

WAWS Oversight Transfer to SWC

61-40 Summary Matrix

This is a draft of a matrix that summarizes the current code creating and providing for the oversight of the Western Area Water Supply project. It is intended to provide a brief overview of the current oversight and help identify where changes could be/should be made in the transfer of oversight from the Industrial Commission to the State Water Commission/Department of Water Resources.

Notes:

The table below is not complete. It shows how we are trying to visually display the many details of this law and how they may change in this effort to bring WAWS under a governance and finance structure similar to the other regional water systems.

Include intro, include full text with highlights, may change to landscape, add key to acronyms.

Section No. and Title				
Sub Sec	Purpose	Current Authority	Proposed Authority	Proposed Revisions to legislation
61-40-01. Legislative declarations – Authority of western area water supply authority.				
	Declaration of need and creation of WAWS project. Authority of WAWSA. Limit impact on private water sellers.	WAWSA	WAWSA	None
61-40-02. Western area water supply authority.				
	Definition of WAWSA. Participating member requirements.	WAWSA	WAWSA	None
61-40-03. Western area water supply authority – Board of directors.				
1.				
2.				
3.				
61-40-04				
1.				
2.				
3.				
61-40-05. Authority of the western area water supply authority.				
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11.				
12.				
13.	Additional debt approval required.	IC & EC	BND & EC	See Note 1
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
61-40-05.1. Revenue bonds and bonds exempt from taxation.				
1.				
2.				
3.				
4.				
5.				
6.				
61-40-06. Oversight of authority projects. (Repealed by S.L. 2013, ch. 490, § 24.)				
61-40-07				
61-40-08				
61-40-09. Default				
	Oversight of WAWSA's ability to repay loans. If WAWSA is in default on BND loan, request funding from legislature.	IC & SWC	BND	See Note 2
61-40-10				
1.	Accounting of water sales. Transfer of sales to authority. Notification to boards and member entities. Application of revenues.	WAWSA & IC	WAWSA & DWR	See Note 3
a.	Funding for FTE	IC	DWR	See Note 4
b.				
c.				
d.				
e.				

CHAPTER 61-40
WESTERN AREA WATER SUPPLY AUTHORITY

61-40-01. Legislative declarations - Authority of western area water supply authority.

The legislative assembly declares that many areas and localities in western North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in western North Dakota do not have sufficient quantities of water to ensure a dependable, long-term domestic or industrial water supply; that greater economic security and the protection of health and property benefits the land, natural resources, and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and necessitates and requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, it is declared necessary that a water authority to treat, store, and distribute water to western North Dakota be established to provide for the supply and distribution of water to the people of western North Dakota for purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas development, and other uses, and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of western North Dakota, by the creation and development of a western area water supply project for beneficial and public uses. The western area water supply authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities, water districts, and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers. The independent water providers shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers.

61-40-02. Western area water supply authority.

The western area water supply authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. Other cities and water systems, within or outside the authority counties' boundaries, including cities or water systems in Montana, may contract with the authority for a bulk water supply. The authority is a political subdivision of the state, a governmental agency, body politic and corporate, with the authority to exercise the powers specified in this chapter, or which may be reasonably implied. Participating member entities may be required to pay dues or water sale income to the authority, as determined by the bylaws and future resolutions of the authority. Participating member entities may not withdraw from the authority or fail or refuse to pay any water sale income to the authority until the state-guaranteed loans have been repaid. The provisions of subsections 1 through 5 of section 61-35-02.1 apply if the authority's board of directors unanimously votes to convert to a water district.

61-40-03. Western area water supply authority - Board of directors.

1. The initial board of directors of the western area water supply authority consists of two representatives from each of the following entities: Williams rural water district, McKenzie County water resource district, the city of Williston, BDW water system association, and R&T water supply association. The governing body of each member entity shall select two representatives to the authority board who are water users of the member entity. If a vacancy arises for a member entity, the governing body of the member entity shall select a new representative to act on its behalf on the authority board. Directors have a term of one year and may be reappointed.
2. Additional political subdivisions or water systems may be given membership on the board upon two-thirds majority vote of the existing board. To be eligible for membership on the board, the member entity must first contract with the authority for financial participation in the project.

3. A member entity may designate an alternate representative to attend meetings and to act on the member's behalf. The board may designate associate members who are nonvoting members of the board. Notwithstanding this section, initial board members must be removed if they have not entered a contract with the authority, before August 1, 2013, for financial participation in the project.

61-40-04. Board of directors - Officers - Meetings.

1. The board of directors shall adopt such rules and bylaws for the conduct of the business affairs of the authority as it determines necessary, including the time and place of regular meetings of the board, financial participation structure for membership in the authority, and membership appointment and changes. Bylaws need to be approved by member entity boards.
2. The board shall elect from its members a chairman and a vice chairman. The board shall elect a secretary and a treasurer, which offices may be held by the same individual, and either or both offices may be held by an individual who is not a member of the board. Special meetings of the board may be called by the secretary on order of the chairman or upon written request of a majority of the qualified members of the board. Notice of a special meeting must be mailed to each member of the board at least six days before the meeting, provided that a special meeting may be held at any time when all members of the board are present or consent in writing.
3. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative management under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

61-40-05. Authority of the western area water supply authority.

In addition to authority declared under section 61-40-01, the board of directors of the western area water supply authority may:

1. Sue and be sued in the name of the authority.
2. Exercise the power of eminent domain in the manner provided by title 32 or as described in this chapter for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of an entire part of any pipeline, reservoir, connection, valve, pumping installation, or other facility for the storage, transportation, or utilization of water and all other appurtenant facilities used in connection with the authority. However, if the interest sought to be acquired is a right of way for any project authorized in this chapter, the authority, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county in which the right of way is located, may take immediate possession of the right of way, as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.
3. Accept funds, property, services, pledges of security, or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the authority. The authority may cooperate and contract with the state or federal government, or any department or agency of state or federal government, or any city, water district, or water system within the authority, in furnishing assurances and meeting local cooperation requirements of any project involving treatment, control, conservation, distribution, and use of water.

