2025 HOUSE ENERGY AND NATURAL RESOURCES
HB 1218

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 1/30/2025

Relating to comprehensive water development plans.

9:26 a.m. Vice Chairman Anderson opened the hearing.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak, Representatives Dockter, Headland, Heinert, Johnson, Marschall, Olson, Ruby, Conmy, Foss

Members Absent: Representative Hagert

Discussion Topics:

- Rural drainage programs
- Cost of North Dakota water development plans
- North Dakota projects cost benefit analysis

9:26 a.m. Representative Cynthia Schreiber-Beck, North Dakota Representative for District 25, introduced the bill and provided testimony #32613.

- 9:28 a.m. Kurt Lysne, Board Member of the ND Waters Users Association, testified in favor and provided testimony #32732.
- 9:33 Dennis Reep, Board Member, North Dakota Water Resource Districts Association, testified in favor and provided testimony #32733.
- 9:39 a.m. Justin Johnson, Richland County Water Resource District, testified in favor.
- 9:40 a.m. Luke Siemieniewski, Chair, Richland-Sargent Joint Water Resource District, testified in favor and provided testimony #32660.
- 9:43 a.m. Dan Wogsland, North Dakota Grain Growers Association, testified in favor and provided testimony #32719.
- 9:44 a.m. Lesley Icenogle, North Dakota Corn Growers Association, testified in favor and provided testimony #32789.
- 9:45 a.m. Perrell Grossman North Dakota Soybean Growers Association, testified in favor and provided testimony #32916.
- 9:47 a.m. Lance Gaebe, Policy Strategist for North Dakota Farmers Union, testified in favor and provided testimony #32853.
- 9:50 a.m. Dr. Duane Pool, Natural Resource Economist at the Department of Water Resources, testified in opposition and provided testimony #32471.

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10:00 a.m. Michael Anderson, North Dakota State Water Commissioner, testified in opposition and provided testimony #32925.

Additional written testimony:

Levi Otis, Ellingson Companies, submitted testimony in favor #32816

John Quandt, Quandt Farms, submitted testimony in favor #31910

Jason Lovas, Traill County Water Resource District, submitted testimony in favor #31958 Robert Thompson, Water Manager for Farmer and North Cass Water Resource District, submitted testimony in favor #32619

Jessica Spaeth, Secretary-Treasurer at rail County Water Resource District, submitted testimony in favor #32638

Clifford Issendorf, Chair of Bottineau County Water Resource Board, submitted testimony in favor #32716

Brian Vculek, Farmer in Crete, North Dakota, submitted testimony in favor #32717

Brent Baldwin, President and Farmer at Red River Valley Sugarbeet Growers Association, submitted testimony in favor #32727

Ken Lougheed, Chairman of North Cass Water Resource District/Cass County Joint Water Resource District, submitted testimony in favor #32814

Representative Jared Hagert, North Dakota Representative for District 20, submitted testimony in favor #37600

Geoff Simon, Western Dakota Energy Association, submitted testimony in opposition #32864

10:15 a.m. Chairman Porter closed the hearing.

Wyatt Armstrong for Leah Kuball, Committee Clerk

HB 1218

Quandt Farms approves of HB 1218 as this will cut costs associated with Drainage Projects that are under 5 million dollars due to the time frame for the DWR to get this process done.

This also overloads DWR personnel which they cannot get their work done already in a time efficient manner and this should be done locally under the direction of the local WRD's which will be a lot better analyses.

Thanks John Quandt

January 27, 2025

Re: Support for HB 1218

From: Jason Lovas, Traill County Water Resource District

I am writing to express my support for HB 1218. This bill would eliminate the burdensome and costly economic analysis for smaller projects. Please make water drainage for our patrons more streamlined and efficient.

Jason P Lovas



Testimony in Opposition of
HB 1218
House Energy & Natural Resources
January 30, 2025

TESTIMONY OF

Dr. Duane Pool, Natural Resource Economist, Department of Water Resources

Chairman Porter, and members of the House Energy and Natural Resources Committee, I am Duane Pool, Natural Resource Economist for the Department of Water Resources (DWR). I'm here today to provide testimony in opposition to House Bill (HB) 1218, which pertains to increasing the total cost threshold for flood protection and water conveyance projects subject to Economic Analysis (EA) when applying for DWR Cost-Share Program assistance.

For some background regarding the EA process and requirements, in 2017, the 65th Legislative Assembly passed House Bill 1020 – the budget bill for the agency that was then called the State Water Commission. Section 21 said the State Engineer shall develop an economic analysis process for water conveyance and flood-related projects expected to cost more than \$1 million. It also said when the Commission is considering funding for one of the aforementioned types of projects, that the State Engineer would provide the results of an EA for Commission consideration.

After a lengthy public process to establish an EA calculation tool and guidelines, and after beginning to implement statutory EA requirements for water conveyance and flood-related projects with a total cost of at least \$1 million during the 2019-2021 biennium, Water Commission members began to appreciate having the results of EAs in their decision-making related to project reviews.

As we all know, not all projects are created equal. Thus, knowing the state's expected return on these investments, before making a decision to commit tax dollars, is viewed by DWR and Commission members as a good thing. That is, after all, the fundamental purpose of EA – to calculate the ratio of benefits returned to those investing in a project, compared to the overall costs of the project. In short, for every dollar of cost, is there at least one dollar of benefit when looking at projects in their entirety? With that in mind, the Commission began discussing the possibility of reducing the threshold of the total cost to a lower level during the summer of 2019.

At that time, and in cooperation with the Interim Legislative Water Topics Overview Committee, Legislative Council was asked by the Committee Chair to weigh in on the Commission's ability to require EA for projects with a total cost of less than \$1 million. Legislative Council reported back that the Commission does have that authority – so long as the minimum statutory threshold is met. In December 2019, the Water Commission approved \$200,000 as the new total project cost threshold for EA to be conducted. The threshold remains at that level today.

The purpose of HB 1218 is to establish a total cost threshold for flood control and water conveyance projects "only for those expected to cost more than five million dollars." This would mean only those projects with a total cost of five million or more could be reviewed with EA, and the Commission's decision to establish a lower threshold (currently at \$200,000), would no longer be an option.

To put this proposal into perspective in terms of projects that have come before the Commission for cost-share consideration, since 2017, 50 projects have been required to conduct EA. Had the EA threshold been set at five million, only 3 of those 50 would have been required to submit the results of an EA.

Again, the very reason the Water Commission has set a lower threshold than what is minimally required in Century Code, is because the members appreciate the best available information in hand when allocating state tax dollars to projects. In a time where competition among projects for finite state resources is only growing, it is more important than ever to ensure state investments are made as thoughtfully as possible.

As the discussions related to this issue are covered over the course of considering HB 1218, you will likely hear a common point that is meant to support this bill. You will hear that state-required EAs are not necessary because local sponsors have voted to assess themselves, which is a demonstration that it is a beneficial project, and their positive vote should count as the economic analysis. First, not all projects get voted on at the local level. Second, a decision to pay for something does not replace a traditional objective analysis of economic efficiency (more benefits than costs). Third, and most importantly, the sponsors approaching the DWR and Commission for cost-share are not paying for the total cost of the project themselves, but are in fact, asking the state to assist with public funds. It is that very reason

that the Legislature back in 2017 established EA requirements – to ensure that when the state is being asked to financially participate, that those state investments were being made thoughtfully, and in a way that provides more consideration to projects that have demonstrated little return on investment compared to their total cost.

You might also hear the EA calculation tool is biased to the detriment of rural projects, and that it does not take into account all conveyance-related benefits, including the capture of higher commodity prices. The largest contributing benefit of the DWR EA tool for rural drainage is the model easily returns positive rates of return when the project in fact brings more acres into production under the designed events. This is the purpose of rural drainage, and the model reflects this goal.

In addition, chasing constantly changing commodity prices requires picking a snapshot in time whether it is over or under projecting future benefits and can lack objectivity. In the tool developed by DWR, we use decades of indexed crop damage payments to estimate the avoided damages as demonstrated in each county by the insurers and reinsurers. These are updated regularly. This avoids the propagation of errors from soils and productivity models and goes directly to the damage claims which are the intent of those models to estimate.

Mr. Chairman, and members of the committee, in the interest of meeting taxpayer expectations that government is being as thoughtful as possible when allocating public funds, the implementation of EA just makes sense. Setting the EA threshold at five million dollars or more will mean that most projects submitted for cost-share will not be allowed to complete EAs. This would be unfortunate. DWR's EA tool is the best option available to ensure that when the state is asked to invest in local projects, investment decisions are supported with the results of objective quantitative analysis. For that reason, we respectfully request that HB 1218 not move forward, and that you vote no on this bill.

Mr. Chairman, and members of the committee, this concludes my testimony in opposition to HB 1218, and I will stand for any questions you might have.

HOUSE BILL NO. 1218

Energy & Natural Resources Committee Hearing

January 30, 2025 9AM

Chairman Porter

Reason for HB1218 as related to rural projects, impacting production agriculture, that exceed a project cost of \$200,000:

- At the local level, those affected have already voted to proceed with the project, knowing the increased cost per acre and recognizing the benefit
- The economic analysis for flood control and more so for water conveyance projects in rural areas does not take into consideration the benefits to production agriculture (i.e.: crop prices / yields / crop loss)
- Because the economic analysis does not take all factors into consideration, the department of water resources cost share % is often reduced
- The reduction in cost share increases the cost at the local level, which is not affordable, thus the projects do not occur
- The department of water resources economic analysis process slows the process and is costly

Due to the above reason, the bill raises the economic analysis threshold for projects that exceed a project cost of \$5 million.

Those who follow in support of HB1218 will provide additional facts with figures that support raising the threshold to \$5 million.

I am requesting your favorable consideration of HB1218.

To: House Energy and Natural Resources Committee

From: Robert Thompson

Member, North Cass Water Resource District Member, Elm River Joint Water Resource District

Former Member, North Dakota State Water Commission -- 24 Years

Date: January 29, 2025

Subject: Do Pass on House Bill 1218

Ken McIntyre, originator of the first "Water Management Board," now the Rush River Water Resource District, contended that water needs to be managed. Ken stated that if you don't drain, you can't farm. Farming practices require 10 to 13 trips over the field each year. That is true management. HB 1218, on the other hand, seeks to address micro-management.

The State Water Commission did not have "Economic Analysis" in our time because micro-managing agriculture was not fair to the farmers. The "Economic Analysis" process is micro-management that seems eerily similar to federal interference. The "Economic Analysis" process seems designed to impede cost-share for drainage projects, cost-share that can help farmers who need drainage.

If you don't drain, you can't farm.

Please pass HB 1218



Traill County Water Resource District 102 1st St SW · PO Box 10 Hillsboro, ND 58045

January 29, 2025

Subject: Support for House Bill 1218

Dear Chairman Porter and Members of the House Energy and Natural Resources Committee:

I am writing to express my strong support for House Bill 1218, as amended. By raising the Economic Analysis process threshold to \$5 million, HB 1218 will have a significant and positive impact on drainage and flood protection projects across the state. This change will provide more cost-share dollars for important water projects, reduce project and cost-share delays, and lower the financial burden on landowners who rely on these projects. Ultimately, this bill will lead to substantial cost savings for landowners and agricultural producers and will reduce the need for higher taxes or assessments on landowners who rely on drainage and flood protection projects.

Passage of HB 1218 is a necessary step in streamlining the funding process, ensuring that vital water management projects move forward efficiently, and delivering cost-effective solutions to North Dakota's landowners. Passage of HB 1218 will demonstrate the Legislature's strong support for the ag community and will send a clear message that North Dakota rejects unnecessary bureaucracy, in favor of landowners, farmers, and ranchers.

I respectfully urge a DO PASS on HB 1218.

Sincerely,

Jessica Spaeth Secretary-Treasurer

Traill County Water Resource District

Phone: 701.636.5812 Email: tcwrd@co.traill.nd.us

Testimony of Luke Siemieniewski House Energy and Natural Resources Committee HB 1218

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Luke Siemieniewski and I serve on the Richland-Sargent Joint Water Resource District. I appreciate the opportunity to appear before you today, in support of SB 1218.

The Richland-Sargent Joint Water Resource District owns and operates Richland-Sargent Drain No. 1, the "RS-1 Drain," a legal assessment drain that provides important drainage and flood protection benefits for ag producers in both Richland County and Sargent County. Our Joint Board has been working with area landowners and producers over the last several years to improve the RS-1 Drain, to upgrade the Drain to meet current drainage standards and to meet the needs of landowners and producers. The "Economic Analysis" process has absolutely hindered the Joint Board's efforts to provide the drainage landowners need and have requested; the process has resulted in delays and extra engineering costs, with the potential for reduced cost-share dollars overall. We do not believe the State Water Commission's "Economic Analysis" formula accurately captures drainage benefits. More importantly, the application of the "Economic Analysis" requirement adversely impacts the ag community.

