

FISCAL NOTE
Requested by Legislative Council
01/26/2015

Amendment to: SB 2058

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$43,345,697	\$(43,345,697)		
Appropriations			\$43,345,697	\$(43,345,697)		

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill 2058, as amended, add language to existing Century Code restricting what the Resources Trust Fund can be used for.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill prevents the Water Commission from using the Resources Trust Fund for planning or studying the feasibility of water projects, for the internal administration of the commission, for atmospheric resource activities or for water appropriation activities. The amendment also eliminates the language "unless otherwise provided by law" which would require the non-construction activities associated with the Devils Lake outlet, the Southwest Pipeline project and the Northwest Area Water Supply project to become general fund expenditures.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The proposed budget for the Water Commission includes \$21,227,702 of payroll and additives that could no longer be funded from the Resources Trust Fund. It also includes \$18,717,995 of operations expenses and \$3,400,000 for feasibility studies that could not come from the resources trust fund. The agency would need \$43,345,697 from the general fund to replace the Resources Trust Fund dollars.

The Office of Attorney General requested that we note that if the Water Commission became a general funded agency we would no longer be required to pay for the legal services we receive from them. Although that would

reduce the Water Commission's legal fees by an estimated \$498,681 the Office of Attorney General would not have that income available to support their budget and would ask that it be replaced with general fund dollars in their budget.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

This bill would require the replacement of \$43,345,697 of special fund appropriations with general fund dollars.

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 01/27/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: SB 2058

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$26,758,043	\$(26,758,043)		
Appropriations			\$26,758,043	\$(26,758,043)		

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adds language to existing Century Code restricting what the resources trust fund can be used for. It would prevent the Water Commission from using Resources Trust Fund dollars for salaries and operating expenses of the agency.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1. a. of Senate Bill 2058 adds language preventing use of the Resources Trust Fund for wages, salaries, and operating expenses of the State Water Commission.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The proposed budget for the Water Commission includes \$19,673,802 for payroll and additives funded by the Resources Trust Fund. It also includes \$7,084,241 for operations funded by the Resources Trust Fund. The agency would need \$26,758,043 from the General Fund to replace these dollars.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The proposed budget for the Water Commission includes \$19,673,802 for payroll and additives funded by the Resources Trust Fund. It also includes \$7,084,241 for operations funded by the Resources Trust Fund. The agency would need \$26,758,043 from the General Fund to replace these dollars.

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-1956

Date Prepared: 12/30/2014

2015 SENATE ENERGY AND NATURAL RESOURCES

SB 2058

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

SB 2058
1/8/2015
21775

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kate Owen

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

Chairman Schaible called the committee back to order.

Representative Anderson: Representative Dick Anderson, 2058 came out of Water Topics Meeting, it switches the funding for state water commission. There is a need for more water projects both rural and in cities.

Chairman Schaible: This is just money would be used for projects and water usage rather than wages and office stuff?

Representative Anderson: Yes, there are a lot of smaller projects in rural areas that are available and while it is costly it is something that needs to be done.

Senator Laffen: We have a trust fund for projects but we want to take it out of there. Does it take the money in the resources trust fund?

Representative Anderson: They have been taking money out of the trust fund. Historically it has gone back and forth and now the money will be used for water projects.

Tim Dawson: The bill prohibits the trust fund to be used for salaries, and expenses. This will make it general fund expenditure.

Chairman Schaible: What is the reason they keep going back and forth?

Tim Dawson: I do not have an answer for that.

Senator Hogue: I have the impression that during the interim is there a constitutional restriction? The hiring of employees is not seen as a water project. Is that what is driving this bill?

Tim Dawson: If a person wanted to make this stick better they would make it a constitutional amendment. The argument is that they water projects take people and hence they are spending money on the water project. We use that mindset in other areas of the code, it is a strong argument. I am not sure if that is what people meant when they first wrote it.

Senator Triplet: There has never been a water project put on the ground without staff. If we say the money can't be used for staff they choose to allocate fewer dollars. Or is there an expectation that if we do this then them money would just come back around?

Tim Dawson: General fund means that there would be more money for more projects? It doesn't stick real hard but would have to say "notwithstanding" this won't be affective until the summer.

Senator Triplett: Was the conversation on water topic overview not using salaries and staff for engineers or staff?

Tim Dawson: The money then could be used by third parties or contractors.

Senator Hogue: As I recall what happened was the state water commission went to the budget section and wanted to hire a new full time employee because they were behind in approving water permits. So the budget section authorized that and took it out of the trust fund and it is not for funding employees.

Eric Volk: North Dakota Rural Water. We represent the rural water systems and we are in support of the trust fund and general funds. We will support the trust fund being used for projects.

Senator Triplett: I think that your issue is that you have not convinced the water topics commission that your project should raise to the top. The process tends to be dominated by the communities that have their political people and engineers at the meetings and some of the smaller players just don't have the clout to get the projects funded the way you would like.

Eric Volk: Your question is very on the spot. The money gets sent to the water commission and we are trying to get a bigger pot and the policy issues will be dealt with at a different time.

Senator Triplett requested that the amount of money that has flowed into the Water Resource Trust fund over its history.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

2058
1/9/2014
21784

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kate Oliver

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

Chairman Schaible called the committee to order, roll was taken and all members were present.

Senator Hogue: I wonder what your thoughts were on repeating what is already in the constitution regarding water resources trust fund for water related construction. Does this change that in any way?

Tim Dawson: The Resources Trust fund can be used to construct water related projects. That term is broad enough to encompass funding in the state water commissions budget in the past, the state water commission was funding from trust fund money. It has also been funded from general fund money.

Senator Hogue: The dispute was the budget section decided to create a new hire within the water commission. We are falling behind for issuing water permits. We need an appropriation to create a position make water permits. What you are saying is that the way the constitution is written is broad enough to cover this.

Senator Triplett: Nobody gets a water permit unless they plan on having a water project. It is still part of the train of activities that has to occur in order to get water from here to there.

