

**Testimony**  
**Engrossed HB 1385—Department of Water Resources**  
**Senate Energy and Natural Resources Committee**  
**Senator Dale Patten, Committee Chair**  
**March 9, 2023**

Chairman Patten, and members of the Senate Energy and Natural Resources Committee – I am John Paczkowski, North Dakota’s State Engineer. I am here today to testify in support of Engrossed House Bill (HB) 1385, relating to Tribal Nation contracts with the State Water Commission (Commission).

North Dakota Century Code (N.D.C.C.) § 61-02-24 and 61-02-24.1 identify political subdivisions and entities that the Commission may enter into contracts with. Federally recognized Tribal Nations are currently not among those entities listed. This bill is meant to allow the Commission to enter into agreements with federally recognized Tribal Nations – making them eligible sponsors under the Department of Water Resources’ (DWR) Cost-Share Program - like North Dakota political subdivisions, the federal government, other state political subdivisions, and Canadian provinces.

The need for critical water infrastructure exists within the jurisdictional boundaries of reservations located in North Dakota, just as that same need exists outside of Tribal boundaries. For example, as part of the DWR’s biennial water project inventory, there have been various water supply projects submitted over the years by the Turtle Mountain Public Utilities Commission (TMPUC). The projects have been related to providing improved water quality and quantity supplies to both tribal and non-tribal North Dakota residents living within the boundaries of the Turtle Mountain Reservation. However, because of the statutes’ existing language, the Commission has not been able to enter into agreements with the TMPUC to assist with cost-sharing on those projects unless they are partnered with an eligible political subdivision.

Tribal Nations to date have been encouraged to work with those political subdivisions listed in the statute. For example, in the summer of 2020, the TMPUC entered into a

Memorandum of Understanding (MOU) with Rolette County, which serves as the local sponsor of TMPUC water supply projects. During the current 2021-2023 budget cycle, Rolette County has submitted, and been approved for, three separate cost-share requests by the SWC through the DWR Cost-Share Program on behalf of TMPUC. These projects were related to water treatment, a storage reservoir and pump station, and distribution lines to serve additional water users – at a combined cost-share total of approximately \$4.7 million. All three agreements were signed between DWR and Rolette County, and two of those three projects have already been largely completed.

If not for the MOU between TMPUC and Rolette County, these three water supply projects would likely have been delayed for years while awaiting additional local and federal funding sources. And though the MOU provides an opportunity through collaboration between a Tribal Nation and an eligible political subdivision, it is time to include federally recognized tribes as eligible sponsors, who like others responsible for providing clean, reliable supplies of water to North Dakota residents, are looking for state cost-share assistance to make their projects possible.

With that I respectfully request a do pass on HB 1385. This concludes my testimony in support of HB 1385, and I will stand for any questions.