Initially, following input from local landowners, the Joint Board planned to improve 3.5 miles of the RS-1 Drain, including channel improvements and road crossing improvements to meet Stream Crossing Standards. The Joint Board's engineer completed the State Water Commission's "Economic Analysis" to accompany the Joint Board's cost-share request to the Commission. The benefit-to-cost ratio for the 3.5-mile project was less than 1.0, under the Commission's E/A formula. Therefore, under the Commission's cost-share policy, the eligible cost-share for the project was reduced. With that reduction, the RS-1 assessment district could no longer afford the 3.5-mile project. So, the Joint Board had to consider other project options, and, again, the Joint Board sought landowner input.

After running multiple scenarios the Joint Board's engineer estimated that the RS-1 assessment district could afford a 1.8-mile project, even though the "Economic Analysis" for a 1.8-mile project

would only be 0.2 under the Commission's E/A formula. In other words, the local landowners would have to pay a much higher percentage of project costs, without cost-share. Alternatively, if the project was 4.5-miles long, the "Economic Analysis" for the project would be 2.0 but, unfortunately, the local cost would exceed the local funding limits of the RS-1 assessment district. Landowners in the area were opposed to paying additional assessments, assessments they would not otherwise have to pay if the State Water Commission's "Economic Analysis" truly recognized drainage benefits.

Ultimately, following discussions with landowners, the Joint Board decided not to pursue a small project with minimal cost share. Over the last eight months the Joint Board has met with landowners to discuss project options, and to determine if there is a path forward that landowners support. Landowners have voiced their frustration that the "Economic Analysis" process has delayed the project and has, in their view, unfairly reduced eligible state cost-share for a project they desperately need. Several landowners have referred to the SWC's "Economic Analysis" process as "arbitrary." More than anything, people are frustrated that the State seems to be following the lead of the federal government, requiring more process, more bureaucracy, all at the expense of farmers and ranchers. At this point, the "Economic Analysis" has cost us several months in delays; we have had to spend additional landowner dollars having our engineer examine additional projects that might score higher under the Commission's "Economic Analysis," and we are still spinning our wheels because landowners and ag producers want to ensure they get the drainage they need but without unnecessarily spending more of their tax dollars.

This is a relatively small project, with relatively low cost for the State, but it is a project that landowners absolutely need, yet the "Economic Analysis" process has resulted in more costs and delays. We appreciate the State's willingness to provide cost-share for important water projects, but the application of the "Economic Analysis" process has really become an unnecessary obstacle to small drainage projects. We understand the State's desire to ensure your cost-share dollars are going towards meaningful projects. However, the "Economic Analysis" process has unfairly resulted in delays, more project costs (at the expense of landowners), and less cost-share dollars for important drainage projects.

If the Legislature is willing to raise the "Economic Analysis" threshold to \$5M, and prohibits any reduction of that threshold by "policy," that would ensure the State can protect its investment in large projects. More importantly, passage of HB 1218 would signal to the ag community that the Legislature supports farmers and ranchers and rejects unnecessary bureaucracy. If the State wants to invest cost-share dollars in important water projects that will help producers, we strongly encourage a DO PASS on HB 1218.

BOTTINEAU COUNTY WATER RESOURCE DISTRICT

WRITTEN TESTIMONY IN SUPPORT OF H.B. 1218

Before the House Energy & Natural Resources Committee

Dear Chairman Porter and Members of the House Energy and Natural Resources Committee:

My name is Clifford Issendorf. I am a farmer, landowner, and am the Chair of the Bottineau County Water Resource Board. I write to express my personal support, and the support of the Bottineau County Water Resource Board, for H.B. 1218. We urge you to consider the important benefits this bill will bring to our communities.

As a local water resource board, we are deeply involved in the planning and implementation of water conveyance and flood control projects, ranging from small-scale initiatives to larger, more complex ones. We know firsthand how essential these projects are for the safety and wellbeing of the people we serve, particularly in rural areas like ours. These projects not only address flooding and water management issues but also protect vital infrastructure and agricultural land that our economy relies on.

While we fully understand the need for careful oversight of public funds, we believe the economic analysis (EA) tool required by the State Water Commission (SWC) for funding decisions, especially for smaller projects, presents unnecessary challenges. Specifically, we support the view that the state's economic analysis should be focused primarily on larger projects—those with a total cost of \$5 million or more. This would allow the SWC to streamline decision-making for smaller projects that still provide substantial benefits to local communities.

The Bottineau County Water Resource Board, along with many other water resource districts across the state, believes that the benefit-cost (BC) ratio derived from the EA tool has become a disproportionate factor in determining the feasibility of projects. While the tool was originally intended as one element of a broader decision-making process, in practice, the State Water Commission often places overwhelming weight on the BC ratio, reducing the cost-share for projects when the ratio falls below 1:1. This has created significant hurdles, particularly for projects of smaller scale that are still essential for local residents.

Additionally, when compared to federal agencies like the Natural Resources Conservation Service (NRCS), which incorporates a wider array of non-monetized benefits in their analysis, the state's EA approach can feel overly narrow. NRCS evaluates a project's environmental, societal, and other intangible benefits—factors that often cannot be captured in a simple cost-benefit formula

P.O. Box 268 Bottineau, ND 58318 https://w	/ww.bottineauco.com/water	Clifford Issendorf,	Chair: 701-228-4070
Jennifer Malloy, Engineer 701-323-3950	Kale R. Van Bruggen, Genera	l Counsel/Secretary	y 320-251-6700

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but are equally important. The state's reluctance to consider these broader impacts limits the full understanding of the benefits that water resource projects can deliver.

Local water resource districts like ours are committed to effective and responsible management of water resources, and the state's cost-share assistance plays a crucial role in making these projects happen. The idea that our water districts would pursue projects without tangible benefits for our communities is simply not realistic. Our projects are initiated at the request of local landowners and often serve the interests of agricultural producers, who rely on the successful implementation of flood control and water conveyance solutions.

For smaller projects, especially those under \$5 million, the cost and effort required to conduct an EA often outweigh the benefits derived from the analysis. The time spent gathering the necessary data, completing the worksheets, and addressing additional requirements delays projects and adds unnecessary costs. For the rare project where the EA analysis doesn't fully recognize benefits and the outcome is a ration of less than 1:1, the project is not stopped. Rather, the tax burden is shifted from the state back to local landowners. For many projects, the question arises: at what point does the effort to complete an EA outweigh the project's overall benefit? Does the state require an EA of all state expenditures of \$200,000 or less?

We also face similar challenges with rural bank stabilization projects. The SWC's cost-share guidelines often only approve funding for projects that protect public infrastructure, such as roads, which can lead to underestimating the full value of these projects. For instance, the costs associated with detour routes during road closures do not account for the impacts on agricultural producers, who may face severe disruptions during planting or harvest seasons. Similarly, additional hydraulic modeling and geotechnical analyses required by the EA process often provide little value to the design of the project but add significant cost and complexity.

Ultimately, the state's EA process, while well-intended, often becomes a roadblock to getting much-needed projects completed in a timely and cost-effective manner. We urge you to support HB 1218 to ensure that the focus of state funding is on projects that truly benefit our communities, without being held up by excessive and sometimes unnecessary bureaucratic hurdles.

Thank you for your consideration.

Clifford Issendorf Chair, Bottineau County Water Resource Board

P.O. Box 268 | Bottineau, ND 58318 | https://www.bottineauco.com/water | Clifford Issendorf, Chair: 701-228-4070 Jennifer Malloy, Engineer 701-323-3950 | Kale R. Van Bruggen, General Counsel/Secretary 320-251-6700

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Testimony in Favor HB 1218 House Energy & Natural Resources Committee January 30, 2025

Chairman Porter and members of the Committee,

My name is Brian Vculek, and I am from Crete in Sargent County. I am writing to encourage a do pass on HB 1218, which proposes increasing the cost threshold for projects requiring Economic Analysis with the Department of Water Resources.

Raising the requirement for Economic Analysis from \$1 million to \$5 million will help save money and reduce tax assessments for landowners impacted by drainage and flood protection projects. As a farmer, I view drainage as a great way to improve land and increase economic development in my rural community. Properly drained fields increase production, reduce crop loss, and allow production of potatoes and other high-value specialty crops.

I trust local Water Resources Boards to develop, manage, and analyze projects costing below \$5 million. State overview can have its place, but I feel the current limit is too low, adding unnecessary cost and project delays. For these reasons, I encourage the Committee to vote in favor of HB 1218. I appreciate the Committee's time and the opportunity to comment.

Sincerely,

Brian Vculek



North Dakota Grain Growers Association Testimony in Support of HB 1218 House Energy Natural Resources Committee January 30, 2025

Chairman Porter, Members of the House Energy and Natural Resources Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association. NDGGA appears here today in support of HB 1218.

NDGGA supports HB 1218 and its proposed amendments to the comprehensive water development planning process in North Dakota. As an organization representing wheat and barley producers across the state, we recognize the critical importance of effective water management for our agricultural industry and rural communities.

This bill makes two key improvements:

- 1. It raises the threshold for requiring life cycle and economic analyses from \$1 million to \$5 million for major water projects. This change will allow the State Water Commission to focus its resources on truly significant projects while reducing unnecessary bureaucracy for smaller, more routine water developments.
- 2. It directs the Commission to develop policies for hosting planning meetings within each of North Dakota's major drainage basins. This basin-level approach will facilitate greater local input and prioritization of water projects, ensuring that the unique needs of each agricultural region are properly considered.

Water is the lifeblood of North Dakota agriculture. By improving the planning process, HB 1218 will help ensure we are making wise, forward-looking decisions about water infrastructure investments that support our farming communities and the state's agricultural economy. Therefore, Chairman Porter, Members of the House Energy and Natural Resources Committee, the North Dakota Grain Growers Association respectfully requests a Do Pass recommendation from the Committee and would hope that the full House concur.



1401 32nd Street SW • Fargo, ND 58103 • Phone: 701-239-4151 • Fax: 701-239-4276

email: information@rrvsga.com

January 29, 2025

Chairman Porter and members of the House Energy and Natural Resources Committee,

My name is Brent Baldwin and I am a farmer and President of the Red River Valley Sugarbeet Growers Association. Thank you for the opportunity to submit testimony in support of HB 1218.

Water resource districts are the local sponsors of many water conveyance and flood control projects of a variety of sizes. We believe these projects, large and small, provide real benefit farmers. While we recognize the importance of ensuring appropriate use of public funds, we believe that the economic analysis required for water conveyance and flood control projects by the State Water Commission should be limited to large projects.

The economic analysis tool does not take into account non-monetized benefits in considering overall benefits a project may generate. As farmers, we've seen where and when the water is located, and sometimes we work on a project that will benefit in the near future, even though there may not appear to be economic benefits at the time the economic analysis is conducted.

Our water resource districts are committed to managing water resources responsibly, and state funding is critical to making some of these projects happen, regardless of size. Most often it is the farming community who petitions to have projects developed in the first place.

Of particular example is regarding bank stabilization projects. The current State Water Commission's cost-share policy stipulates that cost-share assistance will only be approved for bank stabilization projects that protect public infrastructure. In our rural areas, this often means that protecting rural roads are the only benefits that can be captured under the economic analysis required by the policy. As an example, the current economic analysis does not take into account the substantial financial and time impact that even a brief detour can have on farmers. When we have to go even just a couple miles around to get to a field because the shoulder is no longer strong enough, it may mean the difference of getting a quarter planted or not before a rain comes.

We believe that raising the EA threshold from \$1 million to \$5 million would result in more cost-share dollars for Water Resource District projects, fewer delays and save money in the long run. We ask for your support on HB 1218 in providing a DO PASS recommendation.

Brent Baldwin St. Thomas, ND President – Red River Valley Sugarbeet Growers



DEDICATED TO PROTECTING, DEVELOPING, AND MANAGING NORTH DAKOTA'S WATER RESOURCES

PO Box 2254, Bismarck, ND 58502-2254

701-223-4615 • 701-223-4645 (Fax)

HB 1218 Testimony of Kurt Lysne House Energy and Natural Resources Committee

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Kurt Lysne. I serve on the North Dakota Water Users board and am an engineer, working on a regular basis with water resource districts in the Red River valley. I rise today in support of SB 1218. The North Dakota Water Users Association is the statewide member organization that advocates for adequate water funding and sound policy at both the state and federal level. Our members oppose the economic analysis process mandated as a condition to cost-share for water conveyance and flood control projects, at least under the current process and implementation.

This process was initially sold as a tool for the state to determine what the state will get in return for its investment in drainage and flood protection projects. We absolutely do not object to that concept. Determining whether or not the state's investment is worthwhile is a rational and wise approach. However, in practice, the economic analysis process, modeled after federal procedures and regulations, results in less state funding for eligible drainage projects. Ag producers rely on drainage as a lifeline; less state support for drainage just shifts the burden for paying for these projects to producers through high special assessments. Because of the small population in these rural areas the local burden is often too great for producers and fewer projects get done. All of this costs the ag community greatly.

When the legislature first approved this economic analysis process in 2017, the process was only intended to apply to flood control and water conveyance projects over \$1 million. Please note that \$1M was a negotiated threshold. (The initial version of HB 1374 in 2017 set the threshold at \$750,000, which was amended to \$1,000,000 in the Senate). During the legislative process in 2017, the sponsors of the legislation assured water resource districts that there would not be delays or added costs to projects, and that SWC cost-share dollars would not be at risk for projects otherwise eligible for cost-share.