4. Cooperate and contract with the agencies or political subdivisions of this state or other states, in research and investigation or other activities promoting the establishment, construction, development, or operation of the authority.
5. Appoint and fix the compensation and reimbursement of expenses of employees as the board determines necessary to conduct the business and affairs of the authority and to procure the services of engineers and other technical experts, and to retain attorneys to assist, advise, and act for the authority in its proceedings.
6. Operate and manage the authority to distribute water to authority members and others within or outside the territorial boundaries of the authority and this state.
7. Hold, own, sell, or exchange any and all property purchased or acquired by the authority. All money received from any sale or exchange of property must be deposited to the credit of the authority and may be used to pay expenses of the authority.
8. Enter contracts to obtain a supply of bulk water through the purchase of infrastructure, bulk water sale or lease, which contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water supply or infrastructure.
9. Acquire, construct, improve, and own water supply infrastructure, office and maintenance space in phases, in any location, and at any time.
10. Enter contracts to provide for a bulk sale, lease, or other supply of water for beneficial use to persons within or outside the authority. The contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water system projects, as well as the authority's costs of operating and maintaining one or more projects, whether the acquisition, construction, or reconstruction of any water supply project actually is completed and whether water actually is delivered pursuant to the contracts. The contracts the cities, water districts, and other entities that are members of the western area water supply authority are authorized to execute are without limitation on the term of years.
11. Borrow money as provided in this chapter.
12. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of its powers or in the performance of its covenants or duties or in order to secure the payment of its obligations, but an encumbrance, mortgage, or other pledge of property of the authority may not be created by any contract or instrument.
13. Accept from any authorized state or federal agency loans or grants for the planning, construction, acquisition, lease, or other provision of a project, and enter agreements with the agency respecting the loans or grants. Other than state-guaranteed loans, additional debt that may form the basis of a claim for territorial or franchise protection for industrial water sales for oil and gas exploration and production may be acquired by the authority or member entities only upon approval by the industrial commission and the emergency commission.
14. Contract debts and borrow money, pledge property of the authority for repayment of indebtedness, and provide for payment of debts and expenses of the authority.
15. Operate and manage the authority to distribute water to any out-of-state cities or water systems that contract with the authority.
16. Accept, apply for, and hold water allocation permits.
17. Adopt rules concerning the planning, management, operation, maintenance, sale, and ratesetting regarding water sold by the authority. The authority may adopt a rate structure with elevated rates set for project industrial water depot and lateral supplies in recognition that a large component of the project expense is being incurred to meet the demands of industrial users. The industrial water depot and lateral rate structure must be approved in accordance with section 61-40-11.
18. Develop water supply systems; store and transport water; and provide, contract for, and furnish water service for domestic, municipal, and rural water purposes; milling, manufacturing, mining, industrial, metallurgical, and any and all other beneficial uses; and fix the terms and rates therefore. The authority may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all treatment plants, works, facilities, improvements,

and property necessary the same without any required public vote before taking action.

19. Contract to purchase or improve water supply infrastructure or to obtain bulk water supplies without requiring any vote of the public on the projects or contracts. In relation to the initial construction of the system and for the purposes of entering a contract with the authority, municipalities are exempt from the public voting requirements or water contract duration limitations otherwise imposed by section 40-33-16.
20. Accept assignment by member entities of contracts that obligate member entities to provide a water supply, contracts that relate to construction of water system infrastructure, or other member entity contracts that relate to authorities transferred to the authority under this chapter.
21. Issue revenue bonds to repay its loan obligations to the Bank of North Dakota. For the purpose of issuing such revenue bonds, the provisions of chapters 40-35 and 40-36 apply to the extent necessary and consistent with S.L. 2017, ch. 19, § 12.

61-40-05.1. Revenue bonds and bonds exempt from taxation.

1. The authority shall have the power and authority to issue revenue bonds, to include refunding bonds, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Revenue bonds issued under this section must be issued as provided in chapter 61-35, and are not subject to section 61-35-15.
2. Issuance of revenue bonds must be approved by a majority of the members of the board of directors of the authority.
3. The authority shall pledge sufficient revenue from any revenue-producing facility or other revenue sources, excluding industrial water sales, for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level, together with any other available funds, to provide for the operation of the facilities and for the bond payments in the manner provided by section 61-40-11.
4. Revenue bonds may not be a general obligation of any participating member entity or the state and may not be secured by property taxes.
5. The revenue bonds may be issued and sold at public or private sale on the terms and conditions determined by the board of directors.
6. Bonds issued under this section and their income are exempt from taxation by the state.

61-40-06. Oversight of authority projects.

Repealed by S.L. 2013, ch. 490, § 24.

61-40-07. Easement granted for pipelines and appurtenant facilities on any public lands.

In connection with the construction and development of the project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the project. However, the plans of the authority with respect to the use of right of way of roads must be approved by the director of the department of transportation and the director of the department of water resources before the grant becomes effective.

61-40-08. Proceedings to judicially confirm contracts and other acts.

The authority, before making any contract or taking any special action, may commence a special proceeding in district court by which the proceeding leading up to the making of such contract or leading up to any other special action must be examined, approved, and confirmed. The judicial proceedings must comply substantially with the procedure required in the case of judicial confirmation of proceedings, acts, and contracts of an irrigation district.

61-40-09. Default.

The industrial commission may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 61-40-10, and if the industrial commission is uncertain of that ability, the industrial commission shall provide written notification to the state water commission and direct the Bank of North Dakota to consider revision of the terms of the loan repayments. If the authority is in default in the payment of the principal or interest on the obligation to the Bank of North Dakota for a loan for which the Bank of North Dakota is the source of funds for the loan, the state water commission shall request funding from the legislative assembly to repay the principal and interest due.

