

2025 SENATE ENERGY AND NATURAL RESOURCES

SB 2153

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2153
2/13/2025

Relating to water conveyance projects and works.
--

10:04 a.m. Chairman Patten opened the hearing.

Members present:

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

Discussion Topics:

- Water conveyance definition
- Committee Action

10:04 a.m. Senator Mike Dwyer introduced the bill and submitted testimony in favor #37608.

10:09 a.m. Eric Volk, Executive Director of the ND Rural Water, testified in favor and submitted testimony #37507.

10:10 a.m. Dan Wogsland, Lobbyist for the ND Grain Growers Association, testified in favor and submitted testimony #37564.

10:11 a.m. Chairman Patten closed the hearing.

10:11 a.m. Senator Beard moved a Do Pass.

10:12 a.m. Senator Enget seconded the motion.

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

Motion Passed 6-0-1.

10:12 a.m. Senator Gerhardt will carry the bill.

10:13 a.m. Chairman Patten closed the hearing.

Kendra McCann, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2153 ([25.0509.01000](#))

Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2153 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.



Eric Volk, Executive Director

ND Rural Water Systems Association

In Support of Senate Bill 2153

Senate Energy & Natural Resources Committee

February 13, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. NDRWSA is committed to completing and maintaining North Dakota's water infrastructure for economic growth and quality of life. Today, I am submitting testimony in support of Senate Bill 2153, which clarifies section 61-02-02(9) of the North Dakota Century Code.

The bill simply cleans up the definition of "Project" in subsection 9 by inserting "*a water conveyance project or*" and properly references any one of the works to subsection "*11*", not subsection 10.

From Benjamin J. Johnson, Judge of District Court for the Northwest Judicial District...*Prior to 2019, the definition cross-referenced to "works" under subsection 11, but that was changed in the 2019 legislative session. In looking at the legislative history of 2019, it appears that the Legislature intended to eliminate subsection 10, "water conveyance project", and "works" would have been the new subsection 10, which is why subsection 9 was changed. But later in the session "water conveyance project" was reinserted as subsection 10, but subsection 9 was not also corrected. This appears to be a legislative oversight. The North Dakota Supreme Court has held:*

"Our primary goal in statutory construction is to ascertain the intent of the Legislature. In ascertaining the Legislative intent, we first look to the plain language of the statute and give each word of the statute its ordinary meaning. We construe the statute as a whole and give effect to each of its provisions if possible. If the language of the statute is clear and unambiguous, we cannot ignore that language under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute."

With that said, the NDRWSA supports Senate Bill 2153. Thank you for giving me the opportunity to provide testimony on behalf of the members of the NDRWSA. Eric Volk, ericvolk@ndrw.org.



**North Dakota Grain Growers Association
Testimony in Support of SB 2153
Senate Energy and Natural Resources Committee
February 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). NDGGA supports Senate Bill 2153.

This bill is critical for ensuring the efficient and sustainable management of our state's water resources, which are vital to the success of our agricultural industry.

SB 2153 clarifies the definition of "project" as it relates to water conveyance, recognizing the interconnected nature of water infrastructure projects. By including physically connected or jointly managed and operated works, the bill provides a more realistic and practical framework for planning and managing water resources.

This revised definition will directly benefit farmers and ranchers across North Dakota. It helps us better understand the scope of water conveyance projects, enabling us to plan for long-term water management and ensure adequate water resources are available for irrigation and other agricultural uses.

NDGGA believes that this bill is a step in the right direction, fostering a more comprehensive and collaborative approach to water resource management. It will enhance our ability to protect our water resources and support the continued growth of our agricultural industry.

Therefore, Chairman Patten, Members of the Senate Energy and Natural Resources Committee, NDGGA would respectfully request a Do Pass recommendation for SB 2153 and would urge the full Senate to concur.