In 2019, the State Water Commission, via SWC policy, reduced the threshold from \$1M to \$200,000. The State Water Commission also enacted a policy to reduce funding for projects when the cost/benefit score is underneath 1. In practice, the implementation and application of the economic analysis process has resulted in cost-share delays, increased costs for drainage project sponsors and the state, and, ultimately, a reduction in overall cost-share for drainage projects, contrary to the assurances made during the legislative process.

I want to be clear, the SWC's economic analysis can be a useful tool to help inform good decision making. Requiring the E/A for only large-scale projects, to ensure the state's dollars will result in a meaningful return on investment, makes good sense in terms of protecting the state's investment.

The State Water Commission's cost-share policies allow cost-share for drainage and flood protection projects; yet the Commission's reduction in the E/A threshold to \$200K has created obstacles and resulted in substantial reductions in cost-share for drainage and flood control

projects for rural and ag communities. We know the North Dakota Legislature wants to support rural and ag communities, and HB 1218 presents an opportunity for the Legislature to do just that.

For these reasons, we ask for a do pass recommendation on HB 1218. I would be happy to stand for any questions you may have.

North Dakota Water Resource Districts Association

JACK P. DWYER, EXECUTIVE SECRETARY 701-730-5469 (c) • jack@ndwaterlaw.com

P.O. Box 2254 • Bismarck, North Dakota 58502 701-223-4615 (o) • staff@ndwater.net

HB 1218 Testimony of Dennis Reep, WRDA Board Member House Energy and Natural Resources Committee January 30, 2025

Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Dennis Reep, and I serve on the North Dakota Water Resource Districts Association Board, the North Dakota Water Users Board, and as a water manager for the Burleigh County Water Resource District. I am here today to ask for your support for HB 1218.

Water resource districts are the local sponsors of many water conveyance and flood control projects of a variety of sizes. We believe these projects, large and small, provide real benefit to the people we serve, the citizens of our counties. While we recognize the importance of ensuring appropriate use of public funds, we believe that the economic analysis (EA) required for water conveyance and flood control projects by the State Water Commission (SWC) should be limited to large projects. The Water Resource Districts Association voted to include the following resolution in their 2025 policy document:

We oppose the incorporation of benefit-cost principles in determining the feasibility and justification of state funding for water conveyance and flood control projects under \$5 million total project cost as stipulated by N.D.C.C. 61-03-21.4.

I would like to provide information to this committee regarding the state's EA tool. The state has described the EA as just one tool in the toolbox. However, our experience is that the cost benefit ratio derived by the EA tool is weighed heavily by the SWC when making decisions. Rather than just one tool in the toolbox, it feels as if the SWC uses the EA as a determiner of decisions. As noted by other speakers, state cost share for water projects is reduced when the cost benefit ratio derived from the EA tool is less than 1:1.

The EA tool was derived from the federal government. As a note of comparison, when a federal agency, such as the Natural Resources Conservation Service (NRCS), conducts an EA, and the cost benefit ratio is less than a 1:1 ratio, the NRCS considers that data point along with other, non-monetized, benefits, such as societal or environmental effects and values, in evaluating eligibility for cost share, and does not necessarily reduce cost share should the cost benefit be less than 1:1. In my view, this provides a more comprehensive look at the overall costs and benefits of a project. The state has not yet chosen to look at non-monetized benefits in considering the overall benefits a project may generate.

As a local water manager, I can assure you that local water resource districts are committed to managing our water resources responsibly. State funding is critical to making these projects happen, regardless of the size of projects. The projects being pursued by water resource districts

are important projects, particularly to agricultural producers and landowners. In fact, it is most often landowners who petition to have projects developed in the first place. The idea that water resource districts spend time, energy, and resources, including state resources, to develop projects that won't deliver benefits for their neighbors, just isn't factual.

Because of the rather limited view that the EA tool has of the overall benefits derived by a project, as well as the significant time and resource investment that conducting the EA has for local water boards, I believe it is important for us to consider the ROI on conducting EAs, particularly for small projects. At what point does the benefit of the information provided by the EA tool outweigh the time and expense of conducting it? Put another way, what's the EA of the EA?

BANK STABILIZATION PROJECTS

Much like the issues experienced with the EAs required for projects on rural legal assessment drains, there are also burdensome challenges associated with the EAs required for rural bank stabilization projects. SWC's cost share policy stipulates that cost share assistance will only be approved for bank stabilization projects that protect public infrastructure. In rural settings, this often means that protecting rural roadways and other transportation infrastructure are the only benefits that can be captured under the EA required by the policy.

The SWC's current EA worksheet bases these transportation benefits on detour-related costs, which require values for the length of the detour, the number of days the detour is required, and the number of vehicles or trips impacted by the detour. All these inputs require effort to develop, but the number of estimated trips is especially onerous. To determine this, a traffic study is often required. These studies are costly and provide no other benefit for the project. Furthermore, these traffic studies and the SWC's EA worksheet do not consider the significant financial impact that even a brief detour can have on rural ag producers and residents. For example, some rural township roads may not see many daily trips outside of spring planting or fall harvest times, but even a brief detour or closure during those time periods can have a significant impact on a farmer's ability to get their crop seeded or harvested, and these impacts are not accounted for.

Project sponsors are often left with a dilemma: Do they spend the money gathering the information required by the SWC to try to maximize their potential cost share - costs that are not eligible for SWC cost share assistance, or do they simply give up on the project or accept a lower amount of cost share because the effort just isn't worth it?

In addition to the burdens encountered when determining benefits associated with rural bank stabilization projects, project sponsors also encounter other challenges and expenses simply trying to satisfy other requirements associated with SWC's EA worksheet. For example, project sponsors are often required to undertake costly hydraulic modeling and/or geotechnical analyses to provide Department of Water Resource (DWR) staff with additional information that is requested by the DWR to support a review of additional benefits that may not be captured by the initial analysis. Again, these additional engineering efforts are costly and provide little, if any, benefit to the design and construction of a solution to the bank stability issue. Here again, not only are these additional engineering efforts often not useful for anything other than the required EA, but they are also typically ineligible for SWC cost share assistance.

BURLEIGH COUNTY WRD - SIBLEY ISLAND FLOOD CONTROL PROJECT.

To illustrate one recent example of the EA, in response to the 2011 floods along the Missouri River, the Burleigh County WRD and the City of Bismarck collaborated to develop the Burleigh County 20-Foot Plan in 2013 to protect as many residences and properties as possible. Many of the plan's features have been implemented and the Sibley Island segment is the last of the primary flood protective measures for the plan. The \$1.85 million project was developed to protect 90 rural residential properties from Missouri River flooding.

SWC cost share was planned as an integral part of the project funding and as such an EA was prepared and presented to them as part of the cost share application. Review and comments resulted in the EA going through several submittals, ultimately costing the project an additional \$16,000 in direct costs to complete. Indirectly, the EA required additional analyses and data collection necessary to populate the spreadsheet, and the EA process added three months to the project.

The EA tool was intended to be used for good; we aren't suggesting it was created in bad faith. But in practice, this tool has become an impediment to getting much needed projects done.

We ask for your support of HB 1218. Thank you for the opportunity to testify this morning, Mr. Chairman. I would be happy to stand for any questions.



In Favor of HB 1218 House Energy and Natural Resources January 30, 2025

Chairman Porter and Committee members:

For the record, my name is Lesley Icenogle. Thank you for the opportunity to testify on behalf of the North Dakota Corn Growers Association (NDCGA) in favor of House Bill 1218.

NDCGA works closely with water resource district leadership. This bill clarifies that only large flood control and water conveyance projects, over \$5 million, require an economic analysis by the State Water Commission. These projects are critical for North Dakota producers to fully utilize their land and maximize their crop yields. Clarifying this requirement will reduce the cost burden for local landowners and help rural drainage projects move forward in a timely manner.

NDCGA urges a Do Pass recommendation on HB 1218. Thank you for your consideration.

Testimony in Support of HB 1218

Introduction

Honorable Members of the Committee,

I am here today to express my strong support for HB 1218, a crucial bill for Water Resource Districts (WRDs) and the funding for drainage projects. This legislation addresses several significant issues impacting WRDs and offers a pathway to more efficient and cost-effective project management.

Current Challenges

By law, WRDs must undergo the State Water Commission's (SWC) "Economic Analysis" (E/A) process for projects estimated to cost \$1 million. However, the SWC, by their policy, reduced the threshold for the E/A process to \$200,000. This reduction is applicable solely to WRDs, creating an undue burden on these districts.

As anticipated, the E/A process has led to:

- Higher project costs, stemming from the expenses related to conducting the E/A and the interactions with the Department of Water Resources (DWR) staff.
- Delays in project cost-sharing approvals.
- A decrease in the overall cost-share dollars available for WRDs and their projects.

Provisions of HB 1218

HB 1218 proposes to:

- Raise the threshold for the E/A process from \$1 million to \$5 million.
- Prohibit the SWC from implementing their own (lower) threshold for requiring the E/A.

Benefits of HB 1218

The passage of this bill would result in numerous benefits, including:

- Increased cost-share dollars for WRD projects.
- Reduced project and cost-share delays.

Decreased costs for WRDs applying for cost-share.

Ultimately, HB 1218 would save money and reduce taxes (assessments) for landowners who rely on drainage and flood protection projects.

Conclusion

In conclusion, HB 1218 is a vital piece of legislation that will alleviate the financial and administrative burdens currently faced by WRDs. It promotes efficiency, cost savings, and timely project execution, benefiting both the districts and the landowners they serve. I strongly urge you to support HB 1218 and help ensure the continued effectiveness and sustainability of our water resource management efforts.

Thank you for your time and consideration.



January 30, 2025

House Energy and Natural Resources Committee 600 E Boulevard Ave Bismarck, ND 58505

Chairman Porter and Members of the House Energy and Natural Resources Committee,

I am writing to express my strong support for the proposed HB1218 amendment to section 61-02-01.3 of the North Dakota Century Code, which relates to comprehensive water development plans. This bill is of paramount importance for North Dakota farmers, wildlife, and the overall economy.

Benefits for Farmers:

- 1. **Comprehensive Planning**: The bill mandates the biennial development and maintenance of a comprehensive water development plan, organized on a river basin perspective. This ensures that water resources are managed effectively and sustainably, which is crucial for agricultural activities.
- 2. **Local Participation**: By facilitating local project sponsor participation and project prioritization, the bill ensures that farmers and other stakeholders have a say in water management projects. This inclusion helps address local needs and concerns, making the projects more relevant and beneficial.
- 3. **Educational Support**: The bill includes provisions for educating stakeholders about life cycle analyses for municipal water supply projects and economic analyses for flood control and water conveyance projects. This education can help farmers make informed decisions about water management, leading to more efficient and effective use of resources.

Benefits for Wildlife:

- 1. **Sustainable Water Management**: By ensuring comprehensive planning and local participation, the bill promotes sustainable water management practices that can help protect natural habitats and wildlife.
- Erosion Control: The bill's emphasis on proper erosion controls at project outlets can help prevent habitat degradation and maintain the health of ecosystems.

701.893.9030 | Fax 701.893.9040



Economic Benefits:

- Project Prioritization and Funding: The bill outlines policies and procedures
 for commissioner-hosted meetings within various river drainage basins,
 helping to prioritize projects that are most beneficial to the community. This
 ensures that critical water management issues are addressed promptly and
 efficiently.
- 2. **Cost Savings**: Incorporating the review of HB 1218, which raises the Economic Analysis (E/A) process threshold from \$1 million to \$5 million, would result in more cost-share dollars for Water Resource District (WRD) projects, fewer project/cost-share delays, and reduced costs for WRDs applying for cost-share. Ultimately, this would save money and reduce taxes (assessments) for landowners who need drainage and flood protection projects.

In conclusion, this bill supports a structured and inclusive approach to water resource management, which is vital for the agricultural sector, wildlife conservation, and the economic well-being of North Dakota. By involving local stakeholders, providing educational resources, ensuring comprehensive planning, and addressing the economic analysis process, the bill helps create a sustainable and efficient water management system that can significantly benefit our state.

I urge you to support this important legislation for the betterment of our farmers, wildlife, and economy.

Sincerely,

Levi Otis



Contact:
Lance Gaebe, Lobbyist
Igaebe@ndfu.org | 701 952-0103

Lance Gaebe on behalf of North Dakota Farmers Union Testimony in Support of HB 1218 House Energy and Natural Resources Committee January 30, 2025

Chairman Porter and members of the Energy and Natural Resources Committee,

Thank you for the opportunity to testify on behalf of North Dakota Farmers Union in support of House Bill No. 1218. My name is Lance Gaebe.

North Dakota Farmers Union members recognize the importance of effective water management in ensuring the long-term sustainability of our agricultural economy. Legal assessment drains and efficient water conveyance are essential to:

- Provide farmland drainage relief, safeguard crops and improve soil health.
- Enhance agricultural productivity and bolster the agriculture economy.
- Safeguard roads, bridges, and other vital infrastructure, reducing costly repairs and ensuring public safety.

