk Management Agency, Commodity Organizations of ND to affect this.

Dan Erikstad: Farmer from Devils Lake. We need this sent to the Feds to get this implemented for us. All my money has been invested in my land, lost it all with no compensation. Support of this HCR 3040.

Darryl Vybee(?): Farmer from Church's Ferry. Felt it was important for me to testify for this bill. I farm 2,600 acres inundated that we collected crop insurance on part of it and other part not. This year estimated lake elevations...forecasting; we expect to have 3,500 acres inundated. Our economic numbers this year...it is easy to net \$200 an acre. It is a loss of \$700,000 in net revenue...it is very difficult for us. The state has been negligent in allowing these acres to be inundated...your support of this bill is a way to help us weather the storm until this water is moved out and we get out land back. We want our land back and continue our operations.

Senator Flakoll; What percentage is your total farm?

Darryl: Total land of operation is 6,300 acres.

Senator Flakoll; Your operation in recent years set up to run a 6,000 acre operation? What have you done with all the machinery that you don't need?

Darryl: We still have itin 2008, the lake dropped from 49 to 46...we reclaimed a substantial amount of land....which is helpful to us this year as that land is still eligible for crop insurance. Next year it is not. Cutting back on the machinery operation, we have not as we are still hopeful that something will happen and the outlet proposals will work and will

have the lake lowered. In 2008 we had 5,500 acres seeded.....we are set up for. If this continues, we are going to down-size cut back on employees until we can't operate any longer.

Senator Flakoll: Thank you guys for coming in.....it is not about the lake, it is about the people. We have to remind ourselveswe appreciate you coming before this group to testify.

Senator Klein; Nice graphics/photos set up on the inundated in this DL basin.

Senator Flakoll; Opposition?

Senator Flakoll; Close hearing.

Senator Heckaman; Move a Do Pass on HCR 3040

Senator Klein; Second

Senator Flakoll; Moved by Heckaman and second by Klein. Discussion? Clerk take roll.

Clerk: 7-0-0

Senator Flakoll; Passed with 7-0-0

Senator Flakoll; Senator Heckaman carries

Senator Flakoll; Adjourned

Date: 3/17/11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HCR 3040

Senate Agriculture Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Heckaman Seconded By Senator Klein

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	✓		Senator Heckaman	✓	
Vice-Chair Oley Larsen	✓				
Senator Klein	✓				
Senator Luick	✓				
Senator Miller	✓				
Senator Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Heckaman

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

REPORT OF STANDING COMMITTEE

HCR 3040: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3040 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HCR 3040

COMMISSIONER
DOUG GOEHRING



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NORTH DAKOTA
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STATE CAPITOL
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Testimony of Bob Christman, Deputy Agriculture Commissioner
North Dakota Department of Agriculture
HCR 3040
House Agriculture Committee
Peace Garden Room
10:30 am, February 18, 2011

Chairman Johnson and members of the House Agriculture Committee, I am Bob Christman, Deputy Agriculture Commissioner in the North Dakota Department of Agriculture. I am here today on behalf of Agriculture Commissioner Doug Goehring in support of House Concurrent Resolution No. 3040 - a concurrent resolution urging the Secretary of the United States Department of Agriculture to change prevented planting provisions in crop insurance policies for the purpose of providing compensation to producers affected by Devils Lake flooding.

Agriculture is the mainstay of Devils Lake and the surrounding area. As a consequence of increased rain and snow over the years beginning in 1993, the elevation of Devils Lake increased from 1422.6 feet in 1993 to 1451.7 feet today.

In 1993, the level of Stump Lake was 1395.6 feet and today it is the same level as Devils Lake. Devils Lake and Stump Lake covered an area of about 49,000 acres prior to the flooding. Today that area is about 180,000 acres. That is an increase of 131,000 acres of land underwater, or 204 sections of land, or nearly six (6) townships.

Farm operators in that region have been adversely impacted by the rising waters of Devils Lake. Their ability to get income from their farmland is diminished. There is no alternative to producing a crop on land that is under water. There needs to be a way to get dollars into the hands of farmers and ranchers in that area who have had their land swallowed up by the big lake. The encroaching waters have greatly reduced the income of farmers in that area. That has the impact of reducing sales to all businesses in Devils Lake and the surrounding areas.

An added impact to farmers is that the rural roads are already saturated and many of them impassable. With forecasts for even higher runoff and increased lake levels the situation becomes even more ominous.

