2025 SENATE AGRICULTURE AND VETERANS AFFAIRS
SB 2276

2025 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

SB 2276 2/6/2025

A bill relating to mandating the formation of joint water resource boards for projects affecting two or more counties.

9:15 a.m. Madame Chairman Myrdal opened the hearing.

Members present: Madam Chairman Myrdal, Senator Luick, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

Discussion Topics:

- Joint water projects
- Watershed oversight
- Passed sessions
- Mandate county water boards
- Lower Red River Valley Water Shed
- Local Water Resource Boards and Districts
- County representation
- Land mass and representation
- Red River Basin Commission
- State Water Commission
- Orderly water management
- Mandated participation
- 9:15 a.m. Senator Larry Luick, District 25, testified in favor and introduced the bill.
- 9:32 a.m. Dan Wogsland, Lobbyist, ND Grain Growers Association, testified in favor and submitted testimony #35778.
- 9:33 a.m. Madame Chairman Myrdal closed the hearing.
- 9:33 a.m. Senator Lemm moved a Do Pass.
- 9:33 a.m. Senator Weber seconded the motion.

Senators	Vote
Senator Larry Luick	Υ
Senator Janne Myrdal	Υ
Senator Randy D. Lemm	Υ
Senator Richard Marcellais	Υ
Senator Mark F. Weber	Υ
Senator Kent Weston	Υ

Senate Agriculture and Veterans Affairs Committee SB 2276 2/6/25 Page 2

Motion passed 6-0-0.

Senator Weber will carry the bill.

Additional written testimony:

Samuel A. Wagner, Ag and Food Field Organizer, Dakota Resource Council, submitted testimony in opposition #35587.

9:35 a.m. Chairman Luick closed the hearing.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE SB 2276 (25.1260.01000)

Module ID: s_stcomrep_21_010

Carrier: Weber

Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2276 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

Testimony SB2276

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council
1902 E Divide Ave
Bismarck ND 58501
Testimony in Opposition for SB2276

To the Senate Ag and Veterans Committee,

Mr Chairman,

We would like to start this out by saying that we support the idea of watershed districts being created rather than relying on political boundaries that make no sense when it comes to water. However, we're not sure if this bill will conflict with the study that has already been proposed with SB2210. This bill would seem to just make the watershed districts and give them the powers of a Water Resource Board.

The issue with this is that it doesn't dissolve the current water resource boards, it just creates another step of bureaucracy to override a local unit and could likely just cause more problems than it would intend to solve. We would also ask who is going to cover the cost of this board? How will the members of it be appointed? How long will their terms be?

All of these questions should be answered in a study like we currently are looking at doing.

We also have one issue with the map that is being provided. Making the Devils Lake Sheyenne River basin a joint water resource board could be a particularly bad idea due to the recent history of trying to drain Devils Lake into the Sheyenne River. Its an artificially created watershed

We would respectfully request that you take a wait and see approach with a study before implementing this plan. It's not a bad idea but it needs to be workshopped just a bit more before we can be comfortable with it.

Thank you for your Consideration and we urge a DO NOT PASS



North Dakota Grain Growers Association Testimony in Support of SB 2276 Senate Agriculture and Veterans Affairs Committee February 6, 2025

Chairman Luick, Members of the Senate Agriculture and Veterans Affairs Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association. NDGGA appears before you today in support of SB 2276.

Orderly water management is critical to the success of North Dakota agriculture. With that in mind SB 2276 seeks to improve the water management process by requiring better coordination of water management projects across political boundaries. Coordinating water management efforts improves the process for the benefit of all.

Therefore, Chairman Luick, Members of the Committee, NDGGA would respectfully request a Do Pass recommendation on SB 2276 and would hope the Committee and the full Senate concur.

2025 HOUSE ENERGY AND NATURAL RESOURCES
SB 2276

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2276 3/20/2025

Relating to mandating the formation of joint water resource boards for projects affecting two or more counties.

