

Concerns with amendments to S.B. 2037:

- Section 7 of the bill endorses the economic analysis process developed under section 61-03-21.4, which is known to have flaws as a tool for determining benefits to individual parcels within the proposed assessment district. The DWR has expressed commitment to work on improving the economic analysis tool for determining benefits, in dollars, to individual parcels. Those tool corrections should be developed and implemented, with stakeholder input, before the process is legislatively endorsed, even if the endorsement is permissive. The amended bill still allows for appeals to the DWR who may correct assessments subject to Section 7 of the Act.
- We are also concerned that the reference to a specific tool in the bill will create the perception to those opposed to assessment projects that if the water resource board used the analysis in section 61-03-21.4, the results would have been more favorable to them, which may not be the case.
- Section 7, paragraph 2 of the bill does not recognize benefits to property that is responsible for increased sedimentation in downstream areas of the watershed and property that is responsible for increased project maintenance or the need for increased project capacity because of alterations to natural drainage or modifications to property that accelerate the drainage of water. This is counter to the longstanding policy in ND that upstream landowners and districts that have artificially altered the hydrologic scheme must share with downstream landowners the responsibility of providing or proper management and control of surface waters.
- Although Section 7, paragraph 2 of the amended bill appears to create a \$1m threshold for prohibiting projects where the estimated costs exceed the estimated benefits, in dollars, the prohibition will actually apply to all assessment projects. The cost-versus-benefit analysis in the bill eliminates the power of the local landowner vote.