Prevented planting due to excess moisture is a term for which there is precedence in federal farm programs administered by the Farm Service Agency and the Risk Management Administration. HCR 3040 would have the effect of urging the Secretary of Agriculture to find a way to use existing programs to get dollars into the hands of those farmers who are impacted by inundated land in the Devils Lake area.

Farmers would benefit from a program that pays them for their lost production due to inundated land. They need this assistance. And, the entire economy of Devils Lake and the surrounding communities will benefit from a prevented planting program. The financial situation for farmers and ranchers in the Devils Lake area is serious and it is an issue that needs to be addressed immediately.

Agriculture Commissioner Goehring strongly supports House Concurrent Resolution No. 3040 and urges your favorable consideration.

#2



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North Dakota Grain Growers Association
Testimony on HCR 3040
House Agriculture Committee
February 18, 2011

Mr. Chairman, members of the House Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear before you today on behalf of NDGGA in support of HCR 3040.

Mr. Chairman, members of the House Agriculture Committee, one cannot image the condition farmers face in the Devils Lake basin. While farmers throughout the state experience weather calamities of one type year in and year out, losing your livelihood to a rising lake that is out of control is a horror that no one can fathom. This catastrophe impacts every facet of the Devils Lake economy and beyond.

Somewhat lost in the Devils Lake saga are the actions that landowners have taken to minimize the devastation to others. Countless examples exist in the Devils Lake basin of farmers who have left their lands inundated in order to protect their friends and neighbors. In some cases farmers were somewhat compensated for their losses through the prevented plant provisions of crop insurance. While prevented plant payments didn't make producers whole, it did serve to somewhat mitigate the economic loss.

However, crop insurance regulations have changed, especially in the prevented plant arena. Revisions to the prevented plant rules coupled with the stepped up regulation of prevented plant claims by the USDA-Risk Management Agency now look to upset the delicate balance in the region of economic viability vs. community well-being. This creates a no-win situation in the basin for all concerned.

Mr. Chairman, members of the House Agriculture Committee, HCR 3040 sends a clear message to USDA that in the case of the Devils Lake basin the rules for prevented plant crop insurance must be revised to take into consideration the overall condition of the basin. This is critical to the economic well-being of the basin and its residents. While USDA has shown reluctance in the past to alter its rules, HCR 3040 puts both USDA and

Congress on notice that immediate help is needed. The continued use of prevented plant compensation will have an immediate impact on the region's economy.

Therefore the North Dakota Grain Growers Association heartily supports HCR 3040 and urges the House Agriculture Committee to give the measure a Do Pass recommendation.

#1

Agricultural Economic Impact of Devils Lake Area Flooding in 2011

This analysis quantifies the extent of lost agricultural production in the Devils Lake Basin due to rising water levels in Devils Lake and Stump Lake and the surrounding area. Non-agricultural losses or additional expenditures are not included in this analysis. The potential production that will not be produced in 2011 represents lost income to area producers as well as the region's economy. The total impact of this loss to the region is further increased in the form of indirect losses as this money is not available to be spent in other economic sectors of the economy.

Production data for the most recent five-year period, as reported by North Dakota Agricultural Statistics Service, were used in this analysis. Lost income due to increased water levels in the Devils Lake basin was assumed to be the value of the crop production that could have been produced on this acreage if it had been available to plant in 2011. Therefore, this acreage will not contribute to the economic activity in the region in 2011.

Acreage and yield data for 14 major crops grown in Benson and Ramsey counties for the years 2005 through 2009 were summarized. Average yields for the region are shown in Table 1. These yields were weighted based on the production from each county. The average percentage of acreage devoted to each crop is shown in Table 2. This crop mix is based on the sum of all acres produced over this 5-year period.

Table 1. Weighted Average Yields for Benson and Ramsey Counties, 2005-2009.

Crop	Average Yield/Acre
Barley	59.4
Corn Grain	97.9
Alfalfa Hay	1.9
Other Hay	1.7
Winter Wheat	49.2
Durum	35.4
Spring Wheat	38.2
Canola	1408.5
Flaxseed	18.2
Soybeans	27.7
Oil Sunflowers	1403.9
Conf Sunflowers	1234.5
Edible Beans	14.1
Dry Edible Peas	18.0

Table 2. Major Crops Grown in Benson and Ramsey Counties, 2005-2009.