Senator Hogue: This is far more than a technical amendment this is a policy statute.

Chairman Schaible: What I have heard is that the rub is that there were projects that didn't get funded the way they needed to be funded. There was money being taken away from projects and that is where this idea came from.

Senator Triplett: I think that what Mr. Dawson answered the question adequately that we would be within the constitution to fund the entire water commission out of the resources trust fund if the legislature chooses we also have the authority to back away if we choose to. The permitting gets a little bit away from the project and the notion of an engineer who is actually planning a project. Maybe there is some work to be done in terms of pushing it out and finding a middle ground that would allow some of the water commission to be funded by the resources trust fund and others not to be.

Chairman Schaible: So you don't think this is the line to draw?

Senator Triplet: The engineers are working directly with project planning that is part of it. The projects will get planned but if it our state employees who are not allowed to do it. I think it is our decision to make as where we draw the line.

Chairman Schaible: I view it a bit different, the water commission is set up and once a project is set up there is a difference between operating and not. That is where I see the line as drawn, the difference between operating budget and general funds. Once a project is delegated, prioritized and appropriated to fund that is where I see the line as drawn.

Senator Murphy: It sounds like there is a difference between a proposal and a project.

Chairman Schaible: You don't delegate funding until there is a prioritized project.

Senator Murphy: The discussion is everything that you have to go through as a proposal is still part of the project and you are saying that if you had to draw a line you could draw the line between the proposal and the finalized.

Senator Triplett: I don't this what this says is that they would not be allowed to spend any money for anybody within their department including the engineers who are working on approved projects. Then they would have to lay off the project engineers within their office and privatize it all.

Senator Hogue: I have a feeling that if we forward this to Appropriations as is it will go through with a do not pass. So if want to make it clear what we think is inappropriate expenditure then we should take that up ourselves. The reason you would create a fund like this is something other than defraying the expenses of the state water commission. If we don't do it ourselves it won't happen.

Senator Triplett: I suggest a committee of 2 to figure out the language.

Chairman Schaible assigned a committee of Senator Armstrong: and Senator Triplett to come up with language for a possible amendment. Chairman Schaible gave the committee a deadline of one week to bring their findings.

Discussion on SB 2058 was then closed

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

SB 2058
1/15/2015
22009

- Subcommittee
 Conference Committee

Committee Clerk Signature

Katia Owey

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

1 Attachment

Chairman Schaible: Can you explain the chart we have in front of us?

Senator Triplett: See attachment #1.

Senator Armstrong and I met with Dave from the administrative section of the water council and he was very helpful in terms of explain the broad brush of their budget. 3:30 it is doing serious work for water management and should be considered a general fund program. That is the direction we are heading.

Chairman Schaible: How will this affect them if it passes?

Senator Triplett: It will not accomplish what they set to accomplish. It would not be able to use trust fund dollars to fund the projects for the engineers. It does not meet the stated intentions of the bill.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

SB 2058
1/15/2015
22034

- Subcommittee
 Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

Chairman Schaible called the committee back to order. Senator Triplett talked about getting an amendment set up for this bill.

Dave Laskchkewitsch: North Dakota Water Council.

Chairman Schaible: The questions that we have on SB 2058 are seeing if we want to proceed with the concept or if removing one would make it more palatable.

Senator Triplett: The situation, as I understand it, is the entire agency is considered a special fund agency bases on actions from the last legislative session by which the whole agency is funded. The bill doesn't seem to accurately portray what they were after in the first place. After some discussion with Mr. Laskchkewitsch we decided that the most logical way of dividing it would be to put all of the agencies back in as a general fund agency, subject to the appropriations committee agreeing with that.

Dave Laskchkewitsch: Last biennium we went in as a general funded agency and House appropriations is where we were switched to special funds. The legislature has switched it back and forth.

Senator Hogue: Can you tell us what testimony you provided in the interim regarding this bill, either for or against or neutral.

Dave Laskchkewitsch: We didn't provide any testimony; it was brought up very late at one of their last meetings. It was simply brought forward and adopted.

Senator Triplett: Talk about the section of the water commission so people have a better understanding and why there isn't a clear way to divide out.

Dave Laskchkewitsch: The water commission has 5 divisions the project funding is primarily out of the water development division however, if you separate that division there are regulatory functions in that division as well as regulatory functions in the water appropriation division. Primarily we use consultant engineers on our projects and their roll is in project management. They cross over from the regulatory roll and the oversight roll so there is not a clean line it was alluded to this committee. Along that logic all of the funding is project related. Our employees do not break out their time charges

Mike Dwyer: Was there support for bringing it back to a general fund agency. The history was in 2003 the budget was very short and the governor was trying to figure a way to make it work so he funded the Water Commission Trust Fund. It was general fund in the next biennium; in 2013 we were looking at \$515,000,000. Along with that there were enormous needs that had developed. Trying to get water to eastern North Dakota was increasing the demand so we tried to convene the appropriations to not do that but they did. We think that the general fund agency should be the water resource committee. The legislature itself put something on the ballot that once it went into the trust fund and could only be used for certain projects. That was not the intent.

Senator Triplett: So do you think we are on the right path or should we encourage the appropriations committee to make it an entirely general fund agency. .

Mike Dwyer: We hope you pass it because we think it should be a general fund agency.

Senator Hogue: You say on the fiscal note that the proposed budget for the water commission includes \$19,673,000 for payroll. When you say payroll does that mean permanent employees and their benefits.

Dave Laskchkewitsch: No, it is payroll and employees. When I did the note I made the assumption otherwise all the staff would move to general funds.

Senator Hogue: But the \$19,673,000 doesn't include contractors, correct?

Dave Laskchkewitsch: Correct, they had to come to the general fund if we are paying them directly.

Senator Triplett offered to make an amendment.

Senator Hogue: I don't know why their budget would come from the trust fund. Maybe we pick a percentage of employees, maybe half. There is no math behind it but it also still sees that it shouldn't come out of the constitutional fund.

Senator Armstrong: If all the lines are blurred can we pick a percentage basis.