61-40-10. Industrial water depot and lateral sales.

1. An accounting of industrial water depot and lateral sales collected and distributed by the authority must be reported to the industrial commission on a monthly basis. Participating member entities shall transfer industrial water depot and lateral sales to the authority within thirty days of receipt of the revenues. The boards of the authority and participating member entities must be notified of the sweep of revenues; however, board approval is not required. Upon the receipt of industrial water depot and lateral revenues by the authority, the authority shall apply immediately all revenues each month in the following order:
 - a. One hundred fifty thousand dollars per biennium to the industrial commission for one additional full-time equivalent position to implement this section.
 - b. Reimburse the authority for industrial water depot capital improvements and the cost for delivery of potable or nonpotable water sold at industrial water depots and lateral lines, at a cost no greater than the participating member, or submember, if applicable, entity rate at the location of the depot or lateral line.
 - c. Regular payments on the participating member entity debt as described in the agreements with the authority as of March 31, 2013, and baseline 2010 industrial water sales included in and subject to the terms of the authority and participating member agreements as of March 31, 2013. Baseline 2010 industrial water sales for the city of Tioga in the year 2013 are limited to the lesser of legally permitted industrial water sales or the amount in the member agreement.
 - d. Required monthly payments on state-guaranteed loans. The required transfer must occur no later than the twentieth day of the following month.
 - e. Additional principal payment on state-guaranteed loans.
 - f. Payment to the resources trust fund.
2. If the state-guaranteed loans have not been repaid, without the written consent of the industrial commission the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of the property used in a water system of the authority if the property is used to provide revenue. Any requirements on the state-guaranteed loans for establishment of reserve funds for operation and maintenance or debt service are waived.
3. The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after July 1, 2013.

61-40-11. Water rates.

The industrial commission may authorize the authority to contract at competitive, floating, market rates for industrial water depot and lateral retail sales. The authority shall provide a report on the rates to the commission and legislative management's water topics overview committee on a regular basis. The authority shall develop domestic water rates that must include all costs for operation, maintenance, and operating and capital reserves, and debt repayment of all infrastructure managed or constructed by the authority, with the exception of the costs identified in section 61-40-10 which are paid for by industrial water depot and lateral sales.

61-40-12. Construction funding.

The authority shall follow the state water commission requirements for funding through the resources trust fund or Bank of North Dakota state-guaranteed loans and shall present the overall plan and project components to the state water commission for funding approval. Priority on project funding first is reserved for state-guaranteed loan payments if not met by industrial water depot and lateral sales, second is for full repayment of existing federal debt if 7 U.S.C. 1926(b) protection for oil and gas exploration and production industrial water sales is asserted, and third for expanding domestic water supply to areas currently not served. In accepting construction funding, the authority and participating member entities agree to not hinder or prevent depot and lateral industrial water sales for oil and gas exploration and production.

61-40-13. Franchise protection.

Notwithstanding any other provision of law, neither the authority nor its participating member entities may be required to waive the right to assert franchise protection under state or federal law with regard to water used for purposes other than industrial sales for oil and gas exploration and production.

CHAPTER 61-24.3 SOUTHWEST PIPELINE PROJECT

61-24.3-01. Legislative findings and intent.

The legislative assembly finds that adequate water supplies for municipal, domestic, livestock, rural, irrigation, industrial, and other uses are essential for the social stability and economic security of the people of the state of North Dakota. It is further found that the development and utilization of the water resources of this state are necessary for the protection of health, property, and enterprise, and for the promotion of prosperity and general welfare of the people of the state of North Dakota, and that such development and utilization of water resources in this state involves and requires the exercise of the sovereign powers of the state and concern a public purpose. It is necessary the southwest pipeline project, as authorized and approved pursuant to this chapter, be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses. In furtherance of this public purpose, the state water commission may provide for the issuance of bonds not to exceed twenty-five million dollars in accordance with chapter 61-02 to finance the cost of the project. The provisions of this chapter may not be construed to abrogate or limit the rights, powers, duties, or functions of the state water commission or the department of water resources, but are supplementary to the rights, powers, duties, or functions. Nor may this chapter be construed as limiting or affecting the laws of this state relating to the organization or operation of irrigation districts, water resource districts, or other political subdivisions.

61-24.3-02. Definitions.

In this chapter:

1. "Commission" means the state water commission.
2. "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, limited liability companies, and other entities which have entered into and executed water service contracts with the commission for the purchase of water from the commission through the southwest pipeline project.

61-24.3-03. Authorization of southwest pipeline project.

The preliminary designs for a water supply facility for supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River for multiple uses, as set forth in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, are hereby confirmed and approved, under the designation of the southwest pipeline project, and the construction of the southwest pipeline project shall be initiated and completed by the state water commission substantially in accordance with plan B of the engineering preliminary design final report, state water commission project no. 1736, dated September 1982, except as otherwise specifically provided in this chapter. The commission shall have the authority to eliminate the construction of any primary or secondary transmission mains which are part of plan B of the engineering preliminary design final report if the water user entities to be served by the primary or secondary transmission mains do not execute water service contracts for the purchase of a sufficient quantity of water, as determined by the commission, to justify the construction of the primary or secondary transmission mains. Chapters 49-22 and 49-22.1 shall not apply to this chapter. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain such works over and through any of the lands which are or may be the property of the state.

61-24.3-03.1. Preference for resident pipeline manufacturers and bidders for labor and services.

