

TESTIMONY OF

Patrick Fridgen, Planning & Education Division Director, Department of Water Resources

Chairman Porter, and members of the House Energy and Natural Resources Committee, I am Patrick Fridgen, Director of the Planning and Education Division for the Department of Water Resources (DWR). I'm here today to provide testimony in opposition to House Bill (HB) 1557, which pertains to reimbursement of legal fees incurred by private citizens.

In short, this legislation would appropriate a specific dollar amount to the State Water Commission for the purpose of providing grants to reimburse residents for legal fees associated with "watershed lawsuits" heard by the North Dakota Supreme Court. Although it is not clear from the text, the bill does not have any requirement that the state was a party to these lawsuits, or that a court ordered the state to pay any private party for their attorney's fees. It is our view that this would set an unfortunate precedent for state agencies who have specific areas of responsibility to then award legal fees in trials even remotely related to those topic areas of responsibility. In this case, the focus of the trial was water or watersheds – resulting in proposed reimbursement coming from the Department of Water Resources.

Furthermore, the award of legal fees in litigation is a function of the court system. For example, N.D.C.C. section 32-15-32 provides for the court to award attorneys fees in eminent domain actions. We believe that to be a more appropriate approach.

And finally, we have also been advised that if the State Water Commission would make any grant to a "resident" for legal fees, the payment of such fees could be unconstitutional.

For these reasons, we respectfully request your opposition to this bill and a vote of no.

Mr. Chairman, and members of the committee, this concludes my testimony in opposition to HB 1557, and I will stand for any questions you might have.