

2021 HOUSE ENERGY AND NATURAL RESOURCES

HB 1063

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1063

1/14/2021

Relating to the membership on the NW area water supply advisory committee and the areas to be served by the NW area water supply project

Chairman Porter opened the hearing on HB 1063 at 2:13 PM. Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, M Ruby, Zubke, Guggisberg, and Ista. Absent: Rep Roers Jones.

Discussion Topics:

- Some cities or counties will not be served by the project
- Could be change to represent the membership versus the areas
- Much easier to operate and maintain by a state entity
- Interim operations getting water from the city of Minot
- What part should the district play and what part should the state play
- The rules are set by the Advisory Committee.

Written testimony:

Tim Freije, NAWS Project Manager, ND State Water Commission #608

Chairman Porter closed the hearing at 2:29 PM

Kathleen Davis, Committee Clerk

Testimony
House Bill 1063 – State Water Commission
House Energy and Natural Resources Committee
January 14, 2021

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. I am Tim Freije, Northwest Area Water Supply (NAWS)/Southwest Pipeline Project (SWPP) Section Head for the State Water Commission. I am appearing before you today to provide testimony on House Bill 1063.

Chapter 24.6 of Title 61 of the North Dakota Century Code authorizes the NAWS project, creates and defines the NAWS Advisory Committee and tasks the State Water Commission to build, operate, and manage the project in consultation with the Advisory Committee.

61-24.6-02 defines the membership of the NAWS Advisory Committee and 61-24.6-10 defines the NAWS project area. The membership of the NAWS Advisory Committee and the project area as originally enacted represented areas of the State which could potentially have been served by the NAWS project presumably to ensure that any entities interested in joining the project had the opportunity to do so. The scope of NAWS has since been refined by participation of various municipalities and rural water districts joining the project and is also limited by the Supplemental Environmental Impact Statement and Record of Decision prepared for the project. House Bill 1063 modifies 61-24.6-02 and 61-24.6-10 to refine the membership of the NAWS Advisory Committee and the project area to better reflect the areas of the State that will actually be served by the NAWS project.

Mr. Chairman, this concludes my testimony on this bill. I will answer any questions you or the committee have to the best of my abilities.

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1063

2/18/2021

Relating to the membership on the NW area water supply advisory committee and the areas to be served by the NW area water supply project

Chairman Porter opened the hearing at **10:05 AM**.

Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, M Ruby, Zubke, Guggisberg, and Ista.

Discussion Topics:

- NAWS Advisory Committee
- Transition committee
- Ownership and Management
- Independent contractors
- Powers of State Water Commission
- Board members

Rep Lefor moved to amend (21.8058.01005), seconded by Rep Anderson. Voice vote, motion carried.

Rep Anderson moved a Do Pass as Amended, seconded by Rep M Ruby.

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative George Keiser	Y
Representative Mike Lefor	Y
Representative Andrew Marschall	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 14 – 0 – 0 Rep Anderson is carrier.

Rep John Nelson - Amendment 01005 #6941

Tim Freije, ND State Water Commission, NAWS Project Manager #608

House Energy and Natural Resources Committee
HB 1063
02/18/21
Page 2

Erik Volk, ND Rural Utilities - provided Rep Nelson's Christmas tree version 01005 - #6946

10:41 am hearing closed

Kathleen Davis, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1063

Page 1, line 1, replace the second "and" with ", 61-24.6-03, 61-24.6-04, 61-24.6-06, 61-24.6-07, 61-24.6-08, 61-24.6-09,"

Page 1, line 1, after "61-24.6-10" insert ", and 61-24.6-11"

Page 1, line 2, remove "the membership on"

Page 1, line 3, after "project" insert "; to provide for legislative management reports; and to declare an emergency"

Page 1, line 17, after "5." insert "4."

Page 1, line 17, remove the overstrike over "~~One representative of the~~"

Page 1, line 18, after "Sakakawea" insert "Turtle Mountain Band of Chippewa Indians"

Page 1, line 19, remove the overstrike over "~~recommended by the tribal council~~" and insert immediately thereafter "who will serve as a nonvoting member"

Page 1, line 19, remove the overstrike over the overstruck period

Page 1, line 20, replace "4." with "5."

Page 2, line 1, replace "5." with "6."

Page 2, line 4, replace "6." with "7."

Page 2, line 6, replace "7." with "8."

Page 2, after line 6, insert:

"SECTION 2. AMENDMENT. Section 61-24.6-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-03. Advisory committee - Duty - Officers - Meetings - Compensation - Staffing.