Any contracts for the purchase of pipeline materials, labor, or services awarded by the state water commission in regard to the construction of the southwest water pipeline project must be

awarded to North Dakota resident pipeline manufacturers and North Dakota resident bidders for labor and services making the lowest responsible bids if those bids do not exceed by more than five percent the lowest responsible bid submitted by a nonresident pipeline manufacturer or bidder for labor or services. As used in this section, "North Dakota resident pipeline manufacturers and bidders for labor or services" means bidders or sellers who have maintained a bona fide place of business within this state for at least five years prior to the date on which the contract bid on is awarded. If the state water commission awards any contract for pipeline materials, labor, or services in regard to construction of the southwest water pipeline project to a nonresident bidder, the commission shall publicly give notice in a newspaper of general circulation regarding the specific reasons why it did not award the contract to a resident bidder. This section does not apply to contracts that involve federal moneys when a preference would be contrary to federal laws or regulations, contracts covered under chapter 48-01.2, or to architect, engineer, professional right of way, and land surveying services.

61-24.3-04. Water treatment.

The extent and type of water treatment and the location of a water treatment plant or plants for the southwest pipeline project shall be determined by the commission, in accordance with law and as in the judgment of the commission the interests of the state and the water user entities of the southwest pipeline project are best served. In determining the location of the water treatment plant or plants, the commission may only consider alternatives that will provide treated water to all potential using entities at a cost not to exceed the cost of water from the single treatment facility originally provided for in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982. Any existing water treatment facility that is to be used in the final pipeline design must be made available to the state in operable condition free of deferred maintenance costs and at a cost that does not exceed the actual depreciation, maintenance, and operation costs of that facility. A water treatment facility is in operable condition if, at the time it becomes part of the southwest pipeline project, it is meeting the needs of its current users. Capital improvements necessary for upgrading any existing water treatment facility to be used in the southwest pipeline project must be borne by the state water commission.

61-24.3-05. Intake structure.

The intake structure to be utilized for the withdrawal of water from the water source for the southwest pipeline project shall be determined by the commission, as in the judgment of the commission the interests of the state and water user entities of the southwest pipeline project are best served. In making its determination on the selection of the intake structure, the commission shall consider, among other things, cost, project stability, capacity and ability to withdraw water, and flexibility in delivering water to water user entities.

61-24.3-06. Secondary transmission mains.

Secondary transmission mains shall be constructed as part of the southwest pipeline project, as provided in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, except as provided in section 61-24.3-03.

61-24.3-06.1. Water distribution lines.

Notwithstanding the plans and specifications of state water commission project no. 1736, as authorized in this chapter, the state water commission is hereby authorized to investigate the integration of rural water delivery into the southwest pipeline project, state water commission project no. 1736. If the commission determines that construction cost savings, operation and maintenance cost savings, operation efficiencies, and other advantages can be realized by incorporating water supply, distribution, and delivery into one entire system, and that such benefits and advantages outweigh any additional costs or disadvantages, the commission shall plan, design, integrate, incorporate, construct, operate, and maintain the southwest pipeline

project and rural water delivery as one system. The exercise of this authority must be in the manner and time as the commission may deem appropriate.

61-24.3-07. Capacity for industrial use.

Upon receipt of a commitment from any large industrial user through the execution of a water service contract for the purchase of water from the southwest pipeline project, or other appropriate contract, as required by the commission, the commission shall have the authority to include in the southwest pipeline project sufficient capacity to provide water to such large industrial user, and to determine the rates and charges for delivery of water to the industrial user.

61-24.3-08. Capacity for South Dakota users.

Upon receipt of a commitment from water user entities in South Dakota, through the execution of a water service contract for the purchase of water from the southwest pipeline project, whereby no less than the total additional capital costs of increasing the capacity of the southwest pipeline project to provide water through the southwest pipeline project for the water user entities in South Dakota will be paid by the water user entities in South Dakota, the commission shall have the authority to include in the southwest pipeline project the additional capacity for water user entities in South Dakota as provided in plans SD of the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, and to determine the rates and charges for the operation and maintenance costs of delivery of water to such water user entities.

61-24.3-09. Pipeline construction standards.

The commission, as in its judgment the interests of the state and the water user entities of the southwest pipeline project are best served, shall determine the pipeline construction standards to be utilized for the southwest pipeline project. In making its determination, the commission shall consider cost, maintenance, life of pipelines, and other factors it deems appropriate.

61-24.3-10. Commission to construct, operate, and maintain southwest pipeline project - Rules made by commission.

The commission shall have the authority to:

1. Construct the southwest pipeline project as provided in this chapter.
2. Operate and maintain, or provide for the operation and maintenance of the southwest pipeline project.
3. Exercise all express and implied rights, powers, and authorities, including all powers and authorities granted in chapter 61-02, necessary to carry out the provisions and purposes of this chapter.
4. Make and enforce orders, rules, and bylaws for the operation and maintenance of the southwest pipeline project.
5. Sell, transfer, or exchange property acquired for the southwest pipeline project provided the commission determines the property is not necessary for the operation, maintenance, or construction of the southwest pipeline project. For a period of sixty days, the property must first be offered for sale, transfer, or exchange to the current owner of the surrounding property from which the property was obtained. Any parcel of property sold, transferred, or exchanged under this section may not exceed two acres [.81 hectare]. Sections 54-01-05.2 and 54-01-05.5 do not apply to the sale, transfer, or exchange of property pursuant to this subsection.

61-24.3-10.1. Deposits of income.

All income derived from the lease and management of lands acquired by the state water commission for the southwest pipeline project must be deposited in the resources trust fund.

61-24.3-11. Commission to fix water rates for the southwest pipeline project.

The commission shall establish the payments for water service to be paid by water user entities for purchase of water from the southwest pipeline project. The payments for water service 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 southwest pipeline project reserve fund for replacement, as established by section 61-24.3-16, for replacement and extraordinary maintenance of southwest pipeline project works. The amount of such reserve fund for replacement shall be determined by the commission.

61-24.3-12. Operation and maintenance - Commission to employ manager and employees.

