

**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.