Crop	Percent of Total Acre
Barley	13.0%
Corn Grain	9.5%
Alfalfa Hay	2.1%
Other Hay	3.5%
Winter Wheat	3.3%
Durum	1.0%
Spring Wheat	28.1%
Canola	6.9%
Flaxseed	1.7%
Soybeans	17.2%
Oil Sunflowers	2.5%
Conf Sunflowers	1.8%
Edible Beans	8.5%
Dry Edible Peas	1.0%

These estimates were prepared by Dwight Aakre and Randal Coon, Department of Agribusiness and Applied Economics, and Bill Hodous Ramsey County Extension Agent, North Dakota State University. February 2011.

The current estimate of inundated area is 163,450 acres for 2011. This acreage data is from The Devils Lake Basin Joint Water Resources Board's website. The 163,450 acres represents the acreage inundated as the lake level has risen from 1422.9 feet in 1993 to a forecasted level of 1455.0 feet above sea level in 2011. Potential lost production per year is summarized in Table 3. This table includes the average acreage of each crop, the estimated market price, and the total value for each crop. The estimated value of production that could have been produced on this acreage for 2011 is \$52,757,993. This is an estimate of the direct loss that will incur in 2011.

Table 3. Potential Lost Production per Year in the Devils Lake Basin with 163,450 Acres of Cropland Inundated.

Crop	Average Yield	Average Acreage	Estimated Price	Value Per Year
Barley	59.4	21,321	4.50	5,696,335
Corn Grain	97.9	15,487	5.00	7,584,470
Alfalfa Hay	1.9	3,427	65.00	425,201
Other Hay	1.7	5,786	45.00	431,803
Winter Wheat	49.2	5,449	7.50	2,009,731
Durum	35.4	1,622	8.50	487,364
Spring Wheat	38.2	45,917	8.50	14,914,236
Canola	1408.5	11,235	0.220	3,481,445
Flaxseed	18.2	2,760	13.00	653,204
Soybeans	27.7	28,053	12.00	9,319,860
Oil Sunflowers	1403.9	4,041	0.240	1,361,571
Conf				
Sunflowers	1234.5	2,954	0.330	1,203,384
Edible Beans	14.1	13,823	25.00	4,877,513
Dry Edible Peas	18.0	1,575	11.00	311,875
Market Value of Lost Production				\$52,757,993

Total Economic Loss

The market value of the potential production that will not be produced represents the direct loss to the region's economy. Additional losses accrue in the form of indirect loss throughout the economy. The indirect impact is the economic activity created by the spending and re-spending of the direct impacts.

Total impact on business activity in the region from both direct and indirect losses is estimated at \$194,419,000. The major losses are \$57.6 million to the crop sector, \$50.9 million to the households sector (personal income), and \$42.9 million to the retail trade sector. The remainder of the \$194.4 million loss is distributed among several other sectors of the economy.

This loss of business activity ultimately is reflected in lost jobs in the region. Employment loss is estimated at 1,150 jobs for the region.

These estimates were prepared by Dwight Aakre and Randal Coon, Department of Agribusiness and Applied Economics, and Bill Hodous Ramsey County Extension Agent, North Dakota State University. February 2011.



North Dakota Farm Bureau

Bringing ag home

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#2

Senate Ag Committee

March 17, 2011

HCR 3040 Testimony by North Dakota Farm Bureau

Good morning, Mr. Chairman and members of the committee. For the record, my name is Eric Aasmundstad. I am a farmer from Devils Lake and president of North Dakota Farm Bureau.

Since 1993 the farmers in the Devils Lake basin have been storing water on their land with no compensation. This area is experiencing an economic disaster as more and more acres of productive farmland succumb to the waters of Devils Lake and the associated rise in the local water table. North Dakota State University estimates an inundated area of 163,450 acres for 2011. This acreage data is from The Devils Lake Basin Joint Water Resources Board's website. The estimated value of production that could have been produced on this acreage for 2011 is \$52,757,993. NDSU further estimates the resulting direct and indirect losses will have an impact on business activity in the region of \$194,419,000. When the rising water table and the effect of such waters on the expansion of wetlands are considered these numbers could easily double.

Moving more water off the system is the ultimate solution to this economic devastation. However, in the interim of that happening something must be done to bring some modicum of relief to this area and the farmers who are actually storing the water.