11:41 a.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:

- Watershed Districts
- Provision Enforcement
- Levy assessment
- 11:42 a.m. Senator Luick introduced the bill and submitted testimony #43276
- 11:46 a.m. Danny Quissell, Lobbyist for the ND Water Resource Districts Association, testified in favor and submitted testimony. #43134
- 11:56 a.m. Rachel Gross, Executive Director, ND Farm Bureau, testified in favor
- 11:57 a.m. Lance Gaebe, Policy Strategist for the ND Farmers Union, testified in favor and submitted testimony #43207
- 11:58 a.m. Parrell Grossman, Legislative Director for the ND Soybean Growers Association, testified in favor.

Additional written testimony:

Samuel Wagner, AG and Food Field Organizer for the Dakota Resource Council, submitted testimony in favor #43082

Dan Wogsland, Lobbyist for the ND Grain Growers Association, submitted testimony in favor # 43201

Larry Skiftun, Chairman of the Wells County Water Resource District, submitted testimony in favor #43217

11:59 a.m. Chairman Porter adjourned the meeting.

Saydee Wahl for Leah Kuball, Committee Clerk

House Testimony SB2276

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council
1902 E Divide Ave
Bismarck ND 58501
Opposition for SB2276

To the Ag and Veterans Committee,

Mr Chairman,

Our organization would like to start this out by saying that DRC supports the idea of creating watershed districts rather than relying on political boundaries makes good sense, but we wish to express some concerns that keep us from fully supporting this policy. With that in mind, we would like you to review SB2210 first and see if there is some way to combine the language of a sturdy before putting this bill into law. There are so many moving pieces to this legislation that we're not sure that they could be fully implemented by August 1st.

Some issues to consider:

- Do we need to dissolve the current county water resource boards?
- When would that need to take effect?
- How do the Sheds take over projects currently in development with the current county system?
- We would also ask who is going to cover the cost of this board?
- How will the members of it be appointed?
- How long will their terms be?
- When would they need to have elections or appointments submitted by?
- Do we give the budget money for the county water boards back to the county or do we have to put the remaining monies into a new account that the watershed district can access?
- What will happen to any litigation between citizens and water boards that would no longer exist?

These are not impossible questions to answer but implementing them effectively may take more time than we think. If you do not have all those answers yet please consider taking more time to flesh out these ideas. We would suggest starting the implementation on January 1st of 2026 to give a bit more time to flesh out the process.

If you cannot make sure that this has an implementation date of Jan 1st 2026 or later we urge DO NOT PASS and go with a study option first.

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

SB 2276 Testimony of Dani Quissell House Energy and Natural Resources Committee

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Dani Quissell, here on behalf of the North Dakota Water Resource Districts Association. I appreciate the opportunity to work with Sen. Luick on SB 2276 and am here to support the amendment being proposed.

SB 2276 and the amendments being proposed both seek to address the rare situations where there are water projects, typically drainage projects, that span more than one county and a county refuses to cooperate in the project.

Today, when a project comes up at the water resource district that covers more than one county, county water resource districts have the ability to form a joint board dedicated to oversight and management of that particular project. In the water community, we refer to these boards as 'project boards.' The proposed amendment to SB 2276 requires county participation in this project board, giving counties with disagreements a place to work through that disagreement.

Enforcement was also a key part of the conversation about the best way to address this issue. The proposed amendment offers two additions to statute that give counties tools to assist in enforcing these provisions. The first is a clarification that after the project board has compiled the assessment list and the appeals process has been exhausted, it is the county assessors' responsibility to levy the assessments approved by the board. One of the problems encountered by project boards is that the assessment list is approved and the county who is refusing to cooperate also refuses to process the assessments. This would clarify that responsibility.

The amendment also states that if a county refuses to levy assessments approved by the project board, the board can sue the county in district court. If the board prevails, the court could direct the losing party to pay the board's legal fees. This gives the board some additional comfort in pursuing a suit.

A final note, that the amendment removes existing references to large basin and/or watershed boards which are in conflict in SB 2276 as passed by the Senate. The Water Resource Districts Association continues to support SB 2210 which authorizes a legislative study of management of water on a watershed basis.

Thank you for the opportunity to testify this morning. I would be happy to stand for any questions.



North Dakota Grain Growers Association Testimony in Support of SB 2276 House Agriculture Committee March 20, 2025

Chairman Beltz, Members of the House Agriculture Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association. NDGGA appears before you today in support of SB 2276.