Senator Murphy: It would seem that a percentage would take out the worrisome amounts any time. It would also seem that Dave Laskchkewitsch could do his budget easily.

Chairman Schaible closed the meeting.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

2058
1/22/2015
22376

- Subcommittee
 Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

1 Attachment

Senator Hogue: (See attachment #1) I think that it is helpful to get some history on the Resources Trust Fund and I am sorry to say that we have to go back to 1981 when we created the oil extraction tax that was created by an initiated measure. It imposed a tax of 6.5% on hydrocarbon. After it created the extraction tax started throwing off revenue. One of the first things that the legislature did was create a statutory fund called the Resources Trust Fund and it took about 2 or 3 sessions before legislators started getting concerned that the statutory fund that they created was being rated for purposes unrelated to natural resources. One such incident was the Grafton complex was able to take money out of the fund to make improvements to the school in Grafton. By 1989 legislators got together to propose a constitutional amendment which you have in front of you, House Concurrent Resolution 3022. The testimony in support of this constitutional amendment was that we need a constitutional fund and to restrict it in the constitution so that subsequent legislatures can keep rating it for purposes unrelated to resources. What you have in front of you is how it was originally purposed in 1989 and if you look at page 1 line 18 it says that, *"the state Water Commission the money may be spent in the resources trust fund for the state water commission for planning for and construction of water related projects."* That is not how the resolution was put on the ballot for the people to consider. If you look at the amendment they removed the phrase, *"planning for construction"* and replaced it with *"construction."* If you go to legislative history, a question was asked of Senator Stromme as to why they removed to word planning from the original amendment. Mr. Dwyer explained that planning those activities-design, feasibility, planning) there is adequate local, state, and federal funds for that so those types of activities should not be funded by the Resources Trust Fund. It should be for construction of water related projects with planning and feasibility studies to be funded from other sources. I guess it is my impression that the legislative history on this constitutional fund couldn't be clearer than it is, planning activities for water projects should not come out of the Resources Trust Fund but should come out of the general fund or as Mr. Dwyer testified other state funds, local funds, federal funds. A lot of these water projects are a cooperative effort between the federal, local, and state government. What I did at that point was ask Tim Dawson to prepare an amendment that

outlines out what I think that the history shows and that is that the money should not be expended for those planning and engineering activities that need to take place up front before a project is approved for construction. That is the purpose of the amendment. I did visit with Senator Holmberg about it and his suggestion was to make this affective for the next biennium so that it doesn't throw off the budgeting that is going on for the upcoming biennium.

Senator Triplett: The amendment that I requested was along the same lines but a little less specific. We should not be too precise because some of the people inside the office do work on the management of the office and the on-the-ground part of this is because of the office. Mr. Dawson is working on that amendment currently. I do appreciate the conversation that Senator Hogue had with Senator Holmberg.

Senator Armstrong: I hope we solve the problem in the future so it is not bouncing back and forth across the net depending on where budgets are.

Chairman Schaible: We will wait a little bit and see where we are at.

There was no further discussion and Chairman Schaible closed discussion on SB 2058

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

2058
1/23/2015
22432

- Subcommittee
 Conference Committee

Committee Clerk Signature *Katie Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

1 attachment

Senator Triplett then explained the amendment that she brought to the committee. See attachment #1)

Chairman Schaible: What kind of fiscal impact would this have with a different start date?

Senator Triplett: I didn't ask specifically. This is more of a concept level discussion I did not know what the fiscal impact is I am sorry.

Senator Hogue: Did Mr. Laschkewitsch give you an idea of the total dollars that the department's budgets are made up?

Senator Triplett: I do not know offhand.

Senator Hogue: It occurred to me that the amendments are not incompatible, they could be combined. I certainly think that we should accommodate the way the water department does. The constitution does not have to yield to how they run their department. By putting the future date in it serves as a notice that says that there is a provision. They just don't have the flexibility to put the funds into that fund. We should make it as clear as we can with the language.

Vice Chair Unruh: Would taking out the 'education activities' section of the amendment in the 02000 version. An education program can fall under the funding for programs for energy conservation; it might be a bit of a stretch.

Senator Triplett: I think that it is too much of a stretch because I don't think that is within the purview of what the state water commission does. Energy conservation is more like how to use less energy so the only connection I can think of is hydropower but it is tenuous connection and to the extent that the legislature has funded energy conservation it has been only in the last session and the money was all directed toward the department of commerce in their division of renewable energy and energy efficiency.

Senator Hogue: I think that if we add internal administration, atmospheric activities and water appropriations activities those are three that arguably do not involve construction of water related projects. If I understand what Senator Triplett is saying in her conversation with Mr. Laschkewitsch is that we have these functions of our agency compartmentalized into these different components and if you told us we couldn't use resources trust funds for those duties we would be able to internally figure that out so that we adhere to the language of the bill. When talking about water appropriations activities I think that it is just the permitting for the people who draw water out of our surface bodies and it is arguably not a construction activity.

There was no further discussion, the committee recessed until the new amendment has been drafted.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

2058
1/23/2015
22449

- Subcommittee
 Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

Chairman Schaible called the committee back to order, the amendment was presented.

Chairman Schaible: Is this what we were looking for?

Senator Hogue: I think that we would be on more solid ground if we said planning and engineering water projects.

Senator Hogue: If there are engineers that are engineering that would be permissible under the resources trust fund because it is related.

Senator Triplett: That was a concern, if we put too fine a point on this then it would be bad. They help the local projects, water board etc. the commission works with them so a lot of the on the ground engineers.

Senator Hogue: How about "for planning and studying the feasibility of water projects" is that better? And take out engineering because there is some engineering that is ok and some that is not.

Senator Laffen: Make sure we have a comma after water projects so it doesn't run into one line.

A motion was then made by Senator Armstrong to adopt the amendment as amended with a second by Senator Laffen, there was no further discussion, roll was taken and the motion passed 6-0-1.