The northwest area water supply advisory committee shall develop recommendations for the legislative management regarding the transition of long-term operations and management of the northwest area water supply project. The advisory committee shall elect a chairman and vice chairman. ~~The advisory committee shall and~~ meet no less than once per quarter at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer. Vacancies must be filled in the same manner as original appointments are made. The state water commission shall provide staffing and support for the advisory committee.

SECTION 3. AMENDMENT. Section 61-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-04. Powers of the state water commission in consultation with the northwest area water supply advisory committee.

The state water commission ~~may, in consultation~~ shall consult with the northwest area water supply advisory committee regarding the following duties of the commission:

1. Accept funds, property, services, or other assistance, financial or otherwise, from federal, state, tribal, and other public or private sources for the purpose of aiding and promoting the development of a project to deliver water to northwestern North Dakota.
2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.
5. Construct, operate, and manage a project to deliver water throughout ~~northwestern North Dakota~~ the project area.

SECTION 4. AMENDMENT. Section 61-24.6-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-06. Commission to fix water rates for the northwest area water supply project.

The state water commission, after consulting with the northwest area water supply advisory committee, shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

SECTION 5. AMENDMENT. Section 61-24.6-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-07. Operation and maintenance fund - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project

operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on moneys in the fund must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for paying for costs and expenditures for operation and maintenance of the northwest area water supply project.

SECTION 6. AMENDMENT. Section 61-24.6-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-08. Reserve fund for replacement - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for replacement and extraordinary maintenance of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as a part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project reserve fund for replacement. All moneys received by the state treasurer for replacement and extraordinary maintenance of the northwest area water supply project and the interest on the moneys must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for replacement and extraordinary maintenance of the northwest area water supply project.

SECTION 7. AMENDMENT. Section 61-24.6-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-09. Capital costs - Deposit - Use.

Money derived and received from water user entities or otherwise for capital costs or construction of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the state water commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project fund for capital costs and construction. All moneys received by the state treasurer for capital costs and construction of the northwest area water supply project, and all interest on the moneys, must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for capital costs and construction of the northwest area water supply project."

Page 2, after line 14, insert:

"SECTION 9. AMENDMENT. Section 61-24.6-11 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-11. Commission has authority to sell property.

If the state water commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current

owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

SECTION 10. LEGISLATIVE MANAGEMENT REPORT - NORTHWEST AREA WATER SUPPLY TRANSITION. Before August 1, 2022, the northwest area water supply advisory committee shall provide a report to the legislative management regarding recommendations for transition of the long-term operation and management of the northwest area water supply project.

SECTION 11. LEGISLATIVE MANAGEMENT REPORT - INTERIM STATUS OF NORTHWEST AREA WATER SUPPLY ADVISORY COMMITTEE. During the 2021-22 interim, the northwest area water supply advisory committee shall provide a report to an interim committee designated by the legislative management regarding the status of the advisory committee's responsibilities under section 2 of this Act.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1063: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1063 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with ", 61-24.6-03, 61-24.6-04, 61-24.6-06, 61-24.6-07, 61-24.6-08, 61-24.6-09,"

Page 1, line 1, after "61-24.6-10" insert ", and 61-24.6-11"

Page 1, line 2, remove "the membership on"

Page 1, line 3, after "project" insert "; to provide for legislative management reports; and to declare an emergency"

Page 1, line 17, after "5." insert "4."

Page 1, line 17, remove the overstrike over "One representative of the"

Page 1, line 18, after "Sakakawea" insert "Turtle Mountain Band of Chippewa Indians"

Page 1, line 19, remove the overstrike over "recommended by the tribal council" and insert immediately thereafter "who will serve as a nonvoting member"

Page 1, line 19, remove the overstrike over the overstruck period

Page 1, line 20, replace "4." with "5."

Page 2, line 1, replace "5." with "6."

Page 2, line 4, replace "6." with "7."

Page 2, line 6, replace "7." with "8."

Page 2, after line 6, insert:

"SECTION 2. AMENDMENT. Section 61-24.6-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-03. Advisory committee - Duty - Officers - Meetings - Compensation - Staffing.

The northwest area water supply advisory committee shall develop recommendations for the legislative management regarding the transition of long-term operations and management of the northwest area water supply project. The advisory committee shall elect a chairman and vice chairman. ~~The advisory committee shall and meet no less than once per quarter~~ at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer. Vacancies must be filled in the same manner as original appointments are made. The state water commission shall provide staffing and support for the advisory committee.

SECTION 3. AMENDMENT. Section 61-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-04. Powers of the state water commission in consultation with the northwest area water supply advisory committee.