The following are some of the key benefits of SB 2276:

1. Enhanced Regional Coordination

- By mandating joint water resource boards for projects spanning multiple counties, SB 2276 fosters collaboration among local entities.
- This approach ensures that water projects are planned and executed with a comprehensive, regional perspective rather than fragmented decision-making.

2. Improved Project Efficiency and Cost Effectiveness

- Joint boards can pool financial and technical resources, leading to more cost-effective solutions.
- Streamlined decision-making reduces duplication of efforts and administrative burdens on individual districts.

3. Stronger Flood Mitigation and Water Management Strategies

- North Dakota's major river basins, including the Red River, Missouri River, Devils Lake, and James River, require coordinated efforts for flood control, drainage, and water conservation.
- A unified approach ensures that projects are designed to maximize benefits while mitigating unintended consequences for neighboring counties.

4. Greater Accountability and Fair Distribution of Costs and Benefits

• The bill ensures that those benefiting from a project contribute fairly to its costs, preventing undue financial burdens on single districts.

• A joint board structure provides better oversight, transparency, and stakeholder engagement.

5. Alignment with North Dakota's Long-Term Water Resource Goals

- The state has long prioritized sustainable water management and infrastructure improvements.
- SB 2276 aligns with these objectives by reinforcing inter-county cooperation and strategic project implementation.

Conclusion:

SB 2276 is a forward-thinking approach to water resource management, ensuring that vital projects are developed in a manner that benefits communities equitably while maximizing efficiency. Therefore, Chairman Beltz, Members of the Committee, NDGGA would respectfully request a Do Pass on SB 2276 and would urge the full House to concur.

Thank you for your time and consideration. I am happy to answer any questions.



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

Lance Gaebe on behalf of North Dakota Farmers Union Testimony in Support of SB 2276 House Energy and Natural Resources Committee March 20, 2025

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

Thank you for the opportunity to testify on behalf of the North Dakota Farmers Union in support of Senate Bill No. 2276. My name is Lance Gaebe.

Our members appreciate the work of water resource districts in managing water movement and implementing critical water conveyance projects. Senate Bill No. 2276 can enhance local authority and decision-making to prioritize water management needs across political boundaries.

We understand that an amendment is proposed which will encourage participation in joint project boards when projects cross a water resource district boundary. We anticipate the proposed change will also clarify a county's responsibility to levy the project board's approved assessments. We support this revised approach.

Frequently, water projects involve watersheds that extend beyond the boundaries of a single county's water resource district. North Dakota Farmers Union members recognize the importance of water resource districts being able to collaborate on cross-boundary projects to:

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

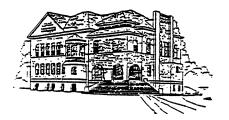
North Dakota Farmers Union urges this committee to adopt the proposed amendments to revise the bill and then issue a "Do Pass" recommendation on SB 2276. I am available to answer questions.

WELLS COUNTY COURTHOUSE

Wells County Water Resource District

Tammy Roehrich, Secretary 700 Railway St N #244 Fessenden, ND 58438 Phone: 547-2537

Cell:341-1359 Fax: 701-547-3188 troehric@nd.gov



Chairman Porter & House Energy & Natural Resources Committee Members:

My name is Larry Skiftun. I am a lifelong farmer in Wells County, a landowner, and the current Chairman of the Wells County Water Resource District Board of Managers. On behalf of the Wells County Water Resource District Board of Managers, I submit this testimony in support of the amendment proposed by Sen. Luick to S.B. 2276. The amendment provides a commonsense solution to an issue occurring in several parts of the state, where an existing project that benefits or spans multiple counties lacks the required cooperation of one or more neighboring water resource boards.

Current law, specifically ND Century Code § 61-161.-15, states that when a project benefits or spans more than one county, districts from two or more counties may agree to jointly construct or assign benefits. However, some water resource boards refuse to cooperate, thereby avoiding the requirement that landowners in their district pay their fair share. A resolution to this issue was attempted in 2023 with S.B. 2372, which allowed the originating district to elevate the project to the respective Red River, James River, Mouse Rive, Missouri River, or Devils Lake joint board. While well-intentioned, this solution faced another challenge: the joint drainage basin boards were too large to effectively manage and oversee projects that impacted only a small fraction of the basin at the local level. Even when assessments were approved across county lines, enforcement of the assessment levy remained problematic.