We appreciate work of water resource districts to manage water movement and implement critical water conveyance projects. House Bill 1218 addresses key concerns regarding the current regulatory framework and cost share eligibility for water conveyance projects, it:

- Increases the State Water Commission economic analysis (EA) threshold to \$5 million to reduces bureaucratic hurdles for smaller, locally driven projects.
- Encourages a holistic evaluation of project impacts, including road infrastructure protection, community well-being, and public safety.
- Recognizes local authority and decision making to effectively assess and prioritize water management needs, particularly of projects that are locally supported and financed.

Current EA requirements for smaller projects impose significant delays and unnecessary costs on local districts, hindering timely implementation of critical drainage projects. HB 1218 will improve the efficiency and effectiveness of water management, reduce the administrative burden and help ensure that critical water projects can be implemented in a timely and cost-effective manner.

North Dakota Farmers Union urges this committee to support a do pass recommendation on HB 1218. I will answer questions.



WESTERN DAKOTA ENERGY ASSOCIATION

January 30, 2025

EXECUTIVE COMMITTEE

Supt. Leslie Bieber President Alexander PSD

Lyn James Vice President City of Bowman

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Nick Klemisch Garrison PSD Coal Conversion Counties

Howard Klug City of Williston

Craig Pelton
Dunn County

John Phillips Coal Conversion Counties

Trudy Ruland Mountrail County Testimony of: Geoff Simon, Lobbyist #144 in opposition to HB 1218 – Water project funding House Energy and Natural Resources Committee

Chairman Porter and members of the House Energy and Natural Resources Committee:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), we wish to express our opposition to HB 1218. Our members not only host the backbone of the state's economy, but also generate the tax revenues that fund essential infrastructure, including water projects across North Dakota.

While we support responsible investment in water management, we must oppose House Bill 1218 for one fundamental reason: economic analysis ensures transparency and responsible use of our taxpayer dollars. Raising the economic analysis threshold does not increase funding for water projects. The only way to increase funding is by increasing revenues, and those revenues come from oil and gas production.

Proponents of HB 1218 suggest that raising the economic analysis threshold will help fund more drainage and flood protection projects. However, changing the threshold does not generate new dollars, it only changes how existing funds are allocated. The reality is that North Dakota's water projects are funded through the Resources Trust Fund, revenues of which come from oil and gas production. If we want more funding for flood protection and drainage projects, the most effective approach is to support policies that encourage oil and gas production, which increases tax revenues and, in turn, increases available funding for water infrastructure.

The economic analysis process exists to ensure that taxpayer dollars are invested in projects that provide measurable public benefits. By raising the threshold to \$5 million, HB 1218 weakens fiscal oversight and increases the risk of approving projects that may not deliver a return on investment proportional to their cost. North Dakotans want our tax dollars allocated wisely, with proper scrutiny to avoid waste and inefficiencies.

If we want to increase funding for drainage and flood protection projects, we need to increase revenue, not weaken oversight. WDEA urges the committee to reject HB 1218.

Geoff Simon
Executive Director



HOUSE BILL NO. 1218 ENERGY AND NATURAL RESOURCES COMMITTEE TODD PORTER, CHAIR TESTIMONY IN SUPPORT OF HOUSE BILL 1218

Chairman Porter and members of the House Energy and Natural Resources Committee. I am Parrell Grossman, and it is my privilege to be the Legislative Director for the North Dakota Soybean Growers Association. I appear on behalf of the Association in support of House Bill 1218.

The Association advocates for more than 8,900 operations that raise soybeans in North Dakota. In 2024, North Dakota farmers planted 6.6 million acres of soybeans, producing over 245 million bushels of soybeans in North Dakota.

As I am sure this Committee is aware, according to a 2022 North Dakota Agriculture Industry Economic Contribution Analysis conducted by the NDSU, the economic contribution to North Dakota is \$30.8 billion, including \$18.8 billion from direct output and \$12 billion from secondary output.

The Association recognizes water resource districts sponsor many water conveyance and flood control projects of a variety of sizes and we greatly value and appreciate their work on behalf of our counties and townships, and rural residents, including our farmers and agricultural producers.

In terms of an economic analysis and economic benefit to the impacted project area and residents, crop values should not be the only consideration. There are important factors beyond crop value. Water management helps not only farmers, but also counties and townships to prevent water inundated roads. Flooded roads are a huge inconvenience to all rural residents and a particular expense to farmers in terms of delays in planting, receiving inputs and other goods and services and in getting their crops timely to markets. Water management is critically important to farmers in the eastern part of the state.

State funding is a necessary and important part of these rural water projects, and it is not possible for these projects to occur without that state funding. The Association understands the value and necessity for an economic analysis in large projects. We, however, share the valid concerns of the water resource districts with the delays and expense of the economic analysis requirements for smaller projects. The Association encourages and supports the proposed legislative changes to increase the project value threshold.

We understand and respect the financial accountability for state funds. We, however, believe that with smaller projects, it should be enough that the rural landowners and water resource districts support the projects with their votes. Furthermore, these water resource districts are accountable to the residents of their districts, as well as the citizens of this state.

For the reasons stated, the Association respectfully asks the House Energy and Natural Resources Committee to give House Bill 1218 a "Do Pass" recommendation.

Thank you for your consideration and I would be pleased to try and answer any questions.



Testimony – House Bill 1218 House Energy and Natural Resources Committee Chairman – Representative Todd Porter January 30, 2025

Good morning chairman Porter and members of the House Energy and Natural Resources Committee. Thank you for the opportunity to testify before you this morning.

I am Michael Anderson, a Commissioner on the ND State Water Commission. I would like to provide testimony necessarily against anything but rather to explain how important the tool of Economic Analysis has been to the decision-making efforts of the State Water Commission and the Department of Water Resources. Since its implementation, EA has been an invaluable resource and tool not only for the State Water Commission and Department of Water Resources, but also for the sponsors seeking cost share of North Dakota state tax dollars. A fundamental result of any project and desired outcome is benefit for investment. By implementing the Economic Analysis, the State Water Commission felt that return on investment for state taxpayer dollars could be calculated and lead to impactful and efficient projects. One of the main tenants of the State Water Commission is to be fiscally



responsible with state taxpayer dollars and I believe this tool is critical to achieving that result.

Background

In 2017, the 65th Legislative Assembly passed House Bill 1020, the budget bill for the Agency known as the State Water Commission, now the Department of Water Resources. The stated intent and purpose of this legislation was to ensure that state tax dollars used for projects throughout the state of North Dakota had a return on investment. Section 21 of this bill instructed the State Engineer to develop an Economic Analysis process for water conveyance and flood – related projects expected to cost more than \$1 million dollars. The bill also stated that when the State Water Commission was considering funding for one of the mentioned types of projects, the State Engineer would provide the results of the Economic Analysis to the Commission for consideration.

This tool was implemented for project analysis during the 2019 – 2020 biennium. My colleagues and I immediately noticed and appreciated the information provided in the decision-making process. As we used and implemented the EA, the question was asked, "how can we best utilize this tool." One topic of consideration was that many large projects or potential parts of projects were under the \$1 million dollar threshold. We felt that these projects would benefit from this analysis to provide vital information to the

Commission. In response, the Commission, in cooperation with the Interim Water Topics Committee, asked the question of Legislative Council to determine if the State Water Commission had the ability to adjust the \$1 million dollar threshold to a lower amount. We were given the answer that the State Water Commission did have the discretion to modify this amount. In December of 2019, by unanimous vote, the State Water Commission voted to adopt the current \$200,000 threshold for Economic Analysis. This level was chosen because it matched the statutory requirement for bidding public improvement construction projects.

To be fiscally responsible to the State with taxpayer dollars, it is important to have all the tools available to ensure transparency and that a dollar spent has an expectation of a proper return for the benefited parties. We on the State Water Commission, utilizing taxpayer dollars, are in effect asking every taxpayer in North Dakota to participate in these local projects. The assurance that these dollars are being utilized properly, impactfully, and efficiently is a very important mandate. The successful outcome of these projects for the quality of life for our citizens is the goal and the reason to award these cost share dollars.

One of the fundamental premises of any project or business is Return on Investment. What is the expected benefit from the desired project for the investment being made? This tool



of Economic Analysis helps insure that we are responsible to taxpayers and the ND Legislature.

I believe the State Water Commission and Department of Water Resources have been very responsible in utilizing this tool for the benefit of the State. It is not our desire or intention to add one dollar of cost to any project that comes before us for cost share. Standard engineering practices provide for Economic impact and return on investment as well as life cycle cost analysis. We are in effect partnering with these sponsors to complete these impactful projects. The calculation and estimate of these factors are part of the process. We have a responsibility to the sponsor to nurture these projects. As these projects are developed, we must consider the local share as well as the State's investment, and any other participating entity such as road authorities, townships, counties, or private industry.

This is the very purpose of and function of Economic Analysis. In action and implementation, the Economic Analysis tool gives important feedback to the viability of a project not only to the State Water Commission but also to the project sponsors themselves.

I have witnessed on many occasions the staff at the Department of Water Resources engage the sponsor and help establish and develop this information. They have also been professional in every case considering factors the sponsor may feel were not properly calculated to establish



the Economic Analysis ratio. I have also on several occasions personally gone out to the sites of these projects and engaged the sponsors to determine if all benefits have been properly accounted for. In every case, this information was passed back to the Department of Water Resources staff and added to the project at the proper level.

Another important benefit of Economic Analysis is to the sponsor themselves. I have seen on several occasions a specific project developed and when analyzed, did not return on investment what the sponsor had hoped. Questions such as "is this project over scaled or under scaled for the particular purpose intended on the cost share application?" Can the sponsor receive the intended benefits not only from the state funds committed but also the local share that will be spent? Through this process, they were able to adjust their request to include some previously not considered aspects and include them in the project. This resulted in a better ratio and a more impactful project. This very important process results in significant financial savings not only to the State of North Dakota but to the local sponsors themselves.

The State Water Commission and Department of Water resources as government agencies do not ever want to mandate to a sponsor what they must do. Regardless of the Economic Analysis results, a sponsor has the ability if they feel their project is worthy as presented, they can still



proceed with the project. They have to make that individual decision based on their own criteria and with the proper level of State Water Commission cost share participation.

The ability to engage in thoughtful discussion regarding these projects is always there. There have been several occasions, upon analysis and discussion with Commissioners, the cost share percentages were increased to reflect special circumstances. I feel this is a very important role for commissioners to engage the public and respond to impactful projects. We have the discretion to consider factors that may not be captured fully in the consideration of a project.

All of these applications to the Department of Water Resources are intended to be based on need. This tool is vitally important so that the Department and Commission can be fiscally responsible to the people of North Dakota.

I feel this tool has been appropriate, consistent, and has provided the decision-making information to the Commission it was intended to provide. The intent of the legislature by mandating the use of this tool was to ensure that State Tax dollars were being spent efficiently and appropriately. If the State was to participate in any of these types of projects, there would be a realistic expectation there would be the appropriate return on this investment.

We would like to utilize every tool available to us so we can make impactful, meaningful, efficient, and transparent

(1)

decisions that benefit our citizens and give credibility to the cost share program.

Thank you for the opportunity to offer this testimony and I will stand for any questions.

Respectfully submitted, Michael Anderson 25.0817.01003 Title. Prepared by the Legislative Council staff for Representative Hagert February 10, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1218

Introduced by

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Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

- 1 A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code,
- 2 relating to comprehensive water development plans.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- **SECTION 1. AMENDMENT.** Section 61-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:
 - 61-02-01.3. Comprehensive water development plan.
 - 1. Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes.
 - 2. As part of the commission's planning process, to To facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects only, for those expected to cost more than one five million dollars, the commission shall develop a policy that outlinespolicies and procedures for hold commissioner-hosted meetings within the upper Missouri River, lower Missouri River, James River, upper Red River, lower Red River, Mouse River, Devils Lake, Little Missouri River, upper Heart River, and upper Cannonball River drainage basins.

Sixty-ninth Legislative Assembly

The commission may not require or conduct a life cycle analysis for a municipal water
 supply project or an economic analysis for a flood control and water conveyance
 project expected to cost less than five million dollars.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 2/6/2025

Relating to comprehensive water development plans.

11:18 a.m. Chairman Porter opened meeting

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak, Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson, Ruby, Conmy, Foss

Discussion Topics:

Water project breakdowns

11:19 a.m. Representative Dockter explains the breakdown of the project monies.

11:25 a.m. Chairman Porter closed the meeting

Leah Kuball, Committee Clerk by Risa Berube

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 2/13/2025

Relating to comprehensive water development plans.

10:13 a.m. Chairman Porter opened the hearing.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak, Representatives: Dockter, Hagert, Headland, Johnson, Marschall, Ruby, Conmy, Foss

Members Absent: Representatives Heinert, J. Olson

Discussion Topics:

- Costs of North Dakota water development projects
- Committee action

10:16 a.m. Representative Dockter moved to adopt Amendment LC: 25.0817.01003 (Submitted for the January 30, 2025, meeting, in testimony #37600) and change "five million dollars" to "seven hundred and fifty thousand dollars" on page 2 line 3.