With the amended bill in front of them a motion was made by Senator Armstrong for a Do Pass as Amended with a Re Referral to Appropriations. There was no further discussion,

Senate Energy and Natural Resources

SB 2058

01/23/2015

Page 2

roll was taken and the motion passed 7-0-0 with Senator Hogue carrying the bill to the floor. There was no further discussion and Chairman Schaible closed the hearing.

January 23, 2015

1/23/15
JRE

PROPOSED AMENDMENTS TO SENATE BILL NO. 2058

Page 1, line 2, after "fund" insert "; and to provide an effective date"

Page 1, line 21, overstrike "planning for and"

Page 2, line 1, remove "is not available to the state water commission or any employees of or"

Page 2, remove lines 2 and 3

Page 2, line 3, replace "engineering" with "may not be expended for planning or studying the feasibility of water projects, for the internal administration of the commission, for atmospheric resource activities, or for water appropriation activities"

Page 2, after line 11, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2017."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2058: Energy and Natural Resources Committee (Sen. Schaible, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2058 was placed on the Sixth order on the calendar.

Page 1, line 2, after "fund" insert "; and to provide an effective date"

Page 1, line 21, overstrike "planning for and"

Page 2, line 1, remove "is not available to the state water commission or any employees of
or"

Page 2, remove lines 2 and 3

Page 2, line 3, replace "engineering" with "may not be expended for planning or studying the feasibility of water projects, for the internal administration of the commission, for atmospheric resource activities, or for water appropriation activities"

Page 2, after line 11, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2017."

Renumber accordingly

2015 SENATE APPROPRIATIONS

SB 2058

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2058
2/2/2015
Job # 22943

- Subcommittee
 Conference Committee

Committee Clerk Signature

Ramonson for Rose Lening

Explanation or reason for introduction of bill/resolution:

Relating to State Water Commission use of funding from the resources trust fund.

Minutes:

Attachments 1- 4

Legislative Council - Brady Larson
OMB - Sheila Peterson

Chairman Holmberg called the committee to order on SB 2058. Roll Call was taken. All committee members were present and **Chairman Holmberg** reminded the committee this bill has a \$43M fiscal note.

Tim Dawson, Legislative Council: I staff the Water Topics Overview Committee. This bill came from that committee and I am here to explain it. Neutral on the bill. It says the principal income of the RTF may be expended and is available for the State Water Commission for construction of water related projects. However, the principle and income may not be expended for planning or studying the feasibility of water projects for the internal administration of the commission, for atmospheric resource activities or for water appropriation activities. The intent is to make the State Water Commission a general fund agency and not a Resources Trust Fund funded agency.

Chairman Holmberg: The burden would be on the general fund instead of the Resources Trust Fund. Tim is taking no position - just a resource person.

Senator G. Lee: Is there some history going back to 2005-07 that there were general fund dollars that went to the Water Commission?

Tim: Yes, it has gone back and forth between being funded by the Resources Trust Fund and the general funds. I think it was last discussed at the budget section. The issue pops up over time.

Chairman Holmberg: A lot of it depends on the status of the general fund and less status of the Resources Trust Fund.

Mike Dwyer, Water Users Coalition: Testified in favor of SB 2058.

ND Constitution, Article X, Section 22 - Attachment 1.

We have two things we want to talk about: (1) as a matter of principle and (2) what is in front of us in terms of water projects and water needs.

(1) Principle - the Water Commission was created in 1937 and was a general fund agency until 2003 when Governor Hoeven funded it out of the Resources Trust Fund. It took two bienniums to convince the Legislature to put it back in the general fund. Then it was funded out of the general fund until last biennium when it was moved back into the Resources Trust Fund. The Resources Trust Fund was created in 1981. In 1989, the legislature put it on the ballot and the RTF was made a constitutional Trust Fund. Once the money is in there, it's supposed to be used for water projects and not for funding the agency. We'd like to see the agency put back in the general fund where it mostly has been for its entire existence. If the bill is passed, it still wouldn't do anything because you would have to amend SB 2020, which is the water commission's appropriations bill, to make the water commission a general fund agency in order to implement this bill if it is passed. If it passes there would be both statute and constitutional provision that would say that the RTF is intended to be used for constructing water projects.

(2) A lot of needs have arisen in ND concerning water. The Resources Trust Fund available revenues for next biennium will be about \$500M. (08:05) He named many of the water projects throughout North Dakota that they are trying to complete. The RTF revenue should be used for constructing water projects because of the tremendous needs across the state.

Senator G. Lee: He referred to the Fiscal Note where it says that the language "unless otherwise provided by law" would require the non-construction activities associated with the Devils Lake outlet, southwest pipeline, and NAWS to become general fund expenditures. The operation of those, then, as the bill is amended would fall under the general fund too?

Mike: The agency should be a general fund agency. They did it backwards, but the bottom line is "is it a general fund agency or a Resources Trust Fund agency".

Senator G. Lee: The way it's written now, those functions would come out of the general fund instead of the RTF?

Mike: There are concerns about the language. Whatever passes, if it's going to be implemented, you'd have to amend SB 2020.

Chairman Holmberg: After new revenue projections last week, the RTF and SIFF fund really took some big hits, but so did the general fund. If we were to pass the Governor's budget with those new revenue forecasts, I believe we'd be about \$129M in the hole. What helps on one side hurts on the other. I would guess that many of these major issues like this one won't be resolved until April. But we have to hear these bills and make some determination to bridge the gap between now and what we find out on March 15.

This is an interesting case where we have the law and what the constitution says. Situational ethics is what drives what the Legislature has done in this over the years and will probably continue.

Eric Volk, Executive Director, North Dakota Rural Water Systems:
Testified in favor of SB 2058. Attachment 2.

Blake Crosby, Executive Director, North Dakota League of Cities:
Testified in favor of SB 2058. Attachment 3.

Opposition to the bill:

Dave Laschkewitsch, Director of Administrative Services, North Dakota State Water Commission: Testified against SB 2058. Attachment 4.

Chairman Holmberg closed the hearing on SB 2058. The water sub-committee will be looking at this along with SB 2020 to see how it all fits together.