We believe the amendment to S.B. 2276 offers a resolution to these challenges for existing projects being reassessed. It requires the originating district to approach its neighboring districts and offer those boards a seat at the table, as current law allows. This provides an opportunity for neighboring district boards, including those with disagreements, to have input on the project. However, if the neighboring district attempts to obstruct progress by refusing to cooperate in the formation of a joint board, the originating district can proceed with the reassessment, including assessing lands benefited by the project in the neighboring district. Objecting landowners will retain their existing right to appeal. Ultimately, oversight and control over the project remain at the more manageable, local level. Additionally, the enforcement mechanism in the amendment creates an incentive in neighboring counties to follow the law and levy approved assessments, including across district boundaries, for lands that benefit from the project.

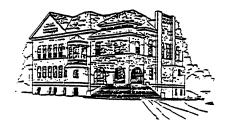
We believe the amendment could be improved even further, by adding this same concept not just for existing projects going through a reassessment of benefits, but for new projects, too. If a project initiates in one district and the district concludes property in another county benefits from the project, the originating district should first notify the neighboring county or counties about the need to form a joint board. If a county refuses to cooperate, the originating district should be allowed to proceed to create, construct, alter, repair, operation, and maintain the project; determine and levy assessments against benefited property in all benefited counties, and issue special warrants.

WELLS COUNTY COURTHOUSE

Wells County Water Resource District

Tammy Roehrich, Secretary 700 Railway St N #244 Fessenden, ND 58438 Phone: 547-2537

Cell:341-1359 Fax: 701-547-3188 troehric@nd.gov



We strongly urge the committee to approve the amendment to S.B. 2276 and recommend a "Do Pass" on S.B. 2276 as amended. We believe this amendment provides a commonsense, workable solution to the cross-county project issues currently facing us. We would support the committee, or a conference committee, adding the same concept to construction of new project. Finally, we see an opportunity for the future to continue studying broader water management strategies on a watershed basis.

Thank you for your time and consideration.

Sincerely,

Larry Skiftun, Board of Managers Chair Wells County Water Resource District 25.1260.01001 Title.

Sixty-ninth Legislative Assembly of North Dakota Prepared by the Legislative Council staff for Senator Luick March 19, 2025

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2276

Introduced by

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Senator Luick

- 1 A BILL for an Act to amend and reenact sections 61-16.1-11 and 61-16.1-15.1 of the
- 2 North Dakota Century Code, relating to joint exercise of powers and mandating the formation of
- 3 joint water resource boards for projects affecting two or more counties.

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

SECTION 1. AMENDMENT. Section 61-16.1-11 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-11. Joint exercise of powers. (Retroactive application - See note)

- Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. A joint board created under this section is a political subdivision of the state.
- 2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the

- agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
- 3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
- 4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
- 5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
- Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
- 7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.
- 8. All districts within the Red River, James River, Mouse River, Missouri River, and Devils

 Lake drainage basins shall, by agreement, form and remain a member of a joint waterresource board relative to the district's respective drainage basin. All agreements and
 subsequent amendments must be filed with the department of water resources.

 Notwithstanding other provisions of law, the board of county commissioners of the

member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins may approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

SECTION 2. AMENDMENT. Section 61-16.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

and 40.4.45.4 Building to the second

61-16.1-15.1. Projects or benefits in more than one county.

- 1. TheBefore constructing a project and before assessing the lands or premises for a project located in or benefiting more than one county, the districts from two or more counties may agree toshall jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. The joint board may exercise all powers afforded to a water resource board under section 61-16.1-09. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake Cannon Ball Heart-Knife Rivers.

 Devils Lake Sheyenne River. Grand River Moreau River, James River, Lake Oahe.

 Lake Sakakawea, Little Missouri River, Lower Red River, Lower Yellowstone.