The state water commission ~~may, in consultation~~ shall consult with the northwest area water supply advisory committee regarding the following duties of the commission:

1. Accept funds, property, services, or other assistance, financial or otherwise, from federal, state, tribal, and other public or private sources for the purpose of aiding and promoting the development of a project to deliver water to northwestern North Dakota.
2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.
5. Construct, operate, and manage a project to deliver water throughout ~~northwestern North Dakota~~ the project area.

SECTION 4. AMENDMENT. Section 61-24.6-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-06. Commission to fix water rates for the northwest area water supply project.

The state water commission, after consulting with the northwest area water supply advisory committee, shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

SECTION 5. AMENDMENT. Section 61-24.6-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-07. Operation and maintenance fund - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on moneys in the fund must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for paying for costs and expenditures for operation and maintenance of the northwest area water supply project.

SECTION 6. AMENDMENT. Section 61-24.6-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-08. Reserve fund for replacement - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for replacement and extraordinary maintenance of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as a part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project reserve fund for replacement. All moneys received by the state treasurer for replacement and extraordinary maintenance of the northwest area water supply project and the interest on the moneys must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for replacement and extraordinary maintenance of the northwest area water supply project.

SECTION 7. AMENDMENT. Section 61-24.6-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-09. Capital costs - Deposit - Use.

Money derived and received from water user entities or otherwise for capital costs or construction of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the state water commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project fund for capital costs and construction. All moneys received by the state treasurer for capital costs and construction of the northwest area water supply project, and all interest on the moneys, must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for capital costs and construction of the northwest area water supply project."

Page 2, after line 14, insert:

"SECTION 9. AMENDMENT. Section 61-24.6-11 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-11. Commission has authority to sell property.

If the state water commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

SECTION 10. LEGISLATIVE MANAGEMENT REPORT - NORTHWEST AREA WATER SUPPLY TRANSITION. Before August 1, 2022, the northwest area water supply advisory committee shall provide a report to the legislative management regarding recommendations for transition of the long-term operation and management of the northwest area water supply project.

SECTION 11. LEGISLATIVE MANAGEMENT REPORT - INTERIM STATUS OF NORTHWEST AREA WATER SUPPLY ADVISORY COMMITTEE. During the 2021-22 interim, the northwest area water supply advisory committee shall provide a report to an interim committee designated by the legislative management regarding the status of the advisory committee's responsibilities under section 2 of this Act.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

21.8058.01005
Title.

Prepared by the Legislative Council staff for
Representative J. Nelson
February 15, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1063

Page 1, line 1, replace the second "and" with ", 61-24.6-03, 61-24.6-04, 61-24.6-06, 61-24.6-07, 61-24.6-08, 61-24.6-09,"

Page 1, line 1, after "61-24.6-10" insert ", and 61-24.6-11"

Page 1, line 2, remove "the membership on"

Page 1, line 3, after "project" insert "; to provide for legislative management reports; and to declare an emergency"

Page 1, line 17, after "5." insert "4."

Page 1, line 17, remove the overstrike over "~~One representative of the~~"

Page 1, line 18, after "Sakakawea" insert "Turtle Mountain Band of Chippewa Indians"

Page 1, line 19, remove the overstrike over "~~recommended by the tribal council~~" and insert immediately thereafter "who will serve as a nonvoting member"

Page 1, line 19, remove the overstrike over the overstruck period

Page 1, line 20, replace "4." with "5."

Page 2, line 1, replace "5." with "6."

Page 2, line 4, replace "6." with "7."

Page 2, line 6, replace "7." with "8."

Page 2, after line 6, insert:

"SECTION 2. AMENDMENT. Section 61-24.6-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-03. Advisory committee - Duty - Officers - Meetings - Compensation - Staffing.

The northwest area water supply advisory committee shall develop recommendations for the legislative management regarding the transition of long-term operations and management of the northwest area water supply project. The advisory committee shall elect a chairman and vice chairman. ~~The advisory committee shall and~~ meet no less than once per quarter at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer. Vacancies must be filled in the same manner as original appointments are made. The state water commission shall provide staffing and support for the advisory committee.

SECTION 3. AMENDMENT. Section 61-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-04. Powers of the state water commission in consultation with the northwest area water supply advisory committee.

The state water commission ~~may, in consultation,~~ shall consult with the northwest area water supply advisory committee regarding the following duties of the commission:

1. Accept funds, property, services, or other assistance, financial or otherwise, from federal, state, tribal, and other public or private sources for the purpose of aiding and promoting the development of a project to deliver water to northwestern North Dakota.
2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.
5. Construct, operate, and manage a project to deliver water throughout ~~northwestern North Dakota~~ the project area.