25.0509.01000

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2153

Introduced by

Senators Dwyer, Sorvaag, Weber

Representatives Brandenburg, Mitskog, Hagert

- 1 A BILL for an Act to amend and reenact subsection 9 of section 61-02-02 of the North Dakota
2 Century Code, relating to water conveyance projects and works.

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

- 4 **SECTION 1. AMENDMENT.** Subsection 9 of section 61-02-02 of the North Dakota Century
5 Code is amended and reenacted as follows:

- 6 9. "Project" means a water conveyance project or any one of the works defined in
7 subsection ~~4011~~, or any combination of such works, which are physically connected or
8 jointly managed and operated as a single unit.

- a. All property rights, easements, and franchises relating to and deemed necessary or convenient for their operation;
- b. All water rights acquired and exercised by the commission in connection with such works;
- c. All means of conserving and distributing water, including reservoirs, dams, diversion canals, distributing canals, channels, lateral ditches, pumping units, mains, pipelines, treatment plants, and waterworks systems; and
- d. All works for the conservation, control, development, storage, treatment, distribution, and utilization of water, including works for the purpose of irrigation, flood control, watering stock, supplying water for public, domestic, industrial, and recreational use, fire protection, and the draining of lands injured or in danger of injury as a result of such water utilization.

61-02-03. Apportioning or allocating water rights by commission.

In case any water rights shall be acquired or exercised by the commission in connection with two or more works and projects, the commission, by resolution, shall apportion or allocate to each of such works or projects such part of such water rights as it may determine, and upon adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and projects to the extent that such water rights have been so apportioned or allocated thereto respectively.

61-02-04. State water commission - Members - Terms - Qualifications.

The state water commission consists of the governor, agriculture commissioner, and eight other members appointed by the governor who shall take into account reasonable geographic considerations in making the appointments with the intent of having each of the eight major drainage basins represented by a commissioner who resides in the basin. The major drainage basins are the upper Missouri River basin; the lower Missouri River basin; the James River basin; the upper Red River basin; the lower Red River basin; the Mouse River basin; the Devils Lake basin; and the Little Missouri River, upper Heart River, and upper Cannonball River basin. The governor or the agriculture commissioner, or both, may appoint a representative to serve in that official's capacity at meetings that official is unable to attend. The eight appointive members of the commission must be appointed for a term of six years each with the terms of office so arranged that not more than four terms expire on the first day of July of each odd-numbered year. Each appointive member must be a qualified elector of the state and is subject to removal by judicial procedure. In case of a vacancy, the vacancy must be filled by appointment by the governor for the remainder of the unexpired term. Before entering upon the discharge of official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.

61-02-04.1. Conflict of interest.

1. A member of the commission who has a direct or indirect personal or pecuniary interest in a matter before the commission must disclose that fact to the commission and may not participate in or vote on that particular matter.
2. Sections 12.1-13-02, 12.1-13-03, and 48-01.2-08 do not apply to contracts in which a member of the commission is directly or indirectly interested if the requirements of subsection 1 have been met.

61-02-05. Chairman of commission.

The governor is the chairman of the commission. The governor shall designate a vice chairman from the members of the commission. The director of the department of water resources is the secretary of the commission.

61-02-06. Principal and branch offices of commission.

The commission shall maintain its principal office in the city of Bismarck and may maintain such branch offices in the state as it may determine.

of watercourses and deepening or widening of existing drains are eligible for reimbursement. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.

4. May not determine program eligibility of water supply projects based on affordability. However, affordability may be used in prioritizing projects for that purpose.

61-02-01.5. North Dakota outdoor heritage fund grants - Effect on local cost-share.

Repealed by S.L. 2021, ch. 489, § 2.