Currently the only program to help the agriculture community and ultimately the economy of the region is the Wetlands Reserve Program (WRP). This program is not what is needed and is at best inadequate compensation for the sacrifice that has been made. Currently WRP payment is approximately \$790.00 per acre. WRP applies to land under less than 6.5 feet of water. It carries a 30 year easement and is paid in a lump sum. Currently WRP payments are at least two years out and after taxes are paid amount to less than \$12.00 per acre per year. Shortening the term of the easement will not attract a significant number of acres as the compensation will likely be reduced commensurate to the reduction in contract length. Furthermore, the distrust instilled by the United States Fish and Wildlife Service through the years in this area cannot be overcome by the local citizens.

The only efficient method to get money into the economy of this area is changes to the prevented planting rules (p. p.). The program exists today, requires a premium paid by the producer, and MPC I has had a favorable loss ratio of less than 65% in North Dakota in 2009 and 2010. These changes could put an additional \$30 million - \$50 million dollars into the economy of Devils Lake basin on a direct basis. The indirect impact on the area economy could be more than \$110 million - \$180 million.

Push back to these changes will certainly come from the Risk Management Agency (RMA). Many of the arguments that will be made revolve around the Standard Reinsurance Agreement (SRA) and the farm bill. Though one could make an argument Multi Peril Crop Insurance

(over)

(MPCI) policy provisions cannot be changed without changes to the farm bill, it is an argument that holds no water. An understanding of the basic function of the SRA is needed to understand why the p. p. provisions can change without an act of Congress.

The SRA is the contractual agreement between the companies brokering MPCI and the RMA. Technically the SRA establishes the terms and conditions, under which the Federal Crop Insurance Corporation (FCIC), supervised by the RMA as authorized in section 226A of the Federal Agriculture Improvement and Reform Act of 1996, will provide subsidy and reinsurance on eligible crop insurance contracts sold by the Company.

The SRA refers to FCIC procedures as they relate to the Loss Adjustment Manual (LAM). Within the LAM p. p. policies and procedures are outlined and described. In other words the LAM determines what p. p. eligible is, and what is not. The LAM and thus the rules and guidance of loss adjustment can be changed with the issuing of a Managers Bulletin.

To say the p. p. provisions cannot change without Congressional action on the farm bill is a false and misleading statement. Furthermore, stating the provisions cannot be changed because the companies have signed the SRA is also misleading and false. Since 1998 the farm bill has been acted on twice by the Congress, the LAM has been updated every year in that same time. The issuing of Managers Bulletins that may change the rules has occurred 286 times since 1998 and at times made the rule and procedure changes retroactive to the beginning of the crop insurance year. In the three years previous to 1998 a total of 165 Managers Bulletins were issued for a total of 451 changes or updates to the policies and procedures after the companies had signed the SRA.

Insurance company push back to this proposal should be minimal as companies have the ability to place business in The Devils Lake basin, and other high risk areas into the assigned risk fund. This assigning of risk can take place to the producer level and has no adverse effect on the producer. Companies can place up to 75% of their total book of business in the assigned risk fund ceding 75% of premium and risk back to the government. As the 75% is the percentage of the total book it is hard to imagine a company that is selling insurance in the Devils Lake basin that is carrying any of the risk associated with the inundated areas of the basin.

As we examine the effects of the additional acres covered on the North Dakota statewide MPCI loss ratio we will see less than a ten percentage point difference with the application of \$59,406,193.00. If the lesser number \$29,428,554.00 is used you will see an effect on the loss ratio of less five percent. These figures were arrived at using the 2009 loss experience for MPCI in North Dakota. 2009 was used as it was a far worse year than 2008 or 2010 in the Devils Lake basin and will likely be a worst case scenario. One has to remember many of these acres will still remain eligible so the actual numbers will likely fall somewhere in between the examples. The net effect of allowing this coverage will not determine if MPCI is profitable in North Dakota and will have negligible effect nationally.

In summary, changing the p.p. rules so land planted at least once since 1995 would be an efficient way to compensate landowners who have been devastated by storing water on their farms. There is no need to expend the time and human and financial resources needed to develop a new program for this purpose. We have been told a program that is not an easement, will allow farmers to get back on the land as it dries, and will compensate them while the land is flooded is what is needed. Changes to the p. p. rules will accomplish all of these identified needs.