SECTION 4. AMENDMENT. Section 61-24.6-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-06. Commission to fix water rates for the northwest area water supply project.

The state water commission, after consulting with the northwest area water supply advisory committee, shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

SECTION 5. AMENDMENT. Section 61-24.6-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-07. Operation and maintenance fund - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project

operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on moneys in the fund must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for paying for costs and expenditures for operation and maintenance of the northwest area water supply project.

SECTION 6. AMENDMENT. Section 61-24.6-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-08. Reserve fund for replacement - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for replacement and extraordinary maintenance of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as a part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project reserve fund for replacement. All moneys received by the state treasurer for replacement and extraordinary maintenance of the northwest area water supply project and the interest on the moneys must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for replacement and extraordinary maintenance of the northwest area water supply project.

SECTION 7. AMENDMENT. Section 61-24.6-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-09. Capital costs - Deposit - Use.

Money derived and received from water user entities or otherwise for capital costs or construction of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the state water commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project fund for capital costs and construction. All moneys received by the state treasurer for capital costs and construction of the northwest area water supply project, and all interest on the moneys, must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for capital costs and construction of the northwest area water supply project."

Page 2, after line 14, insert:

"SECTION 9. AMENDMENT. Section 61-24.6-11 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-11. Commission has authority to sell property.

If the state water commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current

owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

SECTION 10. LEGISLATIVE MANAGEMENT REPORT - NORTHWEST AREA WATER SUPPLY TRANSITION. Before August 1, 2022, the northwest area water supply advisory committee shall provide a report to the legislative management regarding recommendations for transition of the long-term operation and management of the northwest area water supply project.

SECTION 11. LEGISLATIVE MANAGEMENT REPORT - INTERIM STATUS OF NORTHWEST AREA WATER SUPPLY ADVISORY COMMITTEE. During the 2021-22 interim, the northwest area water supply advisory committee shall provide a report to an interim committee designated by the legislative management regarding the status of the advisory committee's responsibilities under section 2 of this Act.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Testimony
House Bill 1063 – State Water Commission
House Energy and Natural Resources Committee
January 14, 2021

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. I am Tim Freije, Northwest Area Water Supply (NAWS)/Southwest Pipeline Project (SWPP) Section Head for the State Water Commission. I am appearing before you today to provide testimony on House Bill 1063.

Chapter 24.6 of Title 61 of the North Dakota Century Code authorizes the NAWS project, creates and defines the NAWS Advisory Committee and tasks the State Water Commission to build, operate, and manage the project in consultation with the Advisory Committee.

61-24.6-02 defines the membership of the NAWS Advisory Committee and 61-24.6-10 defines the NAWS project area. The membership of the NAWS Advisory Committee and the project area as originally enacted represented areas of the State which could potentially have been served by the NAWS project presumably to ensure that any entities interested in joining the project had the opportunity to do so. The scope of NAWS has since been refined by participation of various municipalities and rural water districts joining the project and is also limited by the Supplemental Environmental Impact Statement and Record of Decision prepared for the project. House Bill 1063 modifies 61-24.6-02 and 61-24.6-10 to refine the membership of the NAWS Advisory Committee and the project area to better reflect the areas of the State that will actually be served by the NAWS project.

Mr. Chairman, this concludes my testimony on this bill. I will answer any questions you or the committee have to the best of my abilities.

21.8058.01005

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1063

Introduced by

Energy and Natural Resources Committee

(At the request of the State Water Commission)

A BILL for an Act to amend and reenact sections 61-24.6-02 ~~and 61-24.6-03, 61-24.6-04,~~
~~61-24.6-06, 61-24.6-07, 61-24.6-08, 61-24.6-09,~~ 61-24.6-10, ~~and 61-24.6-11~~ of the North
 Dakota Century Code, relating to ~~the membership on~~ the northwest area water supply advisory
 committee and the areas to be served by the northwest area water supply project: to provide for
legislative management reports; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-24.6-02 of the North Dakota Century Code is
 amended and reenacted as follows:

61-24.6-02. Northwest area water supply advisory committee - Created.

The northwest area water supply advisory committee consists of the following
 representatives, appointed by the state engineer:

1. One person from the city of Minot recommended by the Minot city council.
2. ~~One person from the city of Williston recommended by the Williston city council.~~
3. One person from the Bottineau, Burke, ~~Divide,~~ McHenry, McLean, ~~Mountrail,~~ Pierce,
 Renville, and Ward, ~~or Williams~~ County water resource districts recommended jointly
 by the governing boards of the Bottineau, Burke, ~~Divide,~~ McHenry, McLean, ~~Mountrail,~~
 Pierce, Renville, and Ward, ~~or Williams~~ County water resource districts.
- 4.3. One representative of the state water commission recommended by the commission.
- 5.4. One representative of the Three Affiliated Tribes, representing that area of the Fort
Berthold Indian Reservation north of the Missouri River and Lake Sakakawea Turtle
Mountain Band of Chippewa Indians recommended by the tribal council who will serve
as a nonvoting member.