10:16 a.m. Representative Foss seconded the motion.

Representatives	Vote
Representative Todd Porter	Υ
Representative Dick Anderson	Υ
Representative Anna Novak	Υ
Representative Liz Conmy	Υ
Representative Jason Dockter	Υ
Representative Austin Foss	Υ
Representative Jared c. Hagert	Υ
Representative Craig Headland	N
Representative Pat D. Heinert	Α
Representative Jorin Johnson	Υ
Representative Andrew Marschall	Υ
Representative Jeremy L. Olson	Α
Representative Matthew Ruby	Υ

10:18 a.m. Motion passed 10-1-2

10:18 a.m. Representative Hagert moved a Do Pass as Amended.

10:18 a.m. Representative Dockter seconded the motion.

Representatives	Vote
Representative Todd Porter	Υ
Representative Dick Anderson	Υ
Representative Anna Novak	Υ
Representative Liz Conmy	Υ
Representative Jason Dockter	Υ
Representative Austin Foss	Υ
Representative Jared c. Hagert	Υ
Representative Craig Headland	Υ
Representative Pat D. Heinert	Α
Representative Jorin Johnson	Υ
Representative Andrew Marschall	Υ
Representative Jeremy L. Olson	Α
Representative Matthew Ruby	Υ

10:19 a.m. Motion passed 11-0-2

10:19 a.m. Representative Hagert will carry the bill.

10:20 a.m. Chairman Porter closed the hearing.

Wyatt Armstrong for Leah Kuball, Committee Clerk

25.0817.01004 Title.02000 Adopted by the Energy and Natural Resources Committee February 13, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO

MB 2/13/25 1 of 2

HOUSE BILL NO. 1218

Introduced by

Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

- 1 A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code,
- 2 relating to comprehensive water development plans.

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 - 3. The commission may not require or conduct a life cycle analysis for a municipal water supply project or an economic analysis for a flood control and water conveyance

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Sixty-ninth Legislative Assembly



project, if the project is expected to cost less than seven hundred fifty thousand dollars.

Page No. 2

Module ID: h_stcomrep_26_045 Carrier: Hagert Insert LC: 25.0817.01004 Title: 02000

REPORT OF STANDING COMMITTEE HB 1218

Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS (25.0817.01004) and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). HB 1218 was placed on the Sixth order on the calendar.

2025 SENATE ENERGY AND NATURAL RESOURCES
HB 1218

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Peace Garden Room, State Capitol

HB 1218 3/13/2025

A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code, relating to comprehensive water development plans.

10:59 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

Discussion Topics:

- Economic analysis requirements
- Cost-sharing Mechanisms
- Impact on rural water projects
- Regulatory burdens on local sponsors
- Collaboration among stakeholders
- 11:00 a.m. Representative Schrieber-Beck, District 25, introduced the bill and submitted testimony in favor #41240.
- 11:04 a.m. Reice Haase, Director, Department of Water Resources testified in favor.
- 11:04 a.m. Chad Engels, ND Water Users Association, testified in favor and submitted #41168.
- 11:14 a.m. Justin Johnson, Water Resource District, testified in favor.
- 11:17 a.m. Haley Vollmer, Corn Growers Association, testified in favor.
- 11:18 a.m. Drew Courtney, Board Member, ND Corn Growers Association, testified in favor and submitted testimony #41167.
- 11:21 a.m. Rachel Grosz, Government Affairs, NDFB, testified in favor and submitted testimony #41212.
- 11:22 a.m. Lance Gaebe, Policy Strategist, North Dakota Farmers Union, testified in favor and submitted testimony #41114.
- 11:25 a.m. Dan Wogsland, Lobbyist, North Dakota Grain Growers Association, testified in favor and submitted testimony #41241.
- 11:26 a.m. Dani Quissell, Executive Vice President, ND Water Users Association, testified in favor and submitted testimony #41172.

Senate Energy and Natural Resources Committee HB 1218 3/13/2025 Page 2

11:29 a.m. Duane Pool, Natural Resource Economist, Department of Water Resources, testified as neutral and submitted testimony #41330.

Additional written testimony:

Brent Baldwin, President & Farmer, Red River Valley Sugarbeet Growers Association, submitted testimony in favor #41220.

Parrell Grossman, Legislative Director, North Dakota Soybean Growers Association, submitted testimony in favor #41189.

11:52 a.m. Chairman Patten adjourned the meeting.

Kendra McCann, Committee Clerk



Contact:
Lance Gaebe, Lobbyist
lgaebe@ndfu.org | 701 952-0103

Lance Gaebe on behalf of North Dakota Farmers Union Testimony in Support of HB 1218 Senate Energy and Natural Resources Committee March 13, 2025

Chairman Patten and members of the Energy and Natural Resources Committee,

Thank you for the opportunity to testify on behalf of North Dakota Farmers Union in support of House Bill No. 1218. My name is Lance Gaebe.

North Dakota Farmers Union members recognize the importance of effective water management in ensuring the long-term sustainability of our agricultural economy. Legal assessment drains and efficient water conveyance are essential to:

- Provide farmland drainage relief, safeguard crops and improve soil health.
- Enhance agricultural productivity and bolster the agriculture economy.
- Safeguard roads, bridges, and other vital infrastructure, reducing costly repairs and ensuring public safety.

We appreciate work of water resource districts to manage water movement and implement critical water conveyance projects. House Bill 1218 addresses key concerns regarding the current regulatory framework and cost share eligibility for water conveyance projects, it:

- Increases the State Water Commission economic analysis (EA) threshold to reduce bureaucratic hurdles for smaller, locally driven projects.
- Encourages a holistic evaluation of project impacts, including road infrastructure protection, community well-being, and public safety.
- Recognizes local authority and decision making to effectively assess and prioritize water management needs, particularly of projects that are locally supported and financed.

Current EA requirements for smaller projects impose significant delays and unnecessary costs on local districts, hindering timely implementation of critical drainage projects. HB 1218 will improve the efficiency and effectiveness of water management, reduce the administrative burden and help ensure that critical water projects can be implemented in a timely and cost-effective manner.

North Dakota Farmers Union urges this committee to support a do pass recommendation on HB 1218. I will answer questions.



In Favor of HB 1218 Senate Energy and Natural Resources March 13, 2025

Chairman Patten and Committee members:

For the record, my name is Drew Courtney. I farm in Oakes and serve as a board member for the North Dakota Corn Growers Association. Thank you for the opportunity to testify in favor of House Bill 1218.

NDCGA works closely with water resource district leadership. This bill, as originally drafted, sought to clarify that only large flood control and water conveyance projects, over \$5 million, require an economic analysis by the State Water Commission.

As a producer, I can tell you that these projects, particularly the conveyance projects, are critical for many North Dakota producers to fully utilize their land and maximize their crop yields. It's for this reason that producers work with their local water board to initiate conveyance projects and vote to tax themselves to pay for the local share of these projects. The legislature has historically provided funding through the State Water Commission to cost share with locals on these projects. In the current budget for the State Water Commission, \$15 million is contemplated for conveyance projects.

Conveyance projects allow producers to manage the water that comes off their land in a way that minimizes impact to downstream lands and infrastructure. The North Dakota Corn Growers are appreciative of the investment the legislature is considering for rural infrastructure. The continued maintenance of county and township roads and bridges is a high priority for our members. We believe that completion and maintenance of

conveyance infrastructure is an important part of that conversation as well. As it stands today, we have a great source of funding for conveyance projects in the Resources Trust Fund. We simply run into a regulatory burden when it comes to completing the economic analysis, especially on small projects. If we could alleviate that burden by raising the threshold for economic analysis, I believe we could move forward with these important projects in a more efficient and timely manner.

When the legislature first required economic analysis for these types of projects, the legislature's intent was that projects less than \$1 million would be exempt from this additional step in the state cost share process. The legislature clearly recognized that this burden shouldn't be placed on small projects. We would ask that HB 1218 be amended back to the original threshold of \$5 million.

With that amendment, NDCGA would urge a Do Pass recommendation on HB 1218. Thank you for your consideration, and I will stand for any questions.

North Dakota Water Resource Districts Association

JACK P. DWYER, EXECUTIVE SECRETARY 701-730-5469 (c) • jack@ndwaterlaw.com

P.O. Box 2254 • Bismarck, North Dakota 58502 701-223-4615 (o) • staff@ndwater.net

HB 1218 Testimony of Chad Engels House Energy and Natural Resources Committee

Chairman Patten and members of the Senate Energy and Natural Resources Committee, my name is Chad Engels. I am a registered Professional Engineer in the states of North Dakota and Minnesota, and I am here today representing the ND Water Resource Districts Association as well as the Red River Joint Water Resource District. I have worked in the field of water resources engineering for over 20 years, primarily serving the water resource districts and farmers of the Red River basin in their pursuit of better water management. As you know, agriculture is a significant economic asset to the State of North Dakota, but water management has always been a challenge in locations such as the Red River valley.

I am here today in support of HB 1218, in the hope that the Senate will increase the economic analysis threshold back to \$5 million, which was the value in the original version of the bill. I want to start off by thanking the Legislature. We are extremely encouraged to see legislation like HB 1218, that brings together water resource districts and agriculture organizations, both of whom are here to represent and support farmers, all in support of a bill that will reduce government regulatory burden, lower property tax, and ensure vital infrastructure projects are completed in a timely, cost-efficient manner. Legal drains provide critical drainage and flood protection for farmers, they serve as outlets for tile drainage, and they ensure proper runoff to reduce inundation of otherwise productive farmland. It's important to note that many of these projects begin with a request from producers and are voted on by landowners prior to applying to the State Water Commission for cost share.

Our members have always opposed the economic analysis requirement that was initiated in 2017 under HB 1374. This was new regulation, modeled after federal procedures, targeted toward a very specific category of projects. And, like the federal process on which it was modeled, this economic analysis process has resulted in bureaucracy, delays in project completion, increased costs, and in some cases, projects not being done. All of this negatively impacts landowners and farmers, in the form of higher property taxes and less productive land.

The economic analysis regulation was initially sold as a tool for the state to determine what the state will get in return for its investment in drainage and flood protection projects. That is a legitimate objective. In practice, however, the economic analysis has turned into a bureaucratic roadblock for project sponsors who are trying to build water infrastructure for the ag producers who need it.

This economic analysis requirement was instituted for a narrow category of projects that represent a fraction of the overall State Water Commission budget (in the proposed 2025-2027 budget, conveyance is allocated less than 2% of the overall budget). Yet this has become a sticking point that has added time and cost, and reduced funding for many worthwhile projects, notably those that are almost exclusively rural and agricultural in nature. Water resource districts have always held that the truest and most cost-effective economic test is the vote of taxpayers who foot the local share of project costs. This is a grassroots system that has worked efficiently and effectively for many decades.

During the legislative process in 2017, the sponsors of the legislation assured water resource districts and the agriculture community that the new requirement would not result in delays or added costs to projects, and that state cost share dollars would not be at risk for projects otherwise eligible for cost share. The legislation itself only required the process for projects in excess of \$1 million. Then, in 2019, the State Water Commission reduced the threshold to just \$200,000, significantly reducing the threshold promised by the legislature. In addition, the State Water Commission enacted another policy to REDUCE cost share for projects that did not satisfy the economic analysis tool. While we do not argue that the Commission lacked the authority to do this, we do believe that this is contrary the legislature's intent in 2017. What we are asking for today is a return to the original intent of the legislature—that this requirement be used as a tool of the State Water Commission for significant projects. Given the cost of both materials and labor, we believe the appropriate threshold, today, is \$5 million.

Passage of HB 1218 with an amendment to return the threshold to \$5 million would remove an onerous regulatory burden from small projects, support agricultural producers and rural economies, and ensure water resource districts and the agriculture community can fully utilize the funding provided for water conveyance through the State Water Commission's cost share program

Thank you for the opportunity to testify this morning. I am happy to stand for any questions you may have.



DEDICATED TO PROTECTING, DEVELOPING, AND MANAGING NORTH DAKOTA'S WATER RESOURCES

PO Box 2254, Bismarck, ND 58502-2254

701-223-4615 • 701-223-4645 (Fax)

Senate Energy and Natural Resources Committee Testimony in support of HB 1218 Dani Quissell, Executive Vice President March 13, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee. Thank you for the opportunity to provide testimony in support of HB 1218. We would respectfully request that the committee amend the bill back to its original form, increasing the threshold for conducting economic analysis to \$5 million.

To illustrate the importance of this legislation, I'd like to present a hypothetical scenario faced by water board members looking to conduct a rural conveyance project.

In this hypothetical scenario, a water board is asked by landowners to conduct a project where the total project costs are \$200,000. When it comes time to determine the funding plan, water board members have the option to request up to 45% cost share for the project from the State Water Commission. At most, the board could receive \$90,000 from the state (this is assuming that all project costs are eligible for cost share). Because the total project costs are \$200,000, in order to receive the \$90,000, the board's consultants will have to complete the State Water Commission's economic analysis as part of the cost share request.