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#3

North Dakota Grain Growers Association
Testimony on HCR 3040
Senate Agriculture Committee
March 17, 2011

Mr. Chairman, members of the Senate Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear before you today on behalf of NDGGA in support of HCR 3040.

Mr. Chairman, members of the Committee, one cannot image the condition farmers face in the Devils Lake basin. While farmers throughout the state experience weather calamities of one type year in and year out, losing your livelihood to a rising lake that is out of control is a horror that no one can fathom. This catastrophe impacts every facet of the Devils Lake economy and beyond.

Somewhat lost in the Devils Lake saga are the actions that landowners have taken to minimize the devastation to others. Countless examples exist in the Devils Lake basin of farmers who have left their lands inundated in order to protect their friends and neighbors. In some cases farmers were somewhat compensated for their losses through the prevented plant provisions of crop insurance. While prevented plant payments didn't make producers whole, it did serve to somewhat mitigate the economic loss.

However, crop insurance regulations have changed, especially in the prevented plant arena. Revisions to the prevented plant rules coupled with the stepped up regulation of prevented plant claims by the USDA-Risk Management Agency now look to upset the delicate balance in the region of economic viability vs. community well-being. This creates a no-win situation in the basin for all concerned.

Mr. Chairman, members of the Senate Agriculture Committee, HCR 3040 sends a clear message to USDA that in the case of the Devils Lake basin the rules for prevented plant crop insurance must be revised to take into consideration the overall condition of the basin. This is critical to the economic well-being of the basin and its residents. While USDA has shown reluctance in the past to alter its rules, HCR 3040 puts both USDA and

Congress on notice that immediate help is needed. The continued use of prevented plant compensation will have an immediate impact on the region's economy.

Therefore the North Dakota Grain Growers Association heartily supports HCR 3040 and urges the Senate Agriculture Committee to give the measure a Do Pass recommendation.

COMMISSIONER
DOUG GOEHRING



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#4

Testimony of Bob Christman, Deputy Agriculture Commissioner
North Dakota Department of Agriculture
HCR 3040
Senate Agriculture Committee
Roosevelt Park Room
March 17, 2011 9:00 AM

Chairman Flakoll and members of the Senate Agriculture Committee, I am Bob Christman, Deputy Agriculture Commissioner in the North Dakota Department of Agriculture. I am here today on behalf of Agriculture Commissioner Doug Goehring in support of House Concurrent Resolution No. 3040 - a concurrent resolution urging the Secretary of the United States Department of Agriculture to change prevented planting provisions in crop insurance policies for the purpose of providing compensation to producers affected by Devils Lake flooding.

Agriculture is the mainstay of Devils Lake and the surrounding area. As a consequence of increased rain and snow over the years beginning in 1993, the elevation of Devils Lake increased from 1422.6 feet in 1993 to 1451.7 feet today.

In 1993, the level of Stump Lake was 1395.6 feet and today it is the same level as Devils Lake.

Devils Lake and Stump Lake covered an area of about 49,000 acres prior to the flooding. Today that area is about 180,000 acres. That is an increase of 131,000 acres of land underwater, or 204 sections of land, or nearly six (6) townships.

Farm operators in that region have been adversely impacted by the rising waters of Devils Lake. Their ability to get income from their farmland is diminished. There is no alternative to producing a crop on land that is under water. There needs to be a way to get dollars into the

hands of farmers and ranchers in that area who have had their land swallowed up by the big lake. The encroaching waters have greatly reduced the income of farmers in that area. That has the impact of reducing sales to all businesses in Devils Lake and the surrounding areas.

An added impact to farmers is that the rural roads are already saturated and many of them impassable. With forecasts for even higher runoff and increased lake levels the situation becomes even more ominous.

Prevented planting due to excess moisture is a term for which there is precedence in federal farm programs administered by the Farm Service Agency and the Risk Management Administration. HCR 3040 would have the effect of urging the Secretary of Agriculture to find a way to use existing programs to get dollars into the hands of those farmers who are impacted by inundated land in the Devils Lake area.

Farmers would benefit from a program that pays them for their lost production due to inundated land. They need this assistance. And, the entire economy of Devils Lake and the surrounding communities will benefit from a prevented planting program. The financial situation for farmers and ranchers in the Devils Lake area is serious and it is an issue that needs to be addressed immediately.

Agriculture Commissioner Goehring strongly supports House Concurrent Resolution No. 3040 and urges your favorable consideration.