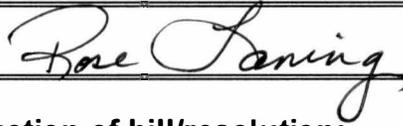
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2058
2/16/2015
Job # 23874

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to state water commission use of funding from the resources trust fund.

Minutes:

Senator G. Lee said that SB 2058 came out of Water Topics Committee during the interim which was recommending that the operation and administrative parts of the Water Commission be paid for by general funds as opposed to the resources trust fund. The Energy and Natural Resources committee looked at the bill as well and looked at it in the sense of the constitutional part of that. And there is some constitutional question whether or not the administrative and services part should be in the resources trust fund or come out of the general fund. We're going to recommend in the Water Commission budget that we shift those costs to the general fund. It will be somewhere in the neighborhood in the \$25M - not exactly sure of the number yet. Over time, where ever the money was is where where those services were paid out of. It went from the general fund to the resources trust fund and back and forth and back and forth since we've started paying for water projects out of that fund. We're going to go back to the 2011-13 breakdown of paying those kinds of services out of the general fund is what we're going to recommend to the committee in an amendment coming up. So SB 2058 would not be needed.

Chairman Holmberg asked Senator Robinson, since he was on the Water Topics Committee and the Water Commission subcommittee, if he felt there was enough information to dispose of this bill. The current system does present some constitutional issues which would be tough to defend on the floor of the Senate.

Senator Robinson said **Senator G. Lee** explained it very well and this is a work in process. We'll see what the other side does during the second half of session. Obviously there is concern for general fund funding. There is certainly off-setting concern for the resources trust fund. We feel the best thing at this time would be to put this in the general fund. Personally I believe that's where it belongs.

**Senator Robinson moved Do Not Pass on 2058.
Senator G. Lee seconded.**

Senator Wanzek: You're going to address the general fund issue within the Water Commission budget?

Senator G. Lee: Yes, that is correct. That's our intent and an amendment is being drafted that would include those costs being paid from general fund dollars.

Chairman Holmberg: It's situational. If the resources trust fund was fat and sassy, we'd take the money out of there to pay these costs. If the other situation, we'd take it out of the general fund, so we've been all over the map. It goes back to original language when the constitution was done, and the issue was that the committee removed the word "planning" from the usage of the money that was raised in this constitutional amendment.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

Senator Holmberg will carry the bill on the floor.

Date: 2-16-13
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2058**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 ~~Do Pass~~ Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By ~~Lee~~ Robinson Seconded By Lee

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Holmberg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

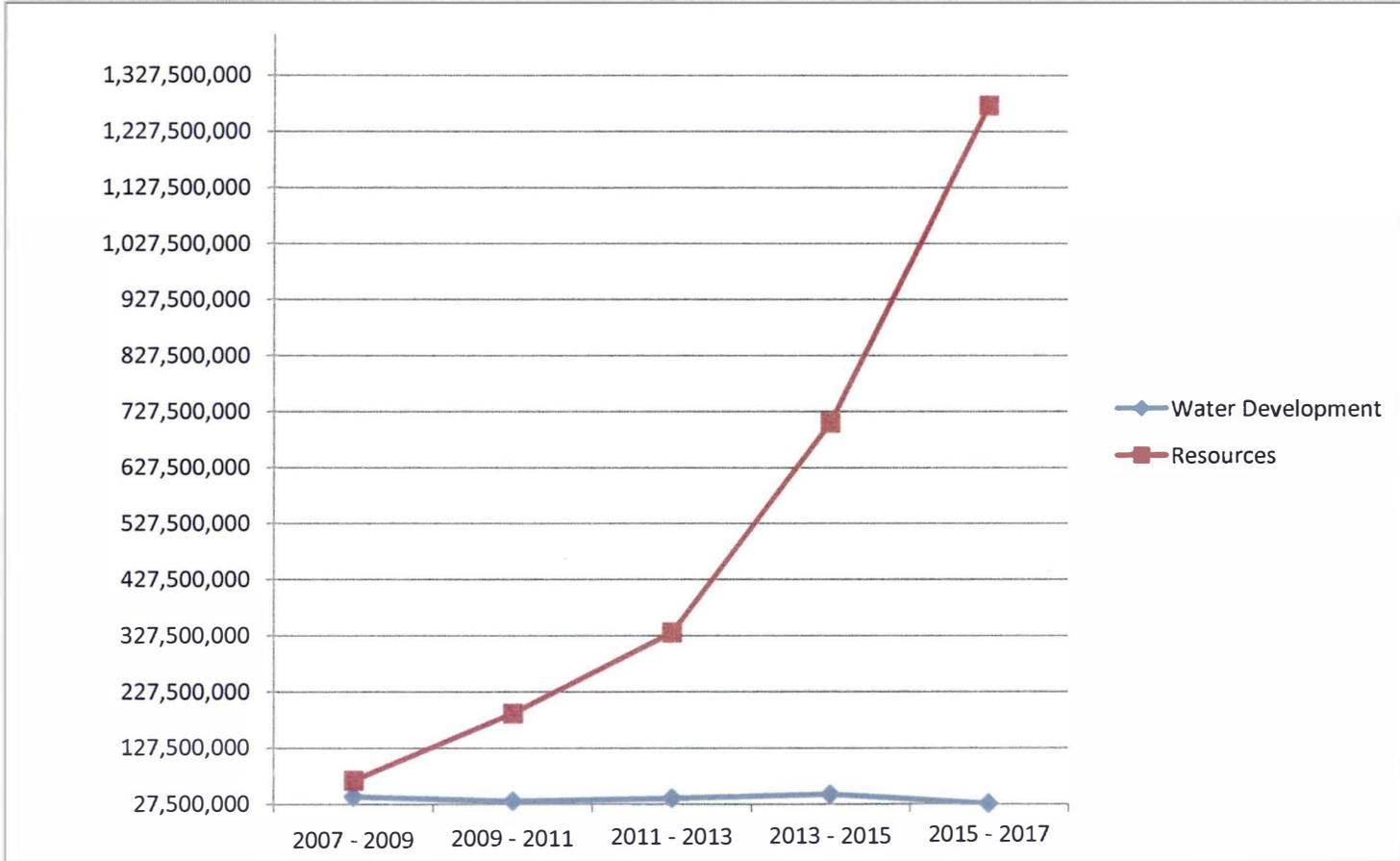
SB 2058, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2058 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2058