The commission shall obtain the assistance necessary for the operation and maintenance of the southwest pipeline project. To that end, it may appoint a manager, and may appoint subordinate officers and employees. It may designate the manager its general agent in respect to the operation and maintenance of the southwest pipeline project, but subject, nevertheless, in such agency, to the supervision, limitation, and control of the commission. It may appoint or employ such contractors, engineers, attorneys, and other experts, agents, and servants as in the judgment of the commission the interests of the state may require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such persons so engaged. Subject to the control and regulation of the commission the manager of the southwest pipeline project may appoint and employ such deputies and other subordinates, and such contractors, engineers, attorneys, and other experts, agents, and servants as the manager shall deem required. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the southwest pipeline project, shall remain within the appropriation and earnings lawfully available in each year for such purpose.

61-24.3-13. Removal and discharge of appointees.

The commission may remove and discharge any and all persons appointed in the exercise of powers granted by this chapter, whether by the commission or by the manager of the southwest pipeline project. Any such removal may be made whenever in the judgment of the commission, the public interests and the interests of the southwest pipeline project require it. All appointments and removals contemplated by this chapter shall be made as the commission shall deem most fit to promote the purpose and efficiency of the southwest pipeline project.

61-24.3-14. Operation and maintenance fund

To identify and distinguish the revenues received by the commission from water user entities for operation and maintenance of the southwest pipeline project, there shall be maintained, as a part of the moneys of the state received and kept by the state treasurer, a fund to be designated as the southwest pipeline project operation and maintenance fund. All moneys received by the state treasurer from the commission, whether from payments made by water user entities for operation and maintenance of the southwest pipeline project or otherwise, which shall be by law or by other authoritative designation made applicable to the payment of operation and maintenance of the southwest pipeline project, shall be kept by the state treasurer in such fund distinct from all other moneys and shall be disbursed by the state treasurer only for the particular purpose or purposes for which the moneys were received, and no other appropriations shall ever be made of the moneys in said fund. This section shall not be construed as preventing the state treasurer from depositing the moneys in the Bank of North Dakota.

61-24.3-15. Revenues for operation and maintenance - Deposit - Use.

Money derived and received by the commission from water user entities for operation and maintenance of the southwest pipeline project shall be deposited by the commission in the

operation and maintenance fund, and shall be used for no purposes other than to pay for costs and expenditures for operation and maintenance of the southwest pipeline project.

61-24.3-16. Reserve fund for replacement.

To identify and distinguish the revenues received by the commission from water user entities for replacement and extraordinary maintenance of the southwest pipeline project, there shall be maintained, as a part of the moneys of the state received and kept by the state treasurer, a fund to be designated as the southwest pipeline project reserve fund for replacement. All moneys received by the state treasurer from the commission, whether from payments made by water user entities for replacement and extraordinary maintenance of the southwest pipeline project or otherwise, which shall be by law or by other authoritative designation made applicable to replacement of the southwest pipeline project, shall be kept by the state treasurer in such fund distinct from all other moneys and shall be disbursed by the state treasurer only for the particular purpose or purposes for which the moneys were received, and no other appropriations shall ever be made of the moneys in the fund. This section shall not be construed as preventing the state treasurer from depositing the moneys in the Bank of North Dakota.

61-24.3-17. Revenues for replacement - Deposit - Use.

Money derived and received by the commission from water user entities for replacement and extraordinary maintenance of the southwest pipeline project shall be deposited by the commission in the reserve fund for replacement, and shall be used for no purposes other than to pay for replacement or extraordinary maintenance of works which are part of or associated with the southwest pipeline project.

61-24.3-18. Water rates for capital costs - Deposit.

Money derived and received from water user entities for capital costs of the southwest pipeline project may be pledged by the commission for the repayment of bonds issued for the construction of the southwest pipeline project. Any money not pledged must be deposited by the commission in the resources trust fund, established pursuant to section 57-51.1-07, and may be expended only pursuant to legislative appropriation for the purposes specified in subsection 1 of section 57-51.1-07.

61-24.3-19. Validation of water service contracts.

Water service contracts entered by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts are judicially examined, approved and confirmed, or disapproved and disaffirmed. The proceeding must comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 are not applicable to contracts between the state water commission and cities for water service and cities for water service from the southwest pipeline project, provided the contracts were approved by the city governing body and executed before January 1, 1999.

61-24.3-20. Other pipelines - Commission approval required.

Upon construction of the southwest pipeline project, utilities, corporations, limited liability companies, companies, or any other person or entity which proposes to install or construct a pipeline or other underground conveyance system which crosses or intersects the southwest pipeline project may do so only with the approval of the commission, in accordance with the requirements and conditions imposed by the commission for the pipeline or other crossing.

61-24.3-21. Authorization of facilities - Water service areas.

Notwithstanding the plans and specifications of state water commission project no. 1736, as authorized in this chapter, the state water commission may include as part of the southwest

pipeline project the delivery of water from southwest pipeline facilities to areas in Dunn County, Mercer County, and Oliver County and plan, design, integrate, incorporate, construct, operate, and maintain necessary facilities for this purpose as part of the southwest pipeline project, consistent with this chapter. The exercise of this authority must be in the manner and time the commission deems appropriate.

CHAPTER 61-24.5
SOUTHWEST WATER AUTHORITY

61-24.5-01. Findings and declaration of policy.