It was testified to in the House hearing that working through the economic analysis process on a recent flood control project cost a water board \$16,000 in direct costs and extended the project by three months. I offer this as an example, acknowledging that this flood control project was much larger and more complex than a \$200,000 drain project would be, but I believe the costs and time delays projects experience is important to illustrate.

This puts the water board members, who are stewards of taxpayer dollars, in a tough situation. Do they pursue state cost share, which will result, at most, in an \$90,000 reduction in costs to local taxpayers, but might cost \$10,000+ and delay a project's completion? Or do they pass up the opportunity to receive state cost share and put the entire burden of the project on local taxpayers? As fellow stewards of taxpayer dollars, I'm sure you understand the difficult position this puts water board members in.

If the threshold were raised to \$5 million, it would reduce this regulatory burden on small projects and make decisions on the appropriate use of taxpayer dollars more straightforward for water managers.

For this reason, we ask the committee to amend HB 1218 to increase the threshold to \$5 million and then give the bill a do pass recommendation. I would be happy to stand for any questions you may have.



HOUSE BILL NO. 1218 ENERGY AND NATURAL RESOURCES COMMITTEE TODD PORTER, CHAIR TESTIMONY IN SUPPORT OF HOUSE BILL 1218

Chairman Porter and members of the House Energy and Natural Resources Committee. I am Parrell Grossman, and it is my privilege to be the Legislative Director for the North Dakota Soybean Growers Association. I appear on behalf of the Association in support of House Bill 1218.

The Association advocates for more than 8,900 operations that raise soybeans in North Dakota. In 2024, North Dakota farmers planted 6.6 million acres of soybeans, producing over 245 million bushels of soybeans in North Dakota.

As I am sure this Committee is aware, according to a 2022 North Dakota Agriculture Industry Economic Contribution Analysis conducted by the NDSU, the economic contribution to North Dakota is \$30.8 billion, including \$18.8 billion from direct output and \$12 billion from secondary output.

The Association recognizes water resource districts sponsor many water conveyance and flood control projects of a variety of sizes and we greatly value and appreciate their work on behalf of our counties and townships, and rural residents, including our farmers and agricultural producers.

In terms of an economic analysis and economic benefit to the impacted project area and residents, crop values should not be the only consideration. There are important factors beyond crop value. Water management helps not only farmers, but also counties and townships to prevent water inundated roads. Flooded roads are a huge inconvenience to all rural residents and a particular expense to farmers in terms of delays in planting, receiving inputs and other goods and services and in getting their crops timely to markets. Water management is critically important to farmers in the eastern part of the state.

State funding is a necessary and important part of these rural water projects, and it is not possible for these projects to occur without that state funding. The Association understands the value and necessity for an economic analysis in large projects. We, however, share the valid concerns of the water resource districts with the delays and expense of the economic analysis requirements for smaller projects. The Association encourages and supports the proposed legislative changes to increase the project value threshold.

We understand and respect the financial accountability for state funds. We, however, believe that with smaller projects, it should be enough that the rural landowners and water resource districts support the projects with their votes. Furthermore, these water resource districts are accountable to the residents of their districts, as well as the citizens of this state.

For the reasons stated, the Association respectfully asks the House Energy and Natural Resources Committee to give House Bill 1218 a "Do Pass" recommendation.

Thank you for your consideration and I would be pleased to try and answer any questions.



Chairman Patten and Honorable Members of the Senate Energy and Natural Resources Committee, for the record, my name is Rachel Grosz with North Dakota Farm Bureau (NDFB). I am writing to express our organization's support of HB 1218. We commend the sponsors for their proactive efforts in water management. This bill aims to refine the existing framework for comprehensive water development plans in creating a more holistic approach, which will streamline water projects, ensure comprehensive planning and timely implementation.

NDFB is comprised of over 28,000 member-families, which create and drive our policy. The following are NDFB policies relevant to this bill:

We oppose any attempt to diminish agriculture and livestock's priority ranking for the waters of the state under the jurisdiction of the State Water Commission

We encourage state, counties, and townships to help and not hinder field tiling, since it helps reduce erosion and runoff water, thus improving the overall quality of watersheds

We support the agricultural use of drain tile both as a conservation tool and as a flood mitigation tool. We oppose regulatory policy of damming or blocking drain tile without just compensation.

NDFB supports efforts which will foster collaboration, leading to more informed decision making and tailored planning; ultimately, HB1218 works to engage stakeholders and alleviate bureaucracy. This bill ensures expeditious implementation of water management; bettering agriculture, conservation efforts, and North Dakota's rural economies. NDFB respectfully urges a "Do-Pass" recommendation from your committee. Our membership, and farmers throughout the state, as well as our colleagues in agriculture organizations thank you for your attention to this important matter.

Respectfully,

Rachel Grosz
Government Affairs Liaison
NDFB North Dakota Farm Bureau



1401 32nd Street SW • Fargo, ND 58103 • Phone: 701-239-4151 • Fax: 701-239-4276

email: information@rrvsga.com

March 13, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee,

My name is Brent Baldwin and I am a farmer and President of the Red River Valley Sugarbeet Growers Association. Thank you for the opportunity to submit testimony in support Engrossed House Bill 1218.

Water resource districts are the local sponsors of many water conveyance and flood control projects of a variety of sizes. We believe these projects, large and small, provide real benefit farmers. While we recognize the importance of ensuring appropriate use of public funds, we believe that the economic analysis required for water conveyance and flood control projects by the State Water Commission should be limited to large projects.

The economic analysis tool does not take into account non-monetized benefits in considering overall benefits a project may generate. As farmers, we've seen where and when the water is located, and sometimes we work on a project that will benefit in the near future, even though there may not appear to be economic benefits at the time the economic analysis is conducted.

Our water resource districts are committed to managing water resources responsibly, and state funding is critical to making some of these projects happen, regardless of size. Most often it is the farming community who petitions to have projects developed in the first place.

Of particular example is regarding bank stabilization projects. The current State Water Commission's cost-share policy stipulates that cost-share assistance will only be approved for bank stabilization projects that protect public infrastructure. In our rural areas, this often means that protecting rural roads are the only benefits that can be captured under the economic analysis required by the policy. As an example, the current economic analysis does not take into account the substantial financial and time impact that even a brief detour can have on farmers. When we have to go even just a couple miles around to get to a field because the shoulder is no longer strong enough, it may mean the difference of getting a quarter planted or not before a rain comes.

The original HB 1218 would have increased the EA threshold to \$5million. However, this number was lowered to \$750,000 in the Engrossed Bill. We would support an amendment to increase the threshold to above \$2 million. This increase would result in more cost-share dollars for Water Resource District projects, fewer delays and save money in the long run. We ask for your support on HB 1218 in increasing the \$750,000 to \$2 million and providing a DO PASS recommendation

Brent Baldwin St. Thomas, ND President – Red River Valley Sugarbeet Growers HOUSE BILL NO. 1218 Energy & Natural Resources Committee Hearing March 13, 2025

The requirement of the economic analysis (EA) for rural water conveyance projects is the reason HB1218 was brought forward. I agree that spending taxpayer dollars should have controls, but the controls should be tailored for the project type. The current EA tool needs to be adjusted for rural water conveyance projects – I liken it to using a language test to obtain information as to how a student is performing in math. There may be some questions to indicate the student's math skills but overall, it would not be fair or useful to give the student a math grade based on the language test.

Using the current EA for rural water conveyance projects above \$200,000 negatively impacts production agriculture since frequently, based on the results of the EA, the project does not meet the requirement to receive the full 45% cost share, and the local sponsors do not have the funds to move the project forward. The following recap interplays as to why the EA either needs redevelopment for rural water conveyance projects or should not be utilized for projects under an agreed upon threshold.

- At the local level, the landowners that would benefit from the water conveyance project have already voted to proceed with the project, knowing their increased cost per acre.
- The economic analysis for flood control and more so for water conveyance projects in rural areas does not take into consideration the benefits to production agriculture (i.e.: crop prices / yields / crop loss)
- Because the economic analysis does not take all factors into consideration, the department of water resources cost share % is often reduced
- The reduction in cost share increases the cost at the local level, which is not affordable, thus the projects do not occur
- The department of water resources economic analysis process slows the project and is a cost to the local sponsor (and the cost has been ruled ineligible for cost share). The following is the approximate cost for gathering information to complete the EA on a various project provided by an engineering firm
 - \$2000 Results are over 1.0 on the first round of data entered into the EA spreadsheet and no special data collection or modeling is required
 - \$5,000 \$10,000 Additional field surveys or other methods of data collection are required to generate additional inputs into the EA spreadsheet. Also, additional back-and-forth with the Department of Water Resources.
 - \$10,000 Additional hydraulic models are needed, traffic studies, etc.
 - Unknown Inflationary cost from project delays and phasing of projects due to time to complete studies, or from reduced cost-share amounts.

Conversations with the newly elected administration and the new director at the Department of Water Resources are ongoing about the problems with the EA and a solution has not been reached. The version of HB1218 before you is not a solution. Thus, my request at this time is for the committee not to act on the bill. A representative of the department of water resource will confirm this request.

Those who follow will provide additional facts with figures that support the issues that arise with the current EA.

Thank you.

Respectfully submitted by Cynthia Schreiber-Beck, District 25 Representative



North Dakota Grain Growers Association Testimony in Support of HB 1218 Senate Energy and Natural Resources Committee March 13, 2025

Chairman Patten. Members of the Senate Energy and Natural Resources Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association (NDGGA) I am here today to testify in support of Engrossed House Bill 1218, a bill that will enhance the comprehensive water development planning process in our state. This legislation is crucial to ensuring that we have the tools and resources necessary to effectively manage our water resources for present and future generations.

HB 1218 strengthens the Department of Water Resources' ability to gather information and make informed decisions about water development projects. By requiring the commission to hold meetings within key drainage basins across North Dakota, we facilitate engagement with local communities and stakeholders, ensuring that their voices are heard and their unique needs are considered in the planning process.

However, I would like to respectfully request your consideration for an amendment to the bill. In the bill you have before you today, the economic analyses for flood control and water conveyance projects are only required for projects exceeding \$750,000. NDGGA believes this threshold is too low and does not adequately capture the scope of many important water development projects. Therefore, NDGGA would respectfully request your consideration to increase this threshold to \$2 million. This adjustment will ensure that a comprehensive economic analysis is conducted for a wider range of projects, allowing us to make more informed and fiscally responsible decisions.

By requiring a more robust economic analysis for a broader range of projects, we ensure that our state's investments in water development are strategically aligned with our long-term economic goals. This will lead to more efficient and sustainable water resource management, benefiting both our environment and our economy.

I strongly encourage the committee to support Engrossed House Bill 1218 with the proposed amendment to the economic analysis threshold. This legislation is a critical step towards ensuring a strong and sustainable future for water development in North Dakota.



Neutral Testimony
Engrossed HB 1218
Senate Energy & Natural Resources
March 13, 2025

TESTIMONY OF

Dr. Duane Pool, Natural Resource Economist, Department of Water Resources

Chairman Patten, and members of the Senate Energy and Natural Resources Committee, I am Duane Pool, Natural Resource Economist for the Department of Water Resources (DWR). I'm here today to provide neutral testimony related to Engrossed House Bill (HB) 1218, which pertains to increasing the total cost threshold for flood protection and water conveyance projects subject to Economic Analysis (EA) when applying for DWR Cost-Share Program assistance.

For some background regarding the EA process and requirements, in 2017, the 65th Legislative Assembly passed House Bill 1020 – the budget bill for the agency that was then called the State Water Commission. Section 21 said the State Engineer shall develop an economic analysis process for water conveyance and flood-related projects expected to cost more than \$1 million. It also said when the Commission is considering funding for one of the aforementioned types of projects, that the State Engineer would provide the results of an EA for Commission consideration.

After a lengthy public process to establish an EA calculation tool and guidelines, and after beginning to implement statutory EA requirements for water conveyance and flood-related projects with a total cost of at least \$1 million during the 2019-2021 biennium, Water Commission members began to appreciate having the results of EAs in their decision-making related to project reviews.

As we all know, not all projects are created equal. Thus, knowing the state's expected return on these investments, before making a decision to commit tax dollars, is viewed by DWR and Commission members as a good thing. That is, after all, the fundamental purpose of EA – to calculate the ratio of benefits returned to those investing in a project, compared to the overall costs of the project. In short, for every dollar of cost, is there at least one dollar of benefit when looking at projects in their entirety? With that in mind, the Commission began discussing the possibility of reducing the threshold of the total cost to a lower level during the summer of 2019.

The Water Commission and the agency then began to work in close cooperation with the Interim Legislative Water Topics Overview Committee to see if it was possible to use a lower threshold for EA requirements. Legislative Council was asked by the Committee Chair to weigh in on the Commission's ability to require EA for projects with a total cost of less than \$1 million. Legislative Council reported back that the Commission does have that authority – so long as the minimum statutory threshold is met. In September 2019, this determination was communicated by the Interim Legislative Water Topics Overview Committee chair to other committee members (see attached), and it was also presented at the December 2019 Water Topics meeting. That same month, the Water Commission approved \$200,000 as the new total project cost threshold for EA to be conducted. The threshold remains at that level today.

