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HOUSE TRANSPORTATION COMMITTEE

600 East Boulevard Avenue
Bismarck, ND 58505

Dear Chairman Ruby, Vice Chairman Grueneich, and members of the Committee,

I write to you today to provide testimony against H.B. 1202, which – while not explicitly laid out in its text – is all but certainly designed to provide a “bailout” of \$3 million to the Sargent County Water Resource District. Firstly, such a bailout defies the intent of N.D.C.C. § 24-02-37.3(1), which specifies the required criteria for distributing funds from the North Dakota Department of Transportation (NDDOT) State Flexible Fund, of which this single expenditure would represent a significant fraction of the fund’s total resources. All of the listed uses present in the subsection pertain to important construction and maintenance of state highways, not a drainage project. While the legislature has the power to change these laws and provide this bailout, it is irresponsible and misleads North Dakota taxpayers by using transportation funding for purposes other than transportation. Alternatively, it would be much more appropriate to distribute this funding from the budget of the Department of Water Resources.

More importantly, the reason the District is seeking this bailout ultimately stems from its own decision to not hold a vote for a particular drainage improvement project as was required under N.D.C.C. § 61-16.1-45(3). This fact was affirmed by the North Dakota Supreme Court in their opinion on *Sargent County Water Resource District v. Beck et al.* (2023 ND 230). In the aftermath of these legal challenges, the District is now facing difficulties paying off the bonds it issued to fund the project. Furthermore, the Court left open the question regarding whether the project even was a valid maintenance project under N.D.C.C. § 61-16.1-45(1) in the aforementioned case, which could potentially expose the District to even further legal and financial liability. Given these circumstances, if a bailout is to be issued, the legislature should require careful and meaningful oversight over the District and its future actions, particularly since it is not evident that the District has changed its behavior in the aftermath of this woefully mismanaged project.

Ultimately, it should not be the NDDOT’s responsibility to divert funds from critical highway infrastructure projects to pay for debt resulting from poor decisions made by the District; rather, it should be the District’s responsibility to explain to its constituents and bondholders why it is struggling to pay off the substantial debt it took on to complete such a project. Projects like these are certainly necessary to provide farmers with adequate drainage in their fields, but they come with the expectation that they are being appropriately funded and managed. To that end, the legislature should not be the one to grant amnesty to the District – that power should lie solely with the voters of Sargent County.

In closing, I strongly urge this Committee to issue a “Do Not Pass” recommendation on H.B. 1202. These funds belong to the NDDOT and should to be used for their relevant purposes, not for forgiving unrelated sins.

Sincerely,

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Disclaimer: The views and opinions expressed in this testimony are solely my own, and are not representative of the views and opinions on this matter of the Pennsylvania State University, my colleagues, or my collaborators.