1 ~~6-4.5.~~ One representative of rural water distribution systems located in northwestern North
2 Dakota. This representative must be a resident of Bottineau, Burke, ~~Divide~~, McHenry,
3 McLean, ~~Mountrail~~, Pierce, Renville, or Ward, ~~or Williams~~ County.

4 ~~7-5.6.~~ One representative of a municipality other than the city of Minot, located in Bottineau,
5 Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, or Ward, ~~or Williams~~
6 County.

7 ~~8-6.7.~~ One representative of the Garrison Diversion Conservancy District recommended by
8 the board of directors of the conservancy district.

9 ~~9-7.8.~~ One at-large representative.

10 **SECTION 2. AMENDMENT.** Section 61-24.6-03 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **61-24.6-03. Advisory committee - Duty - Officers - Meetings - Compensation - Staffing.**

13 The northwest area water supply advisory committee shall develop recommendations for
14 the legislative management regarding the transition of long-term operations and management of
15 the northwest area water supply project. The advisory committee shall elect a chairman and
16 vice chairman. ~~The advisory committee shall~~ and meet no less than once per quarter at the
17 times and places necessary to carry out the purposes of this chapter. The advisory committee
18 members may be reimbursed for their mileage and expenses in the amount provided for by
19 sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the
20 state engineer. Vacancies must be filled in the same manner as original appointments are
21 made. The state water commission shall provide staffing and support for the advisory
22 committee.

23 **SECTION 3. AMENDMENT.** Section 61-24.6-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **61-24.6-04. Powers of the state water commission in consultation with the northwest**
26 **area water supply advisory committee.**

27 The state water commission ~~may, in consultation~~ shall consult with the northwest area water
28 supply advisory committee regarding the following duties of the commission:

- 29 1. Accept funds, property, services, or other assistance, financial or otherwise, from
30 federal, state, tribal, and other public or private sources for the purpose of aiding and
31 promoting the development of a project to deliver water to northwestern North Dakota.

2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.
5. Construct, operate, and manage a project to deliver water throughout ~~northwestern North Dakota~~ the project area.

SECTION 4. AMENDMENT. Section 61-24.6-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-06. Commission to fix water rates for the northwest area water supply project.

The state water commission, after consulting with the northwest area water supply advisory committee, shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

SECTION 5. AMENDMENT. Section 61-24.6-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-07. Operation and maintenance fund - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project operation and maintenance fund. All

1 moneys received by the state treasurer for operation and maintenance of the northwest area
2 water supply project and the interest on moneys in the fund must be kept by the state treasurer
3 in the fund distinct from all other moneys and must be disbursed by the state treasurer and
4 used only for paying for costs and expenditures for operation and maintenance of the northwest
5 area water supply project.

6 **SECTION 6. AMENDMENT.** Section 61-24.6-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **61-24.6-08. Reserve fund for replacement - Deposit - Use.**

9 Revenues received by the state water commission from water user entities or otherwise for
10 replacement and extraordinary maintenance of the northwest area water supply project may be
11 held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any
12 money not held pursuant to the terms of a resolution or trust indenture must be deposited by the
13 commission and maintained, as a part of the moneys of the state received and kept by the state
14 treasurer, in a fund designated as the northwest area water supply project reserve fund for
15 replacement. All moneys received by the state treasurer for replacement and extraordinary
16 maintenance of the northwest area water supply project and the interest on the moneys must be
17 kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by
18 the state treasurer and used only for replacement and extraordinary maintenance of the
19 northwest area water supply project.

20 **SECTION 7. AMENDMENT.** Section 61-24.6-09 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **61-24.6-09. Capital costs - Deposit - Use.**

23 Money derived and received from water user entities or otherwise for capital costs or
24 construction of the northwest area water supply project may be held pursuant to the terms of a
25 resolution or trust indenture adopted by the state water commission. Any money not held
26 pursuant to the terms of a resolution or trust indenture must be deposited by the commission
27 and maintained, as part of the moneys of the state received and kept by the state treasurer, in a
28 fund designated as the northwest area water supply project fund for capital costs and
29 construction. All moneys received by the state treasurer for capital costs and construction of the
30 northwest area water supply project, and all interest on the moneys, must be kept by the state

1 treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer
2 and used only for capital costs and construction of the northwest area water supply project.