 Missouri Poplar River, Mouse River, and Upper Red River major drainage basin, as mapped by the department of water resources, together with the engineer's report required under section 61-16.1-17.
- 2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
 - The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
 - The determination and levy of assessments against property benefited by the project; and
 - c. The special warrants issued pursuant to this chapter.

Sixty-ninth Legislative Assembly

- 3. If the assessment vote is successful, the joint board shall construct, own, operate, and maintain the project. The joint board shall administer the corresponding assessment district for the project in accordance with this chapter and shall direct the county auditor of each county within the assessment district to levy assessments. Each county auditor shall levy assessments as determined by the joint board.
- 4. If a district conducts a reassessment of benefits under this chapter for an existing project and concludes property in another county benefits from the project, the district shall notify the other district of the requirement to form a joint board. If the district refuses to form a joint board, the district shall proceed with the reassessment and include the property in the project assessment district. Affected landowners subject to assessments may appeal the reassessment determination in accordance with this chapter. Following the expiration of applicable appeal periods under this chapter, the district shall direct the county auditor of each county within the assessment district to levy assessments. Each county auditor shall levy assessments as determined by the joint board.
- 5. If a county auditor refuses to levy assessments as directed by a joint board or a district, the joint board or district may seek a writ of mandamus under chapter 32-34 from the district court of the county in which the benefited property is located. If the joint board or district prevails, the district court shall award costs and reasonable attorneys' fees to the joint board or district seeking the writ of mandamus.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2276 4/11/2025

Relating to mandating the formation of joint water resource boards for projects affecting two or more counties.

10:01 a.m. Chairman Porter called the meeting to order.

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

Members absent: Representatives: Foss, Headland,

Discussion Topics:

Clarification of language

10:05 a.m. Senator Luick introduced amendment 25.1260.01005. #44942

10:05 a.m. Dani Quissell, ND Water Resource Districts, answered questions for the committee.

10:10 a.m. Representative Hagert moved to adopt amendment 25.1260.01005 and on page 3 lines 26 and 27 after the word 'board' insert 'or district'. On pg. 4 line 4 and 5 after the word 'board' insert 'or district'

10:11 a.m. Representative Olson seconded the motion.

Voice vote: Motion carried

10:13 a.m. Representative Hagert moved a Do Pass as amended.

10:13 a.m. Representative Olson 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	AB
Representative Jared C. Hagert	Υ
Representative Craig Headland	AB
Representative Pat D. Heinert	Υ
Representative Jorin Johnson	Υ
Representative Andrew Marschall	Υ

House Energy and Natural Resources Committee SB 2276 04-11-25 Page 2

Representative Jeremy L. Olson	Υ
Representative Matthew Ruby	Υ

Motion carried: 11-0-2

Bill Carrier: Representative Hagert

10:16 a.m. Chairman Porter closed the hearing.

Leah Kuball, Committee Clerk

25.1260.01007 Title.02000

of North Dakota

Sixty-ninth
Legislative Assembly

Prepared by the Legislative Council staff for Senator Luick
April 11, 2025

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2276

(0 4/11/25 1 045

Introduced by

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Senator Luick

A BILL for an Act to amend and reenact sections 61-16.1-11, 61-16.1-15.1, and

2 61-16.1-59 of the North Dakota Century Code, relating to the joint exercise of powers of joint

3 water resource boards, mandating the formation of joint water resource boards for projects

4 affecting two or more counties, and proceedings to confirm special actions.

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

SECTION 1. AMENDMENT. Section 61-16.1-11 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-11. Joint exercise of powers. (Retroactive application - See note)

- Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. However, the joint board must consist of an equal number of members from each district comprising the joint board. A joint board created under this section is a political subdivision of the state.
- 2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a

 joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.

- 3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
- 4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
- 5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
- 6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
- 7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.
- 8. All districts within the Red River, James River, Mouse River, Missouri River, and Devils

 Lake drainage basins shall, by agreement, form and remain a member of a joint water

resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources.

Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins may approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

SECTION 2. AMENDMENT. Section 61-16.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-15.1. Projects or benefits in more than one county.

- The Before constructing a project and before assessing the lands or premises for a project located in or benefiting more than one county, the districts from two or more counties may agree to shall jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. The joint board may exercise all powers afforded to a water resource board under section 61-16.1-09. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake Cannon Ball Heart Knife Rivers.