61-02-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the state water commission.
2. "Cost of works" includes:
 - a. The cost of construction, the cost of all lands, property rights, water rights, easements, and franchises acquired which are deemed necessary for such construction;
 - b. The cost of all water rights acquired or exercised by the commission in connection with the works;
 - c. The cost of all machinery and equipment, financing charges, interest before and during construction and for a period not exceeding three years after the completion of construction;
 - d. The cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of a project;
 - e. Administrative expenses;
 - f. The construction of the works and the placing of the works in operation; and
 - g. Other expenses necessary or incident to the financing authorized in this chapter, including funding of debt service, repair and replacement reserves, capitalized interest, and the payment of bond issuance costs.
3. "Cost-share" means funds appropriated by the legislative assembly or otherwise transferred by the commission to a local entity under commission policy as reimbursement for a percentage of the total approved cost of a project approved by the commission.
4. "Economic analysis" means an estimate of economic benefits and direct costs that result from the development of a project.
5. "Grant" means a one-time sum of money appropriated by the legislative assembly and transferred by the commission to a local entity for a particular purpose. A grant is not dependent on the local entity providing a particular percentage of the cost of the project.
6. "Life cycle analysis" means the summation of all costs associated with the anticipated useful life of a project, including project development, land, construction, operation, maintenance, and disposal or decommissioning.
7. "Loan" means an amount of money lent to a sponsor of a project approved by the commission to assist with funding approved project components. A loan may be stand-alone financial assistance.
8. "Owner" includes all individuals, associations, corporations, limited liability companies, districts, municipalities, and other political subdivisions of this state having any title or interest in any properties, rights, water rights, easements, or franchises to be acquired.
9. "Project" means any one of the works defined in subsection 10, or any combination of such works, which are physically connected or jointly managed and operated as a single unit.
10. "Water conveyance project" means any assessment drain, streambank stabilization, or snagging and clearing of water courses.
11. "Works" includes:

2025 HOUSE ENERGY AND NATURAL RESOURCES

SB 2153

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2153

3/6/2025

Relating to water conveyance projects and works.
--

2:52 p.m. Chairman Porter called the hearing to order.

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

Discussion Topics:

- Language clean up
- Lawsuits

2:53 p.m. Senator Dwyer introduced the bill and submitted testimony. #39349

2:56 p.m. Eric Volk, Executive Director, ND Rural Water, testified in favor and submitted testimony. #39287

2:58 p.m. Lance Gaebe, Policy Analyst, ND Farmers Union, testified in favor and submitted testimony. #39153

2:59 p.m. Aaron Carrenza, Regulatory Division Director, Department of Water Resources, answered questions for the committee.

Additional written testimony:

Dan Wogsland, Lobbyist, ND Grain Growers Association, submitted testimony in favor. #39074

3:01 p.m. Chairman Porter closed the hearing.

Leah Kuball, Committee Clerk



**North Dakota Grain Growers Association
Testimony in Support of SB 2153
House Energy and Natural Resources Committee
March 6, 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). NDGGA supports Senate Bill 2153.

This bill is critical for ensuring the efficient and sustainable management of our state's water resources, which are vital to the success of our agricultural industry.

SB 2153 clarifies the definition of "project" as it relates to water conveyance, recognizing the interconnected nature of water infrastructure projects. By including physically connected or jointly managed and operated works, the bill provides a more realistic and practical framework for planning and managing water resources.

This revised definition will directly benefit farmers and ranchers across North Dakota. It helps us better understand the scope of water conveyance projects, enabling us to plan for long-term water management and ensure adequate water resources are available for irrigation and other agricultural uses.

NDGGA believes that this bill is a step in the right direction, fostering a more comprehensive and collaborative approach to water resource management. It will enhance our ability to protect our water resources and support the continued growth of our agricultural industry.

Therefore, Chairman Porter, Members of the House Energy and Natural Resources Committee, NDGGA would respectfully request a Do Pass recommendation for SB 2153 and would urge the full House to concur.



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

**Lance Gaebe on behalf of
North Dakota Farmers Union
Testimony in Support of SB 2153
House Energy and Natural Resources Committee
March 6, 2025**

Chairman Porter and members of the Energy and Natural Resources Committee, my name is Lance Gaebe. Thank you for the opportunity to testify on behalf of North Dakota Farmers Union in support of Senate Bill No. 2153.