3 **SECTION 8. AMENDMENT.** Section 61-24.6-10 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **61-24.6-10. Areas served by the northwest area water supply project.**

6 The commission may provide, as part of the northwest area water supply project, delivery,
7 distribution, and treatment of water from the Missouri River or other sources, to areas in
8 Bottineau, Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, and Ward, ~~and~~
9 ~~Williams~~ Counties. The facilities for delivery of water may be from a pipeline transmission and
10 delivery system or through other works, as determined by the commission.

11 **SECTION 9. AMENDMENT.** Section 61-24.6-11 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **61-24.6-11. Commission has authority to sell property.**

14 If the state water commission determines property acquired for the northwest area water
15 supply project is no longer necessary for project purposes and the unnecessary parcel is five
16 contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The
17 commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the
18 current owner of the parent parcel from which the unnecessary parcel was taken. If the parent
19 parcel's current owner does not accept the commission's offer within sixty days, the commission
20 may offer the property to any other adjacent property owner for a period of sixty days. If no
21 offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2
22 and 54-01-05.5.

23 **SECTION 10. LEGISLATIVE MANAGEMENT REPORT - NORTHWEST AREA WATER**
24 **SUPPLY TRANSITION.** Before August 1, 2022, the northwest area water supply advisory
25 committee shall provide a report to the legislative management regarding recommendations for
26 transition of the long-term operation and management of the northwest area water supply
27 project.

28 **SECTION 11. LEGISLATIVE MANAGEMENT REPORT - INTERIM STATUS OF**
29 **NORTHWEST AREA WATER SUPPLY ADVISORY COMMITTEE.** During the 2021-22 interim,
30 the northwest area water supply advisory committee shall provide a report to an interim

- 1 committee designated by the legislative management regarding the status of the advisory
- 2 committee's responsibilities under section 2 of this Act.

3 **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.

2021 SENATE ENERGY AND NATURAL RESOURCES

HB 1063

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1063
3/12/2021

Relating to the northwest area water supply advisory committee and the areas to be served by the northwest area water supply project; to provide for legislative management reports; and to declare an emergency.

Hearing called to order, all senators are present: **Bell, Schaible Piepkorn, Roers, Patten, and Kreun.** [9:00]

Discussion Topics:

- State water Board authority
- Rural water cooperatives

Timothy Frejie, ND Rural Water provided testimony in favor #8389 [9:02]

Eric Volk, ND Rural Water provided testimony in Favor #8891 [9:06]

Additional written testimony:

Joddy Meidinger, Upper Souris Water District, provided testimony in Favor #8815

Hearing Adjourned [9:31]

Sheila Froehlich, Committee Clerk

Testimony
House Bill 1063 – State Water Commission
Senate Energy and Natural Resources Committee
March 12, 2021

Good morning Chairman Kreun and members of the Senate Energy and Natural Resources Committee. I am Tim Freije, Northwest Area Water Supply (NAWS)/Southwest Pipeline Project (SWPP) Section Head for the State Water Commission. I am appearing before you today testify in favor of House Bill 1063 (HB 1063).

Chapter 24.6 of Title 61 of the North Dakota Century Code authorizes the NAWS project, creates and defines the NAWS Advisory Committee, and tasks the State Water Commission to build, operate, and manage the project in consultation with the Advisory Committee.

NDCC 61-24.6-02 defines the membership of the NAWS Advisory Committee and NDCC 61-24.6-10 defines the NAWS project area. The membership of the NAWS Advisory Committee and the project area, as originally enacted, represented areas of the State which could potentially have been served by the NAWS project presumably to ensure that any entities interested in joining the project had the opportunity to do so. The scope of NAWS has since been refined by participation of various municipalities and rural water districts joining the project and is also limited by the Supplemental Environmental Impact Statement and Record of Decision prepared for the project.

Mr. Chairman, this concludes my testimony on this bill. Thank you for the opportunity to testify in favor of HB 1063 and I will answer any questions you or the committee have to the best of my abilities.



Eric Volk, Executive Director
ND Rural Water Systems Association
In Support of House Bill 1063
Senate Energy & Natural Resources
March 12, 2021

Chairman Kreun and members of the Senate Energy & Natural Resources Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. Today, I am submitting testimony in support of Engrossed House Bill (HB) 1063.

Northwest Area Water Supply Project background from the State Water Commission:

In order to address long-standing water supply and quality problems experienced by residents of northern North Dakota, the Northwest Area Water Supply (NAWS) project was authorized by the Garrison Diversion Reformulation Act of 1986 and the Dakota Water Resources Act of 2000 under the Municipal, Rural, and Industrial (MR&I) Grant Program. And even before that, as part of the federal Flood Control Act of 1944, water supply was planned for the region along with construction of the Missouri River mainstem dams.