1. Many areas and localities in southwestern North Dakota do not enjoy adequate quantities of high-quality drinking water. Other areas and localities in southwestern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply. Supplementation of the water resources of southwestern North Dakota, with water supplies from Lake Sakakawea and the Missouri River, utilizing a pipeline transmission and delivery system, is a feasible approach to provide southwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.
2. Opportunity for greater economic security, protection of health, property, enterprise, preservation of the benefits from the land and water resources of this state, and the promotion of the prosperity and general welfare of all of the people of North Dakota depends on the effective development and utilization of the land and water resources of this state, and require the exercise of the sovereign powers of the state and concern a public purpose. To accomplish this public purpose, a project to supply and distribute water to southwestern North Dakota, as authorized by chapter 61-24.3 must be established and constructed, to:
 - a. Provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses.
 - b. Provide for the future economic welfare and property of the people of this state, and particularly the people of southwestern North Dakota, by making available waters from Lake Sakakawea and the Missouri River for beneficial and public uses.
3. It is necessary to study and further develop water resources to provide adequate water supplies for energy, industrial, agriculture, and other opportunities in southwest North Dakota. This section may not be construed to limit the rights, powers, duties, and functions of the state water commission or the department of water resources, but must be considered supplementary to those rights, powers, duties, and functions.

61-24.5-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Authority" means the southwest water authority.
2. "Board" means the board of directors of the southwest water authority.
3. "Person" includes any natural person, state agency, municipality, political subdivision, public or private corporation, limited liability company, partnership, or association.
4. "Southwest pipeline project" includes the project and works, or any part thereof, authorized in chapter 61-24.3.
5. "Works" includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for operation of the southwest pipeline project, all water rights acquired and exercised by the authority in connection with the southwest pipeline project, and all means of delivering and distributing water through the utilization of a pipeline transmission and delivery system, as authorized in chapter 61-24.3.

61-24.5-03. Southwest water authority created.

The southwest water authority shall consist of that part of the state which is included within the boundaries of Dunn, Stark, Golden Valley, Billings, Slope, Bowman, Adams, Grant, Hettinger, Morton, and Mercer Counties.

Such authority is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

- the necessary rights in land for the construction of pipelines, reservoirs, connections, valves, and all other appurtenant facilities used in connection with the southwest pipeline project, or any part thereof.
3. To accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the southwest pipeline project, or any part thereof.
 4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development, or operation of the southwest pipeline project, or any part thereof.
 5. To furnish assurances of cooperation, and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations and political subdivisions of North Dakota for the performance of obligations for the construction, operation, or maintenance of the southwest pipeline project, or any part thereof, or for the delivery of water to any such department, agency, or political subdivision.
 6. To construct or purchase separately or in cooperation with agencies of the United States, or the state of North Dakota, its agencies or political subdivisions, and to equip, maintain, and operate an office and principal place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.
 7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the authority, and to procure the services of engineers and other technical experts, and to retain an attorney or attorneys to assist, advise, and act for it in its proceedings.
 8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation, and maintenance of the southwest pipeline project, or any part thereof.
 9. To enter into a contract or contracts for a supply of water from the United States or the state water commission and to sell, lease, and otherwise contract to furnish any such water for beneficial use to persons or entities within or outside the authority.
 10. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States or the state water commission and authorization to make collections of money for and on behalf of the United States or the state water commission in connection with the southwest pipeline project, or any part thereof.
 11. To sell or exchange any and all real property purchased or acquired by the authority. All moneys received pursuant to any such sale or exchange shall be deposited to the credit of the authority and may be disbursed for the payment of expenses of the authority.
 12. Notwithstanding any other law, to exercise the powers granted to a municipality under subsection 5 of section 40-33-01 pursuant to the limitations set forth therein. The authority may pay the cost of leasing any waterworks, mains, and water distribution system and any equipment or appliances connected therewith and any property related thereto pursuant to subsection 5 of section 40-33-01 solely from revenues to be derived by the authority from the ownership, sale, lease, disposition, and operation of the waterworks, mains, and water distribution system; the funds or any other amounts invested by the authority pursuant to the laws of the state or invested on the authority's behalf by the state, or any agency or institution of the state, in conformity with policies of the industrial commission, including investment in a guaranteed investment contract and any earnings thereon, to the extent pledged therefor; and funds, if any, appropriated annually by the board of the authority or received from federal or state sources.

13. To study and analyze options for providing additional water supplies to southwest North Dakota for purposes, including domestic, rural water, municipal, livestock, energy development, industrial, mining, and other uses.
14. To conduct engineering, legal, financial, educational, and other activities to further the completion of the southwest pipeline project, or any part thereof, or any other works or projects necessary to provide adequate water supplies for southwest North Dakota.

61-24.5-10. District budget - Tax levy.

For each taxable year through 2020, the authority may levy a tax of not to exceed one mill annually on each dollar of taxable valuation within the boundaries of the authority for the payment of administrative expenses of the authority, including per diem, mileage, and other expenses of directors, expenses of operating the office, engineering, surveying, investigations, legal, administrative, clerical, and other related expenses of the authority. All moneys collected pursuant to the levy must be deposited to the credit of the authority and may be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, certificates of deposit guaranteed or insured by the United States or an instrumentality or agency thereof, and bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. During the period of time in which the authority may levy one mill annually as provided herein, any joint water resource board created pursuant to section 61-16.1-11, by or among one or more of the water resource districts in the counties which are included in the authority, must be limited to one mill under the authority of section 61-16.1-11.

61-24.5-11. District budget - Determination of amount to be levied - Adoption of levy - Limitation.

In July of each year, the board of directors shall estimate and itemize all the administrative expenses and obligations of the district, including expenses of directors, expenses of operating the office, and any other obligations and liabilities relating to administrative, clerical, engineering, surveying, investigations, legal, and other related expenses of the authority. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy must be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution must levy in mills, but may not exceed one mill, and must be sufficient to meet the administrative, engineering, surveying, investigations, legal and related expenses, obligations, and liabilities of the district as provided in the budget. The board shall also prepare and adopt an annual budget for operation, management, maintenance, and repayment of the southwest pipeline project. Revenues for operation, management, maintenance, and repayment of the southwest pipeline project must come from water service contract revenues.

61-24.5-12. Board to certify mill levy to city auditors, county auditors, and state tax commissioner.

Upon the adoption of the annual mill levy by the board of directors, but no later than October first, the secretary of the board shall send one certified copy of the mill levy to the county auditor of each county which is a member of the authority. Copies of all such documents must be sent to the state tax commissioner.