The purpose of Engrossed HB 1218 is to establish a total cost threshold for flood control and water conveyance projects "only for those expected to cost more than seven hundred fifty thousand dollars." This would mean only those projects with a total cost of \$750,000 or more could be reviewed with EA, and the Commission's decision to establish a lower threshold (currently at \$200,000), would no longer be an option.

To put this proposal into perspective in terms of projects that have come before the Commission for cost-share consideration, since 2019, 50 projects have been required to conduct EA. Had the EA threshold been set at \$750,000, 22 of those 50 would have been required to submit the results of an EA.

Again, the very reason the Water Commission has set a lower threshold than what is minimally required in Century Code, is because many of the members appreciate the best available information in hand when allocating state tax dollars to projects. In a time where competition among projects for finite state resources is only growing, it is more important than ever to ensure state investments are made as thoughtfully as possible.

As the discussions related to this issue are covered over the course of considering HB 1218, you will likely hear a common point that is meant to support this bill. You will hear that state-required EAs are not necessary because local sponsors have voted to assess themselves, which is a demonstration that it is a beneficial project, and their positive vote should count as the economic analysis. First, not all projects get voted on at the local level. Second, a

decision to pay for something does not replace a traditional objective analysis of economic efficiency (more benefits than costs). Third, and most importantly, the sponsors approaching the DWR and Commission for cost-share are not paying for the total cost of the project themselves, but are in fact, asking the state to assist with public funds. It is for these very reasons that the Legislature back in 2017 established EA requirements – to ensure that when the state is being asked to financially participate, that those state investments were being made thoughtfully, and in a way that provides more consideration to projects that have demonstrated little return on investment compared to their total cost.

You might also hear the EA calculation tool is biased to the detriment of rural projects, and that it does not take into account all conveyance-related benefits, including the capture of higher commodity prices. The largest contributing benefit of the DWR EA tool for rural drainage is the model easily returns positive rates of return when the project in fact brings more acres into production under the designed events. This is the purpose of rural drainage, and the model reflects this goal. Where proponents are unhappy with their projects' demonstrable benefits are mostly deferred maintenance projects - where the actions proposed do not add to the acres available for planting or length of flood impacts.

In addition, chasing constantly changing commodity prices requires picking a snapshot in time whether it is over or under projecting future benefits and can lack objectivity. In the tool developed by DWR, we use decades of indexed crop damage payments to estimate the avoided damages as demonstrated in each county by the insurers and reinsurers. These are updated regularly. This avoids the propagation of errors from soils and productivity models and goes directly to the damage claims which are the intent of those models to estimate.

And finally, it is also important to note the North Dakota Department of Emergency Services (NDDES) uses the results of EAs calculated on state cost-share projects to meet accreditation standards for the Emergency Management Accreditation Program (EMAP) and to maintain their Statewide Enhanced Mitigation Plan. These results provide an objective benchmark accounting for the efficacy of flood protection investments. Nationally NDDES is seen as an example for the use of these data to measure the potential impact of flood mitigation policy and investment.

Mr. Chairman, and members of the committee, in the interest of meeting taxpayer expectations that government is being as thoughtful as possible when allocating public funds, the implementation of EA just makes sense. DWR's EA tool is the best option available to ensure that when the state is asked to invest in local projects, investment decisions are supported with the results of objective quantitative analysis.

Mr. Chairman, and members of the committee, this concludes my testimony, and I will stand for any questions you might have.

Subject: FW: economic analyses for projects under \$1 million

Date: Friday, September 27, 2019 at 11:45:35 AM Central Daylight Time

From: Erbele, Garland G.

To: Fridgen, Patrick M., Pool, Duane B., Mattern, Jeff N.

CC: Paczkowski, John A., Verleger, Jennifer L.

Fyi,

Email from Claire Ness on authority of commission to require EA's on flood control projects less than \$1.0 million.

From: "Schmidt, James E." <jeschmidt@nd.gov> Date: Friday, September 27, 2019 at 11:22 AM

To: "Sanford, Brent" <bssnford@nd.gov>, "dickjohnsondvl@gmail.com" <dickjohnsondvl@gmail.com>, "Erbele, Garland G." <gerbele@nd.gov>

Cc: "Sorvaag, Ronald G." <rsorvaag@nd.gov>, "Lee, Gary A." <galee@nd.gov>, "Kreun, Curt E." <ckreun@nd.gov>, "Ness, Claire J." <claireness@nd.gov>, "Kadrmas, Chris J." <cjkadrmas@nd.gov> Subject: Fwd: economic analyses for projects under \$1 million

Good morning,

Regarding SWC authority to require flood control projects with estimated cost less than \$1 million dollars to include a cost benefit analysis, Ms. Claire Ness, Legislative Council, has provided the following.

SWC may proceed as it deems appropriate in this matter.

If you have any questions please contact Ms. Ness.

Thank you

Jim

Sent from my iPhone

Begin forwarded message:

From: "Ness, Claire J." < claire J." < claireness@nd.gov Date: September 27, 2019 at 9:33:06 AM CDT To: "Schmidt, James E." < jeschmidt@nd.gov

Cc: "Kadrmas, Chris J." <cikadrmas@nd.gov>, "Richter, Vonette J." <vrichter@nd.gov>

Subject: economic analyses for projects under \$1 million

Representative Schmidt,

This responds to your question regarding whether the State Water Commission may require sponsors of projects under \$1 million who are seeking approval to provide economic analyses to the commission for review. North Dakota Century Code Section 61-03-21.4 requires the State Engineer to develop an economic analysis process for certain water projects expected to cost more than \$1 million. Projects expected to cost \$1 million or less are not addressed specifically.

However, the State Water Commission and State Engineer have authority to require information about those projects when evaluating whether to fund them. That authority appears broad enough to require project sponsors to submit economic analyses. This office cannot anticipate how a court would rule on this issue if it were brought to court though.

Under North Dakota Century Code Section 61-02-78, when the commission is deciding whether to approve a project to fund with resources trust fund money, the commission is required to consider, among other things, "the overall economic impact of the project" and "the reasons why it is in the public interest". Also, under Section 61-02-14, the commission is granted broad authority to "investigate, plan, regulate, undertake, construct, establish, maintain, control, operate, and supervise all works, dams, and project, public and provide, which in the commission judgement may be necessary or advisable..." In order for the commission to understand the "overall economic impact" of a project and whether the project is in the public interest, necessary, or advisable, the commission must have sufficient information about the project. The commission is given discretion how to obtain that information and is not restricted by statute as to the types of information it may require from project sponsors.

Additionally, Section 61-02-14(5) gives the commission the authority to "exercise all express and implied rights, power, and authority that may be necessary, and to do, perform, and carry out the expressed purposes of this chapter and the purposes reasonably implied incidentally to or lawfully connected with the expressed purposes of this chapter." This section essentially says the commission may do things that are not explicitly stated in statute, provided the things are necessary to carry out the commission's duties. Even though the commission is not explicitly required to request economic analyses for projects under \$1 million, the commission arguably may do so if the commission believes it is necessary to the exercise of the commission's duties set forth in Sections 61-02-78, 61-02-14, and other statutes.

This is not an exhaustive review of the entirety of the commission's and State Engineer's authority. If you have additional questions or would like additional information, please let me know.

Thank you, Claire

Claire J. Ness Counsel Legislative Council 600 East Boulevard Avenue Bismarck, ND 58505 (701) 328-3208

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Peace Garden Room, State Capitol

HB 1218 3/27/2025

A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code, relating to comprehensive water development plans.

9:09 a.m. Chairman Patten opened the meeting.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

Discussion Topics:

- Economic analysis requirements
- Department of Water Resources
- Drainage area reporting

9:11 a.m. Chairman Patten updated the committee on the background of the bill, introduced proposed amendment LC# 25.0817.02002, and submitted testimony #44288.

- 9:13 a.m. Chairman Patten recessed the hearing.
- 9:20 a.m. Chairman Patten reconvened the hearing.
- 9:21 a.m. Senator Kessel moved Amendment LC# 25.0817.02002.
- 9:22 a.m. Senator Boehm seconded.

Senators	Vote
Senator Dale Patten	Υ
Senator Greg Kessel	Υ
Senator Todd Beard	Υ
Senator Keith Boehm	Υ
Senator Mark Enget	Υ
Senator Justin Gerhardt	Υ
Senator Desiree Van Oosting	Υ

Motion Passed 7-0-0.

- 9:24 a.m. Senator Kessel moved a Do Pass as Amended.
- 9:24 a.m. Senator Enget seconded the motion.

Senate Energy and Natural Resources Committee HB 1218 3/27/2025 Page 2

Senators	Vote
Senator Dale Patten	Υ
Senator Greg Kessel	Υ
Senator Todd Beard	Υ
Senator Keith Boehm	Υ
Senator Mark Enget	Υ
Senator Justin Gerhardt	Ν
Senator Desiree Van Oosting	Υ

Motion Passed 6-1-0.

9:25 a.m. Senator Enget will carry the bill.

9:25 a.m. Senator Beard asked for an electronic upload of amendment.

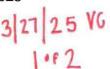
9:27 a.m. Chairman Patten closed the hearing.

Kendra McCann, Committee Clerk

25.0817.02002 Title.03000 Prepared by the Legislative Council staff for Representative Schreiber-Beck March 21, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT



ENGROSSED HOUSE BILL NO. 1218

Introduced by

Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code,
relating to comprehensive water development plans. for an Act to create and enact a new
section to chapter 61-02 of the North Dakota Century Code, relating to a temporary moratorium
on conducting an economic analysis for assessment drain projects; to provide for a study by the
state water commission; to provide for a legislative management report; and to provide an
expiration date.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 SECTION 1. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is 9 amended and reenacted as follows: 10 61-02-01.3. Comprehensive water development plan. 11 Biennially, the commission shall develop and maintain a comprehensive water 12 development plan organized on a river basin perspective, including an inventory of 13 future water projects for budgeting and planning purposes. 14 As part of the commission's planning process, to To facilitate local project sponsor 15 participation and project prioritization and to assist in education regarding life cycle 16 analyses for municipal water supply projects, and economic analyses for flood control 17 and water conveyance projects expected to cost more than one million dollars, the 18 commission shall develop a policy that outlines procedures forhold 19 commissioner-hosted meetings within the upper Missouri River, lower Missouri River,

James River, upper Red River, lower Red River, Mouse River, Devils Lake, Little Missouri River, upper Heart River, and upper Cannonball River drainage basins.

3. The commission may not require or conduct a life cycle analysis for a municipal water supply project or an economic analysis for a flood control and water conveyance project, if the project is expected to cost less than seven hundred fifty thousand dollars.

SECTION 1. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Economic analysis for assessment drain projects - Moratorium.

Notwithstanding the state water commission's authority to conduct an economic analysis for an assessment drain project under section 61-02-01.3, between August 1, 2025, and July 31, 2027, the state water commission or the department of water resources may not conduct an economic analysis for an assessment drain project within the state.

ANALYSIS FOR ASSESSMENT DRAIN PROJECTS - LEGISLATIVE MANAGEMENT

REPORT. During the 2025-26 interim, the state water commission shall study its formula for conducting an economic analysis for assessment drain projects. The state water commission shall provide periodic reports to the legislative management on the status of the state water commission's review of the economic analysis formula. Before August 1, 2026, the state water commission shall provide a final report of its findings and recommendations to the legislative management, together with any legislation and appropriation requests required to implement the recommendations.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2027, and after that date is ineffective.

Module ID: s_stcomrep_49_014 Carrier: Enget Insert LC: 25.0817.02002 Title: 03000

REPORT OF STANDING COMMITTEE ENGROSSED HB 1218

Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends AMENDMENTS (25.0817.02002) and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1218 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0817.02002 Title.

Sixty-ninth Legislative Assembly of North Dakota Prepared by the Legislative Council staff for Representative Schreiber-Beck March 21, 2025

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1218

Introduced by

Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

- A BILL for an Act to amend and reenact section 61-02-01.3 of the North Dakota Century Code,
 relating to comprehensive water development plans for an Act to create and enact a new
 section to chapter 61-02 of the North Dakota Century Code, relating to a temporary moratorium
 on conducting an economic analysis for assessment drain projects; to provide for a study by the
 state water commission; to provide for a legislative management report; and to provide an
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- 7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:
- 8 SECTION 1. AMENDMENT. Section 61-02-01.3 of the North-Dakota Century Code is-9 amended and reenacted as follows: 10 61-02-01.3. Comprehensive water development plan. 11 1. Biennially, the commission shall develop and maintain a comprehensive water-12 development plan organized on a river basin perspective, including an inventory of 13 future-water projects for budgeting and planning purposes. 14 2.—As part of the commission's planning process, to To facilitate local project sponsor-15 participation-and-project-prioritization and to assist in education regarding life cycle-16 analyses for municipal water-supply-projects, and economic analyses for flood control-17 and water conveyance projects expected to cost more than one million dollars, the 18 commission-shall develop a policy that outlines procedures forhold 19 commissioner-hosted-meetings-within the upper Missouri-River, lower Missouri-River,-

James River, upper Red-River, lower Red-River, Mouse River, Devils-Lake, Little-Missouri-River, upper Heart River, and upper Cannonball River drainage basins.