In 1991, the state passed into law a bill creating the NAWS Advisory Committee, while giving the North Dakota State Water Commission (SWC) the authority to construct, operate, and manage the project. In 1993, Houston Engineering, was retained as the pre-final design team for the NAWS project.

Construction of NAWS began on April 5, 2002, with a main line and associated features being built between the city of Minot and Lake Sakakawea. Later in 2002, lawsuits were initiated, delaying the project for years. Today, construction on the NAWS project is back underway.

At request of the NAWS impacted Rural Water Systems, I was asked to help develop changes to Chapter 61.24.6 of the Century Code. We looked at accomplishing several goals:

1. Develop a long-term plan for the operations and management of the NAWS Project.

a. **Section 2:** *...shall develop recommendations for the legislative management regarding the transition of long-term operations and management of the northwest area water supply project.*

b. **Section 10:** *Before August 1, 2022, the northwest area water supply advisory committee shall provide a report to the legislative management regarding recommendations for transition of the long-term operation and management of the northwest area water supply project.*

c. **Section 11:** *During the 2021-22 interim, the northwest area water supply advisory committee shall provide a report to an interim committee designated by the legislative management regarding the status of the advisory committee's responsibilities under section 2 of this Act.*

2. Ensure the Advisory Committee meets on a routine basis.

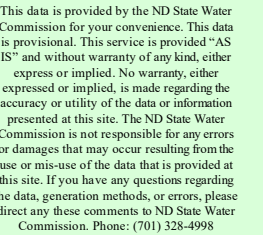
a. **Section 2:** *...meet no less than once per quarter*

3. Require the State Water Commission to consult with the Advisory Committee.

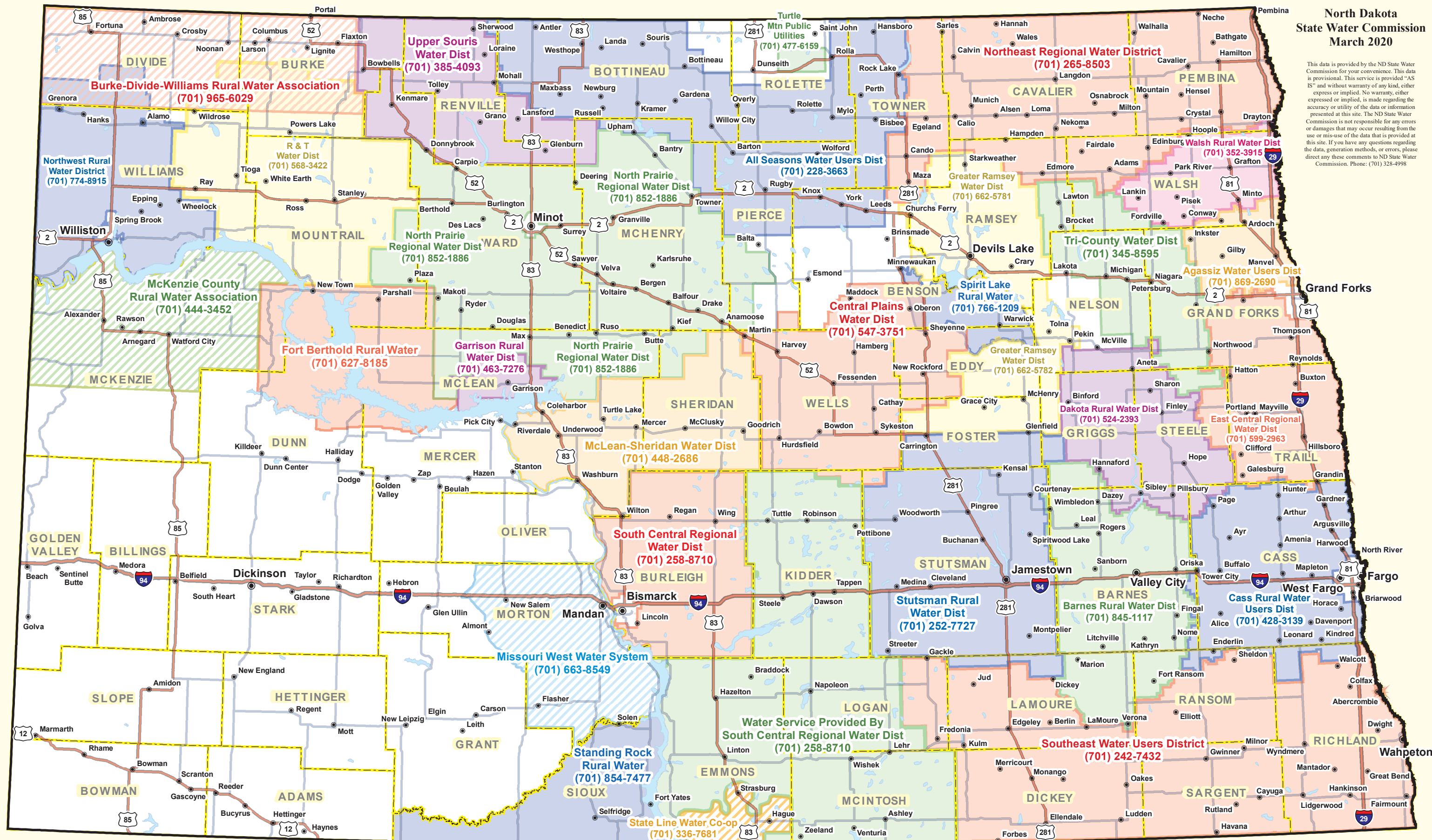
a. **Section 3:** *The state water commission shall consult with the northwest area water supply advisory committee regarding the following duties of the commission:*

