

Chairman Johnson and members of the committee my name is Rich Wardner, Senator from District 37. I am here today to testify in support of Senate Bill 2208, which has now been turned into a study. The following comments are in full support of the study and the hopeful resolution of issues our state has regarding water. I believe this study is not the end of the discussion, but rather the beginning of new conversations and a better understanding of water board issues.

- ❖ The language on snagging and clearing of drains was restored to the original language
- ❖ Replaces the State Engineer with a panel of three State Water Commissioners appointed by the Governor to deal with appeals and complaints by landowners.
- ❖ “Benefits” are the component which special assessments pay the cost of improvement rest, and to be defined as whatever will increase the value of the parcel. As drainage projects affect a particular tract of land, will be held to include “increase in value, either by relieving it of some burden, or by making it more adaptable for the purpose for which it is used.” For purposes of this chapter, benefits of each tract will need to be quantified in terms of dollars and cents. For without it, no other measurement can test if costs of project exceed benefits for special assessments to be utilized. As to the end that drainage assessments may be more firmly established upon true principles, benefits accrued will be evaluated in dollars and cents and that costs of the project must be apportioned according by such benefits.
- ❖ “Right of ways” are deemed a corridor for the public and are deeded to or taken by assessment districts will not be subject to special assessment maintenance levy.
- ❖ High land cannot be assessed for the drainage of lower land or drainage from them merely by reason of waters coming from higher land unless the higher land has been artificially changed to increase water flowing from it.
- ❖ All benefited properties must be considered and included in the consideration of proportion of the total cost as not to harm all other benefited parcels.
- ❖ “This process, once initiated, must conclude within two years or cease assessments on drain until done.”
- ❖ The Board shall provide county auditor all documentation necessary annually such that the auditor before applying special assessments can ensure the Board hasn’t accumulated more than six years in any drain fund.
- ❖ The Board shall provide county auditor all documentation necessary such that the auditor can make independent determination before applying special assessments can ensure the Board has not obligated drain fund for project in excess.
- ❖ For purposes of complying, the cost of the project is before any cost -share by any participating agencies and the cost means probable construction cost of such project being considered. The total six -year assessment levy sum is tallied without adding to it prior year’s accumulation of unspent levies or borrowing intended to finance project.

- ❖ Before a board may obligate a drain for a project under the six- year limitations, the Board must provide county commissioners documentation of need and necessity of public purpose and all documentation showing compliance thereof. Only after may the board proceed on such project, maintenance or improvement, without landowner participation of affirmative vote.
- ❖ Should a Board divide a project into separate phases, the project cannot be divided into programs to avoid the six –year assessment limitation prescribing landowner notice, hearing and affirmative vote.
- ❖ In order to insure public confidence, the Board shall first consult the County States Attorney for legal advice and only after such States Attorney divest that office’s interest, the Board then can pursue legal advice the Board deems necessary.
- ❖ In order to insure public confidence, the Board should first consult the County Engineer, if one exists, for services before procuring such non-county services. If the Board retains such an engineer or technical experts, for any projects that demand public bidding, engineering services for such projects will also be subject to request for proposals for engineering services
- ❖ Landowners within 10 miles downstream of drain outlet shall be provided notice and afforded a hearing.
- ❖ This process, including alternatives, must include a cost verses benefit analysis done in dollars and cents.
- ❖ The course on water management will be conducted by staff of the Office of State Engineer at least once per calendar year.
- ❖ The Office of State Engineer will validate each water board member’s attendance of such course and submit the record of attendance to each respective County Auditor.
- ❖ Should more than three months elapse beyond appointment or three years since last attendance of such course, the member shall not vote on water board business and not collect salary.
- ❖ Each January, the County Auditor shall report to County Commissioners the compliance record of attendance of such course where if member’s delinquency will obligate the County Commissioners to remove that water board member and replace with a new member.
- ❖ The notice of appeal must be filed with the clerk of the court within thirty days after the date of publication of the decision of the local governing body. A copy of the notice of appeal must be served on the local governing body in the manner provided by rule 4 of the North Dakota Rules of Civil Procedure. Publication shall be the entity’s official newspaper. If publication is not required, then 60 days shall be the period.
- ❖ The Auditor shall prepare computations for each fund, general or special, and submit detailed report to county commissioners indicating the compliance to 75% limitation has been met on each fund.

- ❖ “Water resource districts which meet the audit requirements shall issue separate, standalone audited financial statements at least once every two years. This requirement applies regardless of whether the water resource district meets the requirements to be audited as a component unit of a county or other political subdivision under applicable accounting standards.”