3. The commission may not require or conduct a life cycle analysis for a municipal water-supply project or an economic analysis for a flood control and water conveyance-project, if the project is expected to cost less than seven hundred fifty thousand-dollars.

SECTION 1. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Economic analysis for assessment drain projects - Moratorium.

Notwithstanding the state water commission's authority to conduct an economic analysis for an assessment drain project under section 61-02-01.3, between August 1, 2025, and July 31, 2027, the state water commission or the department of water resources may not conduct an economic analysis for an assessment drain project within the state.

SECTION 2. STATE WATER COMMISSION STUDY - FORMULA FOR ECONOMIC ANALYSIS FOR ASSESSMENT DRAIN PROJECTS - LEGISLATIVE MANAGEMENT REPORT. During the 2025-26 interim, the state water commission shall study its formula for conducting an economic analysis for assessment drain projects. The state water commission shall provide periodic reports to the legislative management on the status of the state water commission's review of the economic analysis formula. Before August 1, 2026, the state water commission shall provide a final report of its findings and recommendations to the legislative management, together with any legislation and appropriation requests required to implement the recommendations.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2027, and after that date is ineffective.

2025 CONFERENCE COMMITTEE
HB 1218

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 4/15/2025 Conference Committee

Relating to comprehensive water development plans.

8:30 a.m. Chairman Hagert called the meeting to order.

Members Present: Representatives: Dockter, Hagert, Novak. Senators: Enget, Gerhardt, Kessel

Discussion Topics:

Proposed language changes

8:30 a.m. Chairman Hagert went over proposed amendment, by changing the appropriation to 1 million dollars. #44990

8:38 a.m. Chairman Hagert closed the hearing.

Leah Kuball, Committee Clerk

SECTION 1. Section 61-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01.3 Comprehensive water development plan.

3. The commission may not require an economic analysis for an assessment drain project if the project is expected to cost less than one million dollars.

Economic analysis for assessment drain projects - Moratorium.

Notwithstanding the state water commission's authority to conduct an economic analysis for an assessment drain project under section 61 - 02 - 01.3, between August 1, 2025, and July 31, 2027, the state water commission or the department of water resources may not conduct an economic analysis for an assessment drain project within the state.

SECTION 2. STATE WATER COMMISSION STUDY - FORMULA FOR ECONOMIC ANALYSIS FOR ASSESSMENT DRAIN PROJECTS - LEGISLATIVE MANAGEMENT REPORT. During the 2025-26 interim, the state water commission shall study its formula for conducting an economic analysis for assessment drain projects as well as the projected project cost threshold for conducting economic analyses. The state water commission shall provide periodic reports to the legislative management on the status of the state water commission's review of the economic analysis formula. Before August 1, 2026, the state water commission shall provide a final report of its findings and recommendations to the legislative management, together with any legislation and appropriation requests required to implement the recommendations.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 4/15/2025 Conference Committee

Relating to comprehensive water development plans.

11:08 a.m. Chairman Hagert called the meeting to order.

Members Present: Representatives: Dockter, Hagert, Novak. Senators: Enget, Gerhardt, Kessel

Discussion Topics:

- Proposed language changes
- Committee action

11:09 a.m. Chairman Hagert explained proposed amendment, combing the house and senate amendments. LC 25.0817.02005. (Testimony #45003)

- 11:13 a.m. Reice Hause- Director DWR- Answers questions for committee.
- 11:20 a.m. Chairman Hagert proposed changing the words "State water commission" from sections 3 with "Legislative Management".
- 11:22 a.m. Representative Dockter Moved to adopt amendment 25.0817.20065 and further amend with the proposed word changes.
- 11:22 Senator Kessel Seconded the motion.

Roll Call Vote.

- 11:23 a.m. Motion Passed 5-1-0
- 11:23 a.m. Chairman Hagert closed the meeting.

Leah Kuball, Committee Clerk by Risa Berube

HB 1218 041525 1125 AM Roll Call Vote

Amendment

HB 1218

Date Submitted: April 15, 2025, 11:25 a.m.

Action: Passed

Amendment LC #: Pending LC #

Motioned By: Dockter, Jason

Seconded By: Kessel, Greg

Emergency Clause: None

Vote Results: 5 - 1 - 0

Description: .02005 Version with additional changes

Rep. Hagert, Jared	Yea
Rep. Novak, Anna S.	Yea
Rep. Dockter, Jason	Yea
Sen. Kessel, Greg	Yea
Sen. Enget, Mark	Yea
Sen. Gerhardt, Justin	Nay

25.0817.02005 Title.

Prepared by the Legislative Council staff for Representative Hagert April 15, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1218

Introduced by

expiration date.

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Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

In place of amendment (25.0817.02002) adopted by the Senate, Engrossed House Bill No. 1218 is amended by amendment (25.0817.02005) as follows:

1 A BILL for an Act to create and enact a new section to chapter 61-02 of the North Dakota 2 Century Code, relating to a temporary moratorium on conducting an economic analysis for 3 assessment drain projects; to amend and reenact section 61-02-01.3 of the North Dakota 4 Century Code, relating to comprehensive water development plans; to provide for a study by 5 the state water commission; to provide for a legislative management report; and to provide an

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 SECTION 1. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is 9 amended and reenacted as follows:

61-02-01.3. Comprehensive water development plan.

- Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes.
- As part of the commission's planning process, to To facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects expected to cost more than one million dollars, the commission shall develop a policy that outlines procedures for hold

19 commissioner-hosted meetings within the upper Missouri River, lower Missouri River,

1		James River, upper Red River, lower Red River, Mouse River, Devils Lake, Little
2		Missouri River, upper Heart River, and upper Cannonball River drainage basins.
3	<u>3.</u>	The commission may not require or conduct a life cycle an economic analysis for a
4		municipal water supply project or an economic analysis for a flood control and water
5		conveyance projectan assessment drain project, if the project is expected to cost less
6		than seven hundred fifty thousand one million dollars.
7	SEC	CTION 2. A new section to chapter 61-02 of the North Dakota Century Code is created
8	and ena	cted as follows:
9	Eco	nomic analysis for assessment drain projects - Moratorium.
10	Not	withstanding the state water commission's authority to conduct an economic analysis for
11	an asse	ssment drain project under section 61-02-01.3, between August 1, 2025, and July 31,
12	2027, th	e state water commission or the department of water resources may not conduct an
13	econom	ic analysis for an assessment drain project within the state.
14	SEC	CTION 3. STATE WATER COMMISSION STUDY - FORMULA FOR ECONOMIC
15	ANALY	SIS FOR ASSESSMENT DRAIN PROJECTS - LEGISLATIVE MANAGEMENT
16	REPOR	T. During the 2025-26 interim, the state water commission shall study its formula for
17	conduct	ing an economic analysis for assessment drain projects and the projected cost
18	threshol	d for conducting economic analyses. The state water commission shall provide periodic
19	reports	to the legislative management on the status of the state water commission's review of
20	the ecor	nomic analysis formula. Before August 1, 2026, the state water commission shall
21	provide	a final report of its findings and recommendations to the legislative management,
22	togethe	with any legislation and appropriation requests required to implement the
23	recomm	endations.
24	SEC	CTION 4. EXPIRATION DATE. Section 2 of this Act is effective through July 31, 2027,
25	and afte	er that date is ineffective.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1218 4/17/2025 Conference Committee

Relating to comprehensive water development plans.

8:37 a.m. Chairman Hagert called the meeting to order.

Members Present: Representatives: Dockter, Hagert, Novak. Senators: Enget, Gerhardt, Kessel

Discussion Topics:

- Reconsider Committee Action
- 8:37 a.m. Representative Dockter moved to reconsider.
- 8:37 a.m. Senator Kessler second the motion
- 8:38 a.m. Voice Vote-Motion Passed
- 8:38 a.m. Senator Kessler Moved to adopt amendment LC 25.0817.02006. (Testimony #45043)
- 8:38 a.m. Representative Novak Seconded the motion.
- 8:39 a.m. Voice Vote-Motion Passed
- 8:39 a.m. Representative Novak Moved for a Do Pass as Amended for HB 2018 with version 25.0817.02006.
- 8:39 a.m. Senator Kessler- Seconded the motion.
- 8:41 a.m. Representative Novak Withdrew her motion.
- 8:42 a.m. Senator Kessler Moved to adopt amendment 25.0817.02006 in place of 25.0817.02002.
- 8:43 a.m. Representative Dockter Seconded the motion.
- Roll Call Vote- Motion Passed 6-0-0
- 8:46 a.m. Chairman Hagert closed the meeting.
- Leah Kuball, Committee Clerk by Risa Berube

25.0817.02006 Title.04000

Sixty-ninth Legislative Assembly of North Dakota Prepared by the Legislative Council staff for Representative Hagert
April 15, 2025

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

1/17/25

ENGROSSED HOUSE BILL NO. 1218

Introduced by

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Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

In place of amendment (25.0817.02002) adopted by the Senate, Engrossed House Bill No. 1218 is amended by amendment (25.0817.02006) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 61-02 of the North Dakota
- 2 Century Code, relating to a temporary moratorium on conducting an economic analysis for
- 3 assessment drain projects; to amend and reenact section 61-02-01.3 of the North Dakota
- 4 Century Code, relating to comprehensive water development plans: to provide for a legislative
- 5 management study; and to provide an expiration date.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- SECTION 1. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is
 amended and reenacted as follows:
- 9 61-02-01.3. Comprehensive water development plan.
 - 1. Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes.
 - 2. As part of the commission's planning process, to Te facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects expected to cost more than one million dollars, the commission shall develop a policy that outlines procedures for hold commissioner-hosted meetings within the upper Missouri River, lower Missouri River,

1		James River, upper Red River, lower Red River, Mouse River, Devils Lake, Little	
2		Missouri River, upper Heart River, and upper Cannonball River drainage basins.	
3	<u>3.</u>	The commission may not require or conduct a life cyclean economic analysis for a	
4		municipal water supply project or an economic analysis for a flood control and water	
5		conveyance project, an assessment drain project if the project is expected to cost less	
6		than seven hundred fifty thousand one million dollars or less.	
7	SEC	CTION 2. A new section to chapter 61-02 of the North Dakota Century Code is created	
8		cted as follows:	
9	Eco	nomic analysis for assessment drain projects - Moratorium.	
10			
11	water commission or the department of water resources may not conduct an economic analysis		
12			
13	SEC	CTION 3. LEGISLATIVE MANAGEMENT STUDY - FORMULA FOR ECONOMIC	
14		GIS FOR ASSESSMENT DRAIN PROJECTS. During the 2025-26 interim, the	
15		ve management shall study the formula for conducting an economic analysis for	
16		nent drain projects and the projected cost threshold for conducting economic analyses.	
17		slative management shall report its findings and recommendations, together with any	
18		on required to implement the recommendations, to the seventieth legislative assembly.	
19		TION 4. EXPIRATION DATE. Section 2 of this Act is effective through July 31, 2027,	
20	Control of the Contro	r that date is ineffective.	

HB 1218 041725 0848 AM Roll Call Vote

Final Recommendation

HB 1218

Date Submitted: April 17, 2025, 8:48 a.m.

Recommendation: In Place Of
Amendment LC #: 25.0817.02006

Engrossed LC #: N/A

Motioned By: Novak, Anna S.

Seconded By: Kessel, Greg

House Carrier: Hagert, Jared

Senate Carrier: Kessel, Greg

Emergency Clause: None

Vote Results: 6 - 0 - 0

Description: N/A

Rep. Hagert, Jared	Yea
Rep. Novak, Anna S.	Yea
Rep. Dockter, Jason	Yea
Sen. Kessel, Greg	Yea
Sen. Enget, Mark	Yea
Sen. Gerhardt, Justin	Yea

Module ID: h_cfcomrep_64_005

Insert LC: 25.0817.02006 Title: 04000

House Carrier: Hagert Senate Carrier: Kessel

REPORT OF CONFERENCE COMMITTEE ENGROSSED HB 1218

Your conference committee (Sens. Kessel, Enget, Gerhardt and Reps. Hagert, Novak, Dockter) recommends that in place of amendment <u>25.0817.02002</u> adopted by the Senate, Engrossed HB 1218 is amended by amendment <u>25.0817.02006</u>.

Engrossed HB 1218 was placed on the Seventh order of business on the calendar.

25.0817.02006 Title. Prepared by the Legislative Council staff for Representative Hagert
April 15, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1218

Introduced by

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Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland, Nelson, Weisz

Senators Meyer, Thomas, Wanzek, Weber

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16	assessr	nent drain projects and the projected cost threshold for conducting economic analyses.
17	The legi	slative management shall report its findings and recommendations, together with any
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