 Devils Lake Sheyenne River, Grand River Moreau River, James River, Lake Oahe, Lake Sakakawea, Little Missouri River, Lower Red River Median River Yellowstone.

 Missouri Poplar River, Mouse River, and Upper Red River major drainage basin, as mapped by the department of water resources, together with the engineer's report required under section 61-16.1-17.
- If the joint board or district finds the project is necessary, and the benefits of the
 project will exceed the costs, the joint board or district shall proceed with the
 procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
 - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;

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The determination and levy of assessments against property benefited by the 1 b. 2 project; and The special warrants issued pursuant to this chapter. 3 4 If the assessment vote is successful, the joint board or district shall construct, own, 3. operate, and maintain the project. The joint board or district shall administer the 5 corresponding assessment district for the project in accordance with this chapter and 6 7 shall direct the county auditor of each county within the assessment district to levy assessments. Each county auditor shall levy assessments as determined by the joint 8 9 board. If a district conducts a reassessment of benefits under this chapter for an existing 10 project and concludes property in another county benefits from the project, the district 11 shall notify the other district of the requirement to form a joint board. If the district 12 refuses to form a joint board, the district shall proceed with the reassessment and 13 include the property in the project assessment district. Affected landowners subject to 14 assessments may appeal the reassessment determination in accordance with this 15 chapter. After the expiration of applicable appeal periods under this chapter, the district 16 shall direct the county auditor of each county within the assessment district to levy 17 assessments. Each county auditor shall levy assessments as determined by the joint 18 19 board. If a county auditor refuses to levy assessments as directed by a joint board or a 20 district, the joint board or district may seek a writ of mandamus under chapter 32-34 21 from the district court of the county in which the benefited property is located. If the 22 joint board or district prevails, the district court shall award costs and reasonable 23 attorneys' fees to the joint board or district seeking the writ of mandamus. 24 If the members of the joint board cannot agree about the necessity of a project, the 25 process to undertake an approved project, or the procedure to assess benefits, the 26 joint board shall request assistance from the North Dakota mediation service to 27 resolve grievances arising from the conflict. After receiving the request, the North 28 29 Dakota mediation service shall assist the members of the joint board to mediate the 30 conflict. The North Dakota mediation service shall issue a proposed mediation

agreement within thirty days of completing the mediation. Each member of the joint board shall participate in good faith in the mediation.

If the proposed mediation agreement is not agreed to by a majority of the members

- 7. If the proposed mediation agreement is not agreed to by a majority of the members of a joint board, a member of the joint board may file an appeal with the department of water resources to issue a determination to resolve the conflict. The appealing party must file the appeal within thirty days of the issuance of the proposed mediation agreement under subsection 6. Within sixty days of receipt of the appeal, the department of water resources shall review and investigate the complaint and issue its determination. A hearing held by the department of water resources under this section is a prerequisite to issuing a determination under this subsection.
- 8. If the determination issued by the department of water resources is not agreed to by a majority of the members of a joint board, a member of the joint board may appeal the decision of the department of water resources to the appropriate district court under chapter 28-32. A hearing held by the department of water resources under this section is a prerequisite to filing an appeal with the district court.

SECTION 3. AMENDMENT. Section 61-16.1-59 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-59. Proceedings to confirm contracts, special assessments, and other acts.

Any water resource board, before making any Before a water resource board enters a contract, or before levyinglevies special assessments, or issuing sues special assessment warrants, or before taking takes any special action, or if a water resource board in a common river basin does not agree to meet or cooperate in good faith as required under section 61-16.1-15.1, a water resource board may commence a special proceeding in district court by which the proceeding leading up to the making of sucha contract, levying special assessments, issuing special assessment warrants, or leading up to any other special action, including a request to cooperate under section 61-16.1-15.1, shall be judicially examined, approved, and confirmed. SuchThe court may award reasonable attorneys' fees and costs if a water resource board fails to cooperate or act in good faith under section 61-16.1-15.1. Any judicial proceedingsproceeding commenced under this section shall comply substantially with the procedure required in the case of judicial confirmation of proceedings, acts, and contracts of an irrigation district.