Trust Fund Comparison: Water Development Trust Fund & Resources Trust Fund, for the Bienniums of 2007-2017

	2007 - 2009		2009 - 2011		2011 - 2013		2013 - 2015		2015 - 2017	
	Water Dev.	Resources	Water Dev.	Resources	Water Dev.	Resources	Water Dev.	Resources	Water Dev.	Resources
Beginning Balance	9,634,846	26,723,173	13,548,706	90,295,609	25,614,113	128,447,646	26,326,869	265,172,286	9,501,107	593,415,760
Est. Revenues	31,501,306	44,161,100	19,746,536	98,190,000	20,624,034	204,423,173	18,000,000	556,926,350	18,000,000	835,992,190
Total Available	41,136,152	70,884,273	33,295,242	188,485,609	46,238,147	332,870,819	44,326,869	822,098,636	27,501,107	1,429,407,950
Est. Expenditures/Transfers	40,055,999	69,352,698	32,376,076	188,400,000	37,189,734	332,400,000	44,250,000	706,344,534	27,500,000	1,272,573,031
Est. Ending Balance	1,080,153	1,531,575	919,166	85,609	9,048,413	470,819	76,869	115,754,102	1,107	53,702,982



Attachment #1
 Page 1
 SB 2058
 1-15-15

98413.0100

Fifty-first
Legislative Assembly
of North Dakota

**HOUSE CONCURRENT
RESOLUTION NO. 3022**

Attachment 1
Page 1
SB 2058
1-22-15

Introduced by

Representative Goetz

Senator Tallackson

1 A concurrent resolution to create and enact a new section to article X of the
2 Constitution of North Dakota to provide that the resources trust fund is a
3 constitutional trust fund; to provide for transfer of funds to the resources
4 trust fund; and to provide an effective date.

5 **STATEMENT OF INTENT**

6 This measure establishes the resources trust fund as a constitutional trust
7 fund effective January 1, 1991.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**

9 **SENATE CONCURRING THEREIN:**

10 That the following new section to article X of the Constitution of
11 North Dakota is agreed to and must be submitted to the qualified electors of
12 North Dakota at the general election to be held in 1990, in accordance with
13 section 16 of article IV of the Constitution of North Dakota.

14 **SECTION 1.** A new section to article X of the Constitution of North
15 Dakota is hereby created and enacted to read as follows:

16 Ten percent of all oil extraction tax revenues must be allocated and
17 credited to the resources trust fund in the state treasury for:

- 18 1. The state water commission for planning for and construction of
19 water-related projects, including rural water systems; and
20 2. Funding of programs for development of energy conservation and
21 renewable energy sources, studies for development of cogeneration
22 systems that increase the capacity of a system to produce more than
23 one kind of energy from the same fuel, studies for development of

Fifty-first
Legislative Assembly

1 waste products utilization, and for making grants and loans in
2 connection with these programs and studies.

3 SECTION 2. TRANSFER. If this measure is approved by the voters, any
4 amounts in the sinking fund established for payment of the North Dakota water
5 development bonds, southwest pipeline series, and any amounts in the
6 resources trust fund must be transferred to the resources trust fund as
7 created by this measure.

8 SECTION 3. EFFECTIVE DATE. If approved by the voters, this measure
9 becomes effective on January 1, 1991, and applies to tax collections received
10 on or after that date.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3022

QWN
3/22/89
Attachment
Page 3
SB 2058
1-22-15

Page 1, replace lines 6 and 7 with "This measure authorizes the legislative assembly to dedicate a percentage of oil tax revenues to a special fund to be known as the resources trust fund, to be expended for water projects and energy conservation programs. This measure will become effective July 1, 1991."

Page 1. line 12, replace "general" with "primary"

Page 1, replace lines 16 and 17 with "The legislative assembly may provide by law for a percentage of revenue from taxes imposed on the extraction or production of oil to be allocated and credited to a special trust fund, to be known as the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation for:"

Page 1, line 18, replace "The state water commission for planning for and construction of" with "Constructing"

Page 1, line 20, remove "development of" and replace "and" with a period

Page 1, remove lines 21 through 23

Page 2, remove lines 1 and 2

Page 2, line 9, replace "January" with "July"

Re-number accordingly

CHAPTER 795

HOUSE CONCURRENT RESOLUTION NO. 3022
 (Representative Goetz)
 (Senator Tallackson)

Attachment 1
 Page 4
 SB 2058
 1-22-15

RESOURCES TRUST FUND

A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota to provide that the resources trust fund is a constitutional trust fund; to provide for transfer of funds to the resources trust fund; and to provide an effective date.

STATEMENT OF INTENT

This measure authorizes the legislative assembly to dedicate a percentage of oil tax revenues to a special fund to be known as the resources trust fund, to be expended for water projects and energy conservation programs. This measure will become effective July 1, 1991.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article X of the Constitution of North Dakota is hereby created and enacted to read as follows:

The legislative assembly may provide by law for a percentage of revenue from taxes imposed on the extraction or production of oil to be allocated and credited to a special trust fund, to be known as the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation for:

1. Constructing water-related projects, including rural water systems; and
2. Funding of programs for energy conservation.

SECTION 2. TRANSFER. If this measure is approved by the voters, any amounts in the sinking fund established for payment of the North Dakota water development bonds, southwest pipeline series, and any amounts in the resources trust fund must be transferred to the resources trust fund as created by this measure.

SECTION 3. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on July 1, 1991, and applies to tax collections received on or after that date.