61-24.5-13. County auditors to extend tax levy.

The county auditor of each county within the authority, to whom a mill levy is certified in accordance with this chapter, shall extend the levy upon the tax lists for the current year against each description of real property and all personal property within the county in the same manner and with the same effect as other taxes are extended.

61-24.5-14. County treasurer or city auditor to collect and remit district taxes - District fund established - Nonreverter - Disbursements.

The treasurer of each county in which a mill levy has been certified shall collect the taxes, together with interest and penalty thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the authority, on demand, all taxes, interest, and penalties so collected, and shall forthwith notify the secretary of the authority of such payment. Expenditures must be approved by the board of directors.

61-24.5-15. Proceedings to confirm contract.

The board of directors of the authority, after entering into a contract with the United States government, the state of North Dakota, or with any public corporation or political subdivision of the state of North Dakota, may commence a special proceeding in and by which the proceedings of the board and the making of such contract, or contracts, must be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Such proceeding must comply as nearly as possible with the procedure required in the case of irrigation districts under the laws of North Dakota.

61-24.5-16. Procedure for exclusion from authority of county not benefited.

1. Any county in the authority not benefited or not to be benefited, in whole or in part, by the southwest pipeline project, or any part thereof, may be excluded from the authority as provided herein. The board of county commissioners of any such county may by resolution direct the county auditor and the chairman of the board to file with the board of directors of the authority a petition, for and on behalf of the county, requesting the board of directors of the authority to exclude such county therefrom. A certified copy of the resolution of the county board must accompany and be filed with such petition. The petition and resolution must state specific reasons why such county will not be benefited by the southwest pipeline project, or any part thereof.
2. Within sixty days from the date of filing said resolution and petition for exclusion from the authority, the authority board shall meet to consider such petition. It may grant such petition or it may fix a time and place for a hearing thereon. If a hearing is set, the secretary of the board shall cause notice of the filing of such petition for exclusion, and of the time and place for a hearing, to be published once each week for two consecutive weeks in a newspaper of general circulation printed within the authority. The hearing mentioned in such notice must be held not less than ten nor more than twenty days after the last publication of such notice. The notice must state that any person, corporation, limited liability company, municipality, and county in the authority may appear or be represented at the hearing and show cause why the petition should or should not be granted. The board shall hear the petition at the time and place mentioned in the notice.
3. If after the hearing on the petition the authority board of directors shall determine that the county requesting to be excluded from the authority will not be benefited, the authority board shall by resolution grant the petition and shall direct the chairman and secretary to execute the order of the board excluding such county from the authority. If, however, the authority board shall decide that such county will be benefited, it shall deny the petition and direct the chairman and secretary to execute its order refusing to exclude such county from the authority. A county excluded from the authority is not liable for any obligations thereof incurred after exclusion but is liable for and shall pay to the authority taxes levied before exclusion.
4. If any contract has been made with the United States or any agency thereof, or the state of North Dakota or any agency thereof, before such petition is filed, such petition may not be granted unless consented thereto by the appropriate agency of the United States or North Dakota, and if such agency gives its consent upon condition, such conditions must be included in the order of exclusion and the county may be required to, and in that event such county shall continue to, pay and satisfy any obligations under any such contract.

61-24.5-17. Appeal from orders of authority board.

An appeal from an order of the board of directors of the authority denying a petition for exclusion may be taken to the district court of the petitioning county. The appeal provided for herein must be taken within thirty days after the order of the authority board has been filed with the secretary thereof and public notice of such order has been made. The appeal must be taken by serving notice of appeal upon the secretary of the authority. The appeal must be docketed as any cause pending in district court is docketed and thereupon the court shall have and exercise original jurisdiction and shall hear and determine the cause de novo without a jury. An appeal to the supreme court may be taken by the petitioning county or by the authority, from any judgment entered therein in district court, and from any order of said court if an appeal would lie from such order if entered by the court in a civil action.

61-24.5-18. Easement granted for ditches, canals, tramways, and transmission lines on any public lands.

In connection with the construction and development of the southwest pipeline project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the southwest pipeline project, provided, however, the director of the department of transportation and the director of the department of water resources must approve the plans of the authority regarding the use of all right of way of roads before the grant is effective.

61-24.5-19. Operation and maintenance fund.

To identify and distinguish the revenues received by the southwest water authority from water user entities for operation and maintenance of the southwest pipeline project, the southwest water authority shall maintain a fund designated as the southwest pipeline project operation and maintenance fund. All moneys received by the southwest water authority, whether from payments made by water user entities, or otherwise, for operation and maintenance of the southwest pipeline project must be by law or by other authoritative designation made applicable to the payment of operation and maintenance of the southwest pipeline project, must be kept in the fund distinct from all other moneys, and must be disbursed only for the particular purpose or purposes for which the moneys were received.

61-24.5-20. Revenues for operation and maintenance - Deposit - Use.

Money derived and received by the southwest water authority from water user entities for operation and maintenance of the southwest pipeline project must be deposited by the southwest water authority in the operation and maintenance fund and must be used to pay for costs and expenditures for operation and maintenance of the southwest pipeline project.

61-24.5-21. Reserve fund for replacement.

To identify and distinguish the revenues received by the southwest water authority from water user entities for replacement and extraordinary maintenance of the southwest pipeline project, there must be maintained a fund to be designated as the southwest pipeline project reserve fund for replacement. All moneys received by the southwest water authority, whether from payments made by water user entities, or otherwise, for replacement and extraordinary maintenance of the southwest pipeline project, which are by law or by other authoritative designation made applicable to replacement of the southwest pipeline project, must be kept by the southwest water authority in the fund distinct from all other moneys and may be disbursed only for the particular purpose for which the moneys were received.

61-24.5-22. Revenues for replacement - Deposit - Use.