4. Most importantly, we did not want to do anything that would cause adverse legal issues.

While HB 1063 was on the other side, we had discussions with Rural Water System Manager/Board Members, Legislators, City of Minot, League of Cities, Office of the State Engineer, and the current Advisory Committee in regard to the changes to 61-24.6. We feel the proposed changes have a positive effect on the NAWS Project. With that said, the NDRWSA supports Engrossed HB 1063. Thank you for giving me the opportunity to provide testimony on behalf of the NDRWSA. Eric Volk, ericvolk@ndrw.org.



This data is provided by the ND State Water Commission for your convenience. This data is provisional. This service is provided "AS IS" and without warranty of any kind, either express or implied. No warranty, either expressed or implied, is made regarding the accuracy or utility of the data or information presented at this site. The ND State Water Commission is not responsible for any errors or damages that may occur resulting from the use or mis-use of the data that is provided at this site. If you have any questions regarding the data, generation methods, or errors, please direct any these comments to ND State Water Commission. Phone: (701) 328-4998



North Dakota Rural Water Districts & Associations

Upper Souris Water District
Mr. Joddy Meidinger, Manager
43601 506th Street Northwest
POB 397
Kenmare, ND 58746

March 12, 2021

Senate Energy and Natural Resources Committee
Peace Garden Room - ND State Capitol
% Chairman Kreun

RE: TESTIMONY IN FAVOR OF HB 1063

Senator Kreun and Members of the Committee:

Thank you for accepting my testimony today in support of HB 1063.

As the manager of Upper Souris Water District, on behalf of our members, I want to express my concern over how the NAWS system will be ultimately owned, operated, and maintained. As one of the smaller water districts in the State we do not have the financial luxury to make mistakes if we want to continue to serve our customers to the best of our ability.

Since about one-third - over 100 miles - of NAWS transmission lines, reservoirs, pump stations, and vaults run through our district, you can understand the importance of trusting that the decision-making process will be fair and equitable for everyone, rural and city taxpayers alike.

In short, every attempt must be made to strengthen the immediate effectiveness of the Advisory Board as it pertains to the continued construction and the eventual completion of the NAWS project.

Please help to ensure that Upper Souris and its rural customers will have a commensurate voice in how the NAWS system will be owned, maintained and operated as it moves forward. HB 1063 takes a step in the right direction.

Thank you for all you do to support water projects in the State. We could not do it without you.

Sincerely,
Mr. Joddy Meidinger, Manager

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1063
3/19/2021

Relating to the northwest area water supply advisory committee and the areas to be served by the northwest area water supply project; to provide for legislative management reports; and to declare an emergency.

Hearing called to order, all senators are present: **Bell, Schaible Piepkorn, Roers, Patten, and Kreun.** [9:14]

Discussion Topics:
Water Authority Districts
Regulatory Procedures

Senator Bell [9:14] moved to DO PASS HB 1063

Senator Roers [9:14] seconded the motion

Do Pass on HB 1063	Vote
Senator Jim P. Roers	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Donald Schaible	Y
Senator Jessica Unruh Bell	Y
Chair Kruen	Y

The motion passes 6-0-0

Senator Roers Carried

Chair Kreun adjourned the meeting [9:17]

Sheila Froehlich, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1063, as engrossed: Energy and Natural Resources Committee (Sen. Kreun, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1063 was placed on the Fourteenth order on the calendar.