Filed April 11, 1989

Attachment I
Page 5
SB 2088
1-22-15

Mike Dwyer, representing the North Dakota Water Users Association, stated that his organization was in support of this resolution, and wanted to address the merits of setting aside funds specifically for water development. He distributed to the Committee a proposed amendment to the resolution, (with the concurrence of Prime Sponsor Rep. Goetz). He stated that with the amendment, the resolution would be more clear to the voters. He gave copies of his prepared testimony to the J.C.R. Committee. See attached.

Senator Stromme asked for the reason for removing the word planning from the resolution, on Page 1, line 18.

Mike Dwyer answered that there are many words which could be used for pre-construction activities: design, feasibility, planning, etc. and that there will be adequate local, state and federal funds to provide for that activity. The current budget recommends two million, two hundred thousand dollars from the Resources Trust Fund for the State Water Commission administrative function. With the word planning in the resolution, this could continue to be done and this defeats the purpose of the Resources Trust Fund to provide for the construction of water projects. Water resources provide a tremendous economic base. In 1983, rural water systems were added to the Resources Trust Fund to ascertain that the systems were included in water-related projects.

Representative Goetz, Prime Sponsor stated that his reason for sponsorship was the concern of the precious resource, water, must be a focus for our state. This resolution creates some permanence for that important resource. He gave the Committee a history of the Resources Trust Fund, including the financial aspects, to facilitate the J.C.R. Committee's understanding of the intent of this resolution.

Senator Holmberg stated that since money has been appropriated from this fund for the next biennium, and the effective date of this legislation would be January 1, 1991, three-fourths of the way through the biennium. Would that have an impact on the revenues that the state would have projected for the last six months of that biennium? And if so, how can we plan for that, when this is not voted on until November? Then two months later there could be a potential decrease, then we're looking at the spectre of the Governor having to make some cuts in programs because the money would not be there. Sen. Holmberg suggested that perhaps the resolution should be amended to change the effective date to July 1, 1991, and that it could be placed on the primary ballot.

Representative Goetz stated that he could understand the situation that Sen. Holmberg had outlined, and would concur, if the J.C.R. Committee decided to do so.

15.0215.02001
Title.

Prepared by the Legislative Council staff for
Senator Hogue

January 21, 2015

Attachment:
Page 6
SB2058
1-22-15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2058

Page 1, line 2, after "fund" insert "; and to provide an effective date"

Page 1, line 21, overstrike "planning for and"

Page 2, line 1, remove "is not available to the state water commission or any employees of or"

Page 2, remove line 2

Page 2, line 3, replace "unless otherwise provided by law" with "may not be expended for
planning and engineering"

Page 2, after line 11, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2017."

Renumber accordingly

15.0215.02002
Title.

Prepared by the Legislative Council staff for
Senator Triplett

January 22, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2058

Attachment 1
Page 1
1-23-15

Page 2, line 2, remove "wages, salaries, and operating expenses"

Page 2, line 3, replace "unless otherwise provided by law" with "the internal administration of the commission, for the atmospheric resources activities, for planning and education activities, or the water appropriations activities"

Renumber accordingly

SB 2058

2-2-15

#1

Section 22. The legislative assembly may provide by law for a percentage of revenue from taxes imposed on the extraction or production of oil to be allocated and credited to a special trust fund, to be known as the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation for:

1. Constructing water-related projects, including rural water systems; and
2. Funding of programs for energy conservation.

Source: Adoption approved June 12, 1990 (S.L. 1989, ch. 795, § 1; S.L. 1991, ch. 747).

Section 23. The legislative assembly may provide for the payment of adjusted compensation to North Dakota residents who were members of the regular active duty armed forces and who served in the Persian Gulf theatre or in the Grenada, Lebanon, or Panama areas of armed conflict as designated by the President of the United States or to heirs of North Dakota residents who were members of the regular active duty armed forces and who died while on orders to or from the Persian Gulf theatre or in the Grenada, Lebanon, or Panama areas of armed conflict as designated by the President of the United States. The legislative assembly may provide a direct appropriation or provide for the issuance, sale, and delivery of bonds of the state of North Dakota in such principal amounts as determined by the legislative assembly to be necessary for the payment of adjusted compensation under this section. Adjusted compensation under this section may be paid at such rates, terms of service, and conditions as the legislative assembly provides.

Source: Adoption approved June 9, 1992 (S.L. 1991, ch. 755, § 1; 1993, ch. 658, § 1).

Section 24. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:

1. Fifty percent must be deposited in the common schools trust fund.
2. Fifty percent must be deposited in the foundation aid stabilization fund in the state treasury, the interest income of which must be transferred to the state general fund on July first of each year. The principal of the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage.

Source: Adoption approved Nov. 8, 1994 (S.L. 1993, ch. 663, §§ 1, 2; 1995, ch. 641).

1.1

SB 2058
2-2-15

2

Testimony of Eric Volk, Executive Director

ND Rural Water Systems Association

Senate Bill 2058

Senate Appropriations Committee – February 2, 2015

Chairman Holmberg and members of the Senate Appropriations Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA) which serves a membership of more than 250 cities, 28 rural/regional water systems, and four tribal systems.

The NDRWSA is committed to ensuring all of North Dakota's residents receive affordable drinking water of excellent quality and sufficient quantity. 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 a Senate Bill 2058. This bill provides additional funding to meet the critical water needs of North Dakota.

In addition to the Southwest Pipeline Project, Northwest Area Water System, the Red River Valley Water Supply Project and the Western Area Water Supply Project, there are currently many other rural and regional projects in various stages of development across the state. The total cost of these rural and regional projects for the next biennium is nearly \$93 million (see attached spreadsheet). To put it simply, funding the State Water Commission (SWC) agency operations out of the Resources Trust Fund has a negative effective on the completion of all water projects.

2.1

Did you know the 32 rural/regional water systems:

- Supply water to users in all 53 counties.
- Provide water to 236 (66%) of North Dakota's 357 incorporated cities.
- Furnish water to over 200,000 North Dakota residents.
- Increase the bottom line for livestock producers.
- Work cooperatively with state and federal entities to complete North Dakota's water supply infrastructure.

