



HB 1385
Testimony Jack Dwyer
Senate Energy and Natural Resources Committee

Good morning, Chairman Patten and members of the Senate Energy and Natural Resources Committee:

My name is Jack Dwyer, and I serve as a policy advisor for the North Dakota Water Users Association. In December of 2021, the North Dakota Water Users and affiliates hosted the state water convention, at which we held a tribal panel to discuss water issues facing our tribal nations. At that meeting, Joe Silveria from Fort Berthold Rural Water, who served on the panel, provided an update regarding water needs on the Fort Berthold Indian Reservation. He indicated that needs were great, federal MR&I funding authorized under the Dakota Water Resources Act of 2000 is nearly tapped, and that MHA Nation was not eligible to apply for state cost share grants from the State of North Dakota, even though Fort Berthold pays a significant amount of oil extraction tax into the State of North Dakota, 20% of which makes up the Resources Trust Fund.

We dug into this to determine if state law or agency policy was driving this issue, and we didn't have to look very deep. NDCC § 61-02-24 and NDCC § 61-02-24.1 authorize the State Water Commission to coordinate and cooperate with:

1. Any state, and with any political subdivision, department, or officer thereof;
2. With the United States or Canada and any agency, department, or officer thereof;
3. And with any political subdivisions in our state.

Note that tribal governments are not included and therefore cannot currently apply to the state for cost share on their water projects.

The North Dakota Water Users has had a policy in its Long-Term Goals and Resolutions supporting development of tribal water projects since before my involvement with the organization, but the policy was silent on whether our organization supported legislation that would make the Resources Trust Fund accessible for tribal governments. At our last goals and resolutions meeting held in December, we proposed the following resolution to our membership:

TRIBAL RURAL WATER DEVELOPMENT. We support the supply and distribution of clean, safe, and dependable water to Indian Reservations. We also support efforts of the North Dakota Tribes to access funds which have been authorized by the Dakota Water Resources Act of 2000, which are specifically designated to resolve the critical water shortages and needs on reservations. We also support the addition of tribal governments as an eligible project sponsor to receive cost share from the State Water Commission.

After careful consideration, our North Dakota Water Users, North Dakota Water Resource Districts Association, and North Dakota Irrigation Association passed this resolution unanimously.

The bill before you simply allows our tribal governments to apply to the State Water Commission for state cost share just like other currently eligible entities. No appropriation is attached. Any application by a tribal government would have to comply with existing State Water Commission cost share policy.

Providing this opportunity to our fellow North Dakotans is critical. Thank you for your time this morning. I'd be happy to stand for any questions.