Module ID: h_stcomrep_60_008 Carrier: Hagert Insert LC: 25.1260.01007 Title: 02000

REPORT OF STANDING COMMITTEE SB 2276

Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS (25.1260.01007) and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). SB 2276 was placed on the Sixth order on the calendar.

25.1260.01005 Title. Prepared by the Legislative Council staff for Senator Luick
April 10, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2276

Introduced by

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Senator Luick

1	A BILL for an Act to amend and reenact sections 61-16.1-11, 61-16.1-15.1, and
2	61-16.1-59 of the North Dakota Century Code, relating to the joint exercise of powers of joint
3	water resource boards, mandating the formation of joint water resource boards for projects

affecting two or more counties, and proceedings to confirm special actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-11 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-11. Joint exercise of powers. (Retroactive application - See note)

- Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. However, the joint board must consist of an equal number of members from each district comprising of the joint board. A joint board created under this section is a political subdivision of the state.
- 2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a

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- joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
- The proceeds of one-half of this levy shall be credited to the joint board's 3. administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
- Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
- 5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
- Residence requirements for holding office in a district shall not apply to any officer 6. appointed to carry out any agreement.
- This section does not dispense with procedural requirements of any other statute 7. providing for the joint or cooperative exercise of any governmental power.
- 8. All districts within the Red River, James River, Mouse River, Missouri River, and Devils-Lake drainage basins shall, by agreement, form and remain a member of a joint water

resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources.

Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins may approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

SECTION 2. AMENDMENT. Section 61-16.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-15.1. Projects or benefits in more than one county.

- TheBefore constructing a project and before assessing the lands or premises for a project located in or benefiting more than one county, the districts from two or more counties may agree to shall jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. The joint board may exercise all powers afforded to a water resource board under section 61-16.1-09. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils LakeCannon Ball-Heart-Knife Rivers, Devils Lake-Sheyenne River, Grand River-Moreau River, James River, Lake Oahe, Lake Sakakawea, Little Missouri River, and Upper Red River major drainage basin, as mapped by the department of water resources, together with the engineer's report required under section 61-16.1-17.
- 2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
 - The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;

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1 The determination and levy of assessments against property benefited by the 2 project; and 3 C. The special warrants issued pursuant to this chapter. 4 3. If the assessment vote is successful, the joint board shall construct, own, operate, and 5 maintain the project. The joint board shall administer the corresponding assessment 6 district for the project in accordance with this chapter and shall direct the county 7 auditor of each county within the assessment district to levy assessments. Each 8 county auditor shall levy assessments as determined by the joint board. 9 If a district conducts a reassessment of benefits under this chapter for an existing 10 project and concludes property in another county benefits from the project, the district 11 shall notify the other district of the requirement to form a joint board. If the district 12 refuses to form a joint board, the district shall proceed with the reassessment and 13 include the property in the project assessment district. Affected landowners subject to 14 assessments may appeal the reassessment determination in accordance with this 15 chapter. After the expiration of applicable appeal periods under this chapter, the district 16 shall direct the county auditor of each county within the assessment district to levy 17 assessments. Each county auditor shall levy assessments as determined by the joint 18 board. 19 If a county auditor refuses to levy assessments as directed by a joint board or a 20 district, the joint board or district may seek a writ of mandamus under chapter 32-34 21 from the district court of the county in which the benefited property is located. If the 22 joint board or district prevails, the district court shall award costs and reasonable 23 attorneys' fees to the joint board or district seeking the writ of mandamus. 24 If the members of the joint board cannot agree about the necessity of a project, the 25 process to undertake an approved project, or the procedure to assess benefits, the 26 joint board shall request assistance from the North Dakota mediation service to 27 resolve grievances arising from the conflict. After receiving the request, the North 28 Dakota mediation service shall assist the members of the joint board to mediate the 29 conflict. The North Dakota mediation service shall issue a proposed mediation

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- 8. If the determination issued by the department of water resources is not agreed to by a majority of the members of a joint board, a member of the joint board may appeal the decision of the department of water resources to the appropriate district court under chapter 28-32. A hearing held by the department of water resources under this section is a prerequisite to filing an appeal with the district court.

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