Reliable source of Quality Water on Tap for all North Dakotans impacts the following:

- Overall quality of life
- Economic development, prosperity & job creation
- Agricultural and livestock producers return on investment
- Increased property values
- Repopulation and stabilization of rural areas
- Small community sustainability

We would respectfully ask that the SWC agency operations be funded from the General Fund, not the Resources Trust Fund. We support Senate Bill 2058 with the proposed amendments. Thank you for giving me the opportunity to provide testimony on behalf of the members of the NDRWSA.

Regional/Rural Water System Projects	Estimated Cost	State Grant Funding Request	% Grant	Project Description
All Seasons Water Users District	\$17,394,000	\$13,045,500	75%	System 1 Expansion Project
	\$796,000	\$398,000	50%	System 3 Improvements
Dakota Rural Water District	\$1,998,930	\$999,465	50%	System Improvements
Garrison Rural Water District	\$199,500	\$119,700	60%	East Booster Station and Storage
	\$178,200	\$106,920	60%	Pump Station Improvements
	\$910,000	\$546,000	60%	Storage Facility and Booster Station Additions
	\$1,095,700	\$657,420	60%	NW System Expansion
Fort Berthold Rural Water System	\$6,200,000	\$2,200,000	35%	Twin Buttes Area 2 (250 new users)
Missouri West Water System	\$405,000	\$243,000	60%	I-94 Business Loop System Improvements
North Prairie Rural Water District	\$150,000	\$52,500	35%	Cooperative Project with the City of Garrison and GRWD
	\$3,800,000	\$2,280,000	60%	South Minot Distribution Line
	\$1,400,000	\$840,000	60%	South Minot Elevated Water Tower
	\$9,000,000	\$6,750,000	75%	Garrison WTP & Supply Cooperative Project
Northeast Regional Water District	\$14,500,000	\$10,875,000	75%	New Water Supply and Expansion Project
Southeast Water Users District	\$6,480,000	\$4,860,000	75%	System Expansion
Spirit Lake Rural Water	\$3,200,000	\$1,600,000	50%	Warwick Service Area Expansion
Standing Rock MR&I	\$8,150,555	\$4,075,278	50%	Selfridge Service Area
Turtle Mountain Band of Chippewa	\$20,745	\$10,372	50%	Water System Improvements-BIA 5 Roadway Bore
	\$1,152,320	\$576,160	50%	Water System Improvements-Contract 2-1
	\$3,000,000	\$1,500,000	50%	Water System Improvements-Rehab to Core System
	\$2,044,770	\$1,022,385	50%	Water System Improvements-Contract 1-2, Phase 2
	\$1,781,241	\$890,620	50%	Water System Improvements-Contract 1-2, Phase 1
	\$2,196,413	\$1,096,208	50%	Water System Improvements-Belcourt Reservoir Pump Station
	\$803,275	\$401,637	50%	Water Service to Rolla
Stutsman Rural Water District	\$3,951,000	\$2,370,600	60%	Phase V Expansion Project
Walsh Rural Water District	\$1,886,961	\$1,415,221	75%	System Expansion
TOTAL	\$92,694,610	\$58,931,985		

2015-17 Regional and Rural Water Funding Needs

20

February 2, 2015

SB 2058 #3
2-2-15

SENATE APPROPRIATIONS COMMITTEE
SB 2058

CHAIRMAN HOLMBERG AND MEMBERS OF THE COMMITTEE:

For the record my name is Blake Crosby. I am the Executive Director of the North Dakota League of Cities representing the 357 cities across the State.

We are here in support of SB 2058 with the proposed amendments. As you have heard from Mr. Volk, 236 or 66% of my cities are provided water via the rural water systems and you have seen the long list of projects from the State Water Commission. It is not difficult to see that every dollar is needed and funding operations of the State Water Commission from the Resources Trust Fund will have the effect of eliminating some vital projects.

On behalf of the North Dakota League of Cities, I respectfully ask for a Do Pass of SB 2058 as amended.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

TESTIMONY ON ENGROSSED SENATE BILL NO. 2058

Senate Appropriations Committee

**Dave Laschkewitsch, Director of Administrative Services
North Dakota State Water Commission**

February 2, 2015

SB 2058
2-2-15
#4

Mr. Chairman and members of the Senate Appropriations Committee, my name is Dave Laschkewitsch and I am the Director of Administrative Services at the North Dakota State Water Commission.

I appear today in opposition to Engrossed Senate Bill 2058. This bill restricts the uses of the Resources Trust Fund. The bill had previously allowed use of the Resources Trust Fund for activities that were otherwise provided by law, however, that language was eliminated. Currently there are sections of law that allow the Resources Trust Fund to be used for all costs, including salaries and operations, of the Southwest Water Supply project, the Northwest Area Water Supply project, and both Devils Lake outlets. As this bill would be in conflict with those sections I believe the last bill passed would take precedence and would prevent use of the trust fund for those activities. If this bill were to be applied to the Commission's 2015-2017 budget we would need the General Fund to absorb approximately \$13.2 million of costs that were previously funded by the Resources Trust Fund. \$11.6 million of that is attributable to the operations of the two Devils Lake outlets.

The bill also specifically prevents the Resources Trust Fund from being used for planning and feasibility studies. Again using the Commission's 2015-2017 proposed budget, we would require \$3.4 million of requested feasibility projects to either be funded by the General Fund or pushed out to the local project sponsors. We are unable to estimate the cost for future biennia. Feasibility studies are critical in order to determine which projects should be advanced.

The bill prevents the Commission from using the trust fund for internal administration, atmospheric resource activities, and for water appropriation responsibilities. Historically the weather modification project has been cost shared with counties where the project operates. The state share has been provided from the Resources Trust Fund. This bill would now prevent that as well.

For these reason I encourage the committee to give this bill a do not pass recommendation. I would be happy to answer any questions you may have.