

Dear Representative:

As a diverse coalition of taxpayer advocates, environmental groups, and insurance interests, we write to express our concerns regarding S. 2039, a bill that would exempt the state of North Dakota from Stafford Act requirements designed to protect property, the environment, and taxpayer interests.

As currently written, the Stafford Act requires that once federal funds are used to relocate communities and buildings out of floodplains, the land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreation, or wetlands management practices. S. 2039 would allow communities that voluntarily accepted buyout funds and agreed to maintain the bought out land as open space to no longer abide by their agreements. This will negatively impact wetland protection, wildlife habitat, and water quality as well as burden taxpayers.

S. 2039 was proposed to address a circumstance in North Dakota in which temporary levees are built on land bought out under the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP) during a flood. The legislation gives North Dakota—and no other state—the ability to build permanent levees on land purchased with federal dollars and deed restricted as open space. This would allow for development on land that is restricted as a result of the buyout.

The bill undermines the purpose of the Hazard Mitigation Grant Program (HMGP). Property acquisition for open space under FEMA's mitigation programs is a commonsense flood risk management approach. Communities can choose to relocate homes and businesses that are in flood-prone areas, eliminating the risk of flooding to those structures and eliminating the need for federal taxpayers to pay for recovery every time the structures flood. The space remains deed-restricted open space to ensure that the taxpayer investment in that area is preserved. Even better, it absorbs flood waters that would otherwise flood areas downstream. These important goals are undermined by S.2039.

Federal taxpayers have already paid once to purchase the land in question, and the open space requirement ensures that the taxpayers will not have to pay disaster costs associated with this land again. While the Senate's requirement that the bill require state, local, or tribal funding of levee construction represents a slight improvement, federal taxpayers will still ultimately be on the hook for many levees. By enrolling the completed levees in the U.S. Army Corps of Engineers' (USACE) Rehabilitation and Inspection Program, local partners are eligible for the 80% federal share of future rehabilitation and repair costs.

We are also concerned that in the long run, S. 2039 will unintentionally result in harm to unsuspecting North Dakota communities by encouraging more development behind the constructed levees. In addition, flood waters have to go somewhere and, since North Dakota alone will be able to build new levees, flooding may occur in other areas.

FEMA's HMGP buyouts occur most often in deep floodplains, right next to the rivers because these areas receive the heaviest damage to structures. These portions of the floodplains are incredibly valuable for the multiple environmental benefits in addition to their ability to convey and store

floodwaters naturally. They also help to clean water and provide areas for recreation, fishing, hunting, and wildlife habitat. In addition, communities that allow room for rivers and protect their floodplains are more resilient to the next flood and often recover more quickly from a flood event.

S. 2039 would only benefit communities in North Dakota; however, it sets a dangerous precedent for undermining mitigation elsewhere.

We understand the challenges North Dakota and other states and communities face as they attempt to recover from floods. However, we do not believe S. 2039 is the solution. A Memorandum of Understanding currently exists between the USACE and FEMA that allows these agencies to provide limited exemptions on buyout land for certain circumstances. Nearly any difficult circumstance could—and should—be addressed through this process rather than by undermining the entire purpose of HMGP.

Sincerely,
SmarterSafer.org

MEMBERS

Environmental Organizations

American Rivers
Ceres
Defenders of Wildlife
Environmental Defense Fund
National Wildlife Federation
The Nature Conservancy
Republicans for Environmental Protection
Sierra Club

Consumer and Taxpayer Advocates

American Consumer Institute
American Conservative Union
Competitive Enterprise Institute
Less Government
National Taxpayers Union
R Street

Insurer Interests

Association of Bermuda Insurers and Reinsurers
National Association of Mutual Insurance Companies
National Flood Determination Association
Reinsurance Association of America

Housing

National Leased Housing Association

ALLIED ORGANIZATIONS

Association of State Flood Plain Managers

Friends of the Earth

Institute for Liberty

National Fire Protection Association

Taxpayers for Common Sense