SB 2153 will implement a technical correction to clarify that the definition of a water project includes a water conveyance project. This adjustment is needed to fix an oversight in changes made by the 2019 Legislature.

North Dakota Farmers Union members recognize the importance of effective water management in ensuring the long-term sustainability of our agricultural economy and protecting local infrastructure.

Efficient water conveyance is 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. SB 2153 will allow the State Water Commission to continue to assist local water managers in this important role.

North Dakota Farmers Union asks this committee to give a “Do Pass” recommendation on SB 2153.



Eric Volk, Executive Director

ND Rural Water Systems Association

In Support of Senate Bill 2153

House Energy & Natural Resources Committee

March 6, 2025

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. NDRWSA is committed to completing and maintaining North Dakota's water infrastructure for economic growth and quality of life. Today, I am submitting testimony in support of Senate Bill 2153, which clarifies section 61-02-02(9) of the North Dakota Century Code.

The bill simply cleans up the definition of "Project" in subsection 9 by inserting "*a water conveyance project or*" and properly references any one of the works to subsection "*11*", not subsection 10.

From Benjamin J. Johnson, Judge of District Court for the Northwest Judicial District...*Prior to 2019, the definition cross-referenced to "works" under subsection 11, but that was changed in the 2019 legislative session. In looking at the legislative history of 2019, it appears that the Legislature intended to eliminate subsection 10, "water conveyance project", and "works" would have been the new subsection 10, which is why subsection 9 was changed. But later in the session "water conveyance project" was reinserted as subsection 10, but subsection 9 was not also corrected. This appears to be a legislative oversight. The North Dakota Supreme Court has held:*

"Our primary goal in statutory construction is to ascertain the intent of the Legislature. In ascertaining the Legislative intent, we first look to the plain language of the statute and give each word of the statute its ordinary meaning. We construe the statute as a whole and give effect to each of its provisions if possible. If the language of the statute is clear and unambiguous, we cannot ignore that language under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute."

With that said, the NDRWSA supports Senate Bill 2153. Thank you for giving me the opportunity to provide testimony on behalf of the members of the NDRWSA. Eric Volk, ericvolk@ndrw.org.

of watercourses and deepening or widening of existing drains are eligible for reimbursement. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.

4. May not determine program eligibility of water supply projects based on affordability. However, affordability may be used in prioritizing projects for that purpose.

61-02-01.5. North Dakota outdoor heritage fund grants - Effect on local cost-share.

Repealed by S.L. 2021, ch. 489, § 2.

61-02-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the state water commission.
2. "Cost of works" includes:
 - a. The cost of construction, the cost of all lands, property rights, water rights, easements, and franchises acquired which are deemed necessary for such construction;
 - b. The cost of all water rights acquired or exercised by the commission in connection with the works;
 - c. The cost of all machinery and equipment, financing charges, interest before and during construction and for a period not exceeding three years after the completion of construction;
 - d. The cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of a project;
 - e. Administrative expenses;
 - f. The construction of the works and the placing of the works in operation; and
 - g. Other expenses necessary or incident to the financing authorized in this chapter, including funding of debt service, repair and replacement reserves, capitalized interest, and the payment of bond issuance costs.
3. "Cost-share" means funds appropriated by the legislative assembly or otherwise transferred by the commission to a local entity under commission policy as reimbursement for a percentage of the total approved cost of a project approved by the commission.
4. "Economic analysis" means an estimate of economic benefits and direct costs that result from the development of a project.
5. "Grant" means a one-time sum of money appropriated by the legislative assembly and transferred by the commission to a local entity for a particular purpose. A grant is not dependent on the local entity providing a particular percentage of the cost of the project.
6. "Life cycle analysis" means the summation of all costs associated with the anticipated useful life of a project, including project development, land, construction, operation, maintenance, and disposal or decommissioning.
7. "Loan" means an amount of money lent to a sponsor of a project approved by the commission to assist with funding approved project components. A loan may be stand-alone financial assistance.
8. "Owner" includes all individuals, associations, corporations, limited liability companies, districts, municipalities, and other political subdivisions of this state having any title or interest in any properties, rights, water rights, easements, or franchises to be acquired.
9. "Project" means any one of the works defined in subsection 10, or any combination of such works, which are physically connected or jointly managed and operated as a single unit.
10. "Water conveyance project" means any assessment drain, streambank stabilization, or snagging and clearing of water courses.
11. "Works" includes:

- a. All property rights, easements, and franchises relating to and deemed necessary or convenient for their operation;
- b. All water rights acquired and exercised by the commission in connection with such works;
- c. All means of conserving and distributing water, including reservoirs, dams, diversion canals, distributing canals, channels, lateral ditches, pumping units, mains, pipelines, treatment plants, and waterworks systems; and
- d. All works for the conservation, control, development, storage, treatment, distribution, and utilization of water, including works for the purpose of irrigation, flood control, watering stock, supplying water for public, domestic, industrial, and recreational use, fire protection, and the draining of lands injured or in danger of injury as a result of such water utilization.

61-02-03. Apportioning or allocating water rights by commission.

In case any water rights shall be acquired or exercised by the commission in connection with two or more works and projects, the commission, by resolution, shall apportion or allocate to each of such works or projects such part of such water rights as it may determine, and upon adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and projects to the extent that such water rights have been so apportioned or allocated thereto respectively.

61-02-04. State water commission - Members - Terms - Qualifications.

The state water commission consists of the governor, agriculture commissioner, and eight other members appointed by the governor who shall take into account reasonable geographic considerations in making the appointments with the intent of having each of the eight major drainage basins represented by a commissioner who resides in the basin. The major drainage basins are the upper Missouri River basin; the lower Missouri River basin; the James River basin; the upper Red River basin; the lower Red River basin; the Mouse River basin; the Devils Lake basin; and the Little Missouri River, upper Heart River, and upper Cannonball River basin. The governor or the agriculture commissioner, or both, may appoint a representative to serve in that official's capacity at meetings that official is unable to attend. The eight appointive members of the commission must be appointed for a term of six years each with the terms of office so arranged that not more than four terms expire on the first day of July of each odd-numbered year. Each appointive member must be a qualified elector of the state and is subject to removal by judicial procedure. In case of a vacancy, the vacancy must be filled by appointment by the governor for the remainder of the unexpired term. Before entering upon the discharge of official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.

61-02-04.1. Conflict of interest.

1. A member of the commission who has a direct or indirect personal or pecuniary interest in a matter before the commission must disclose that fact to the commission and may not participate in or vote on that particular matter.
2. Sections 12.1-13-02, 12.1-13-03, and 48-01.2-08 do not apply to contracts in which a member of the commission is directly or indirectly interested if the requirements of subsection 1 have been met.

61-02-05. Chairman of commission.

The governor is the chairman of the commission. The governor shall designate a vice chairman from the members of the commission. The director of the department of water resources is the secretary of the commission.

61-02-06. Principal and branch offices of commission.

The commission shall maintain its principal office in the city of Bismarck and may maintain such branch offices in the state as it may determine.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2153

3/6/2025

Relating to water conveyance projects and works.
--

3:24 p.m. Chairman Porter called the meeting to order.

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

Discussion Topics:

- Committee action.

3:24 p.m. Representative Headland moved a Do Pass.

3:24 p.m. Representative Conmy seconded the motion.

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

Motion carried: 13-0-0

3:25 p.m. Representative Novak moved to place on the consent calendar.

3:25 p.m. Representative Marschall seconded the motion.

Voice vote: Motion carried

Bill carrier: Vice Chairman Novak

3:26 p.m. Chairman Porter adjourned the meeting.

Leah Kuball, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2153 ([25.0509.01000](#))

Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2153 was placed on the Tenth order on the calendar.