Money derived and received by the southwest water authority from water user entities for replacement and extraordinary maintenance of the southwest pipeline project must be deposited by the southwest water authority in the reserve fund for replacement and must be

used to pay for replacement or extraordinary maintenance of works that are part of or associated with the southwest pipeline project.

Missouri River Use

The Commission asked staff to investigate Tribal and States water rights and quantification along the Missouri River and how other State's water usage compares to North Dakota.

Tribal Water Rights

Based on work done by a former employee of the appropriations division, it seems that only some Tribal water rights have been determined/adjudicated in the Missouri River Basin. These determinations have been completed for the Wind River Tribe in Wyoming and for some tribes in Montana. It is unclear based on the previous investigation if determinations/adjudications have been made for other Tribes. For reference, there are 28 Tribal nations within the Missouri River Basin.

States Water Rights

State's rights to the water of the Missouri River Mainstem have not been quantified or negotiated. The rights to some of the interstate rivers within the Missouri River Basin have been settled by decrees from the Courts of the United States or by interstate compacts. If the Commission would find this information useful, we can provide a list for future reference.

Regarding the question on other state's usage compared to North Dakota, there is no way to gather this data quickly or efficiently. To complete a comparison, usage information would need to be requested from each state. Most states in the Missouri River Basin follow prior appropriation doctrine, so it is assumed that these states would have water use records. However, Iowa and Missouri follow riparian doctrine and may not collect the type of data needed to complete a comparison. Attempting this comparison would likely take a considerable amount of time with no guarantee we would get the necessary data. Requesting each state's water use records could be pursued, but we thought it would be beneficial for the Commission to understand this issue more fully before proceeding.

For the commission's conversation regarding water usage, we did prepare a quick comparison of North Dakota's Missouri River usage compared to the average annual flow at Bismarck. The state's total average annual usage of the Missouri River is 117,570 acre-feet, which makes up 0.7 percent of the average annual flow at Bismarck.

The total statewide average annual use is 363,918 acre-feet, which makes up 2.2% of the average annual flow at Bismarck. More water evaporates off Lake Sakakawea every year (497,570 acre-feet) than the total statewide average annual water use.

Possible next steps:

If Commission would like to compare states usage from the Missouri River, we could request water use records from each state.

Provide a list to the commission of all the rights of the interstate rivers within the Missouri River Basin that have been settled by decrees from the Courts of the United States or by interstate compacts.

Potential Impacts Associated With 65% State Cost-Share for All Water Supply Projects

Through the water development planning process, the Department of Water Resources (DWR) has estimated that nearly \$2.5 billion in state funding is expected to be needed in support of water projects over the next ten years. At current cost-share percentages across all project types, the estimated state shortfall is just over \$980 million if Resources Trust Fund revenues average \$300 million per biennium. In comparison, the Department of Water Resources is anticipated to receive \$321 million in Resources Trust Fund revenues during the 2021-2023 biennium.

To ensure the state is able to help more sponsors, it is necessary to rethink current match rates so that state financial support can be more broadly shared. With regard to water supply projects specifically, the delivery of those funds by DWR has historically been partitioned into municipal, rural, and regional water project support - with levels of state participation changing over time with the evolution of policy.

The DWR currently implements three approaches to infrastructure development investment: 1) own and rent (capital repayment), 2) loans, and 3) grants. Each of these approaches has an impact on financial capacity at the state and local level. The Governance and Finance Study (Study) recommended the state consider migrating to a single grant support model to bring all water supply systems to a level playing field.

Grant percentages have a significant impact on the number of projects, and the scale of projects to which the state is able to participate. With grants having ranged from 100% to 50% over the course of the last few biennia. With occasional commitments outside those bounds, the basic policy is 75% for rural and regional projects, and 60% for municipal.

The recent Study of the state's regional water systems recommended an across-the-board cost-share grant of 65% for all water supply project types. This change will mean slightly greater funding for municipal projects and less for rural and regional projects. However, this concept allows the state to participate with more projects through both grants and lending, which replenishes the states capital to participate in even more projects.

The portfolio of grant versus loan can have a significant impact on how cash can be managed in the future. Grant expenditures make projects more affordable to local sponsors, whereas loans make it easier for the state to participate in more projects over time and discourages over design or over investment at the local level. Incentives to follow smart growth guidelines and to leverage existing and joint infrastructure add to investment efficiencies across the system. Smart growth guidance is expected to lead to greater sustainability through the life and eventual rehabilitation and replacement of infrastructure investments today.

Staff reached out to local stakeholders in response to the request from the Water Commission to expound upon the risks associated with moving to a 65% across the board cost-share policy for water supply projects. Telephone interviews were conducted with individuals representing rural

and municipal systems and governments. Their comments have been organized and are merged into the following:

Compilation of risks or potential impacts of all systems migrating to 65% cost-share.

- Rural Perspective, (75% reduced to 65%)
 - Low hanging fruit is complete – meaning, remaining hookups are the farther runs and more difficult deliveries, so they will be more expensive to include in a system.
 - Future rate of expansion to non-connected potential users may be delayed due to budget limits of local entities or user declination due to cost of rural water rates and a higher local share percentage.
 - State cost-share was originally set at 75% for regionalization of water systems to mirror the federal MR&I program. The 75% cost-share was then expanded to include rural water projects in general, beyond regionalization efforts. This is backing away from those earlier commitments to rural expansion.
 - Rural improvements are more directly absorbed by the beneficiary and dropping match by 10% may mean a rate increase for rural users according to the Rural Water Association.
 - This is a focus on equitable and affordable vs urban where a larger tax base can afford to absorb costs. However, the urban advantage is not so much in the larger tax base as the density of development which more efficiently utilizes infrastructure and then by design, has more payers per unit of shared capital construction.
 - The question is, if you want economies of user scale, is that not a decision to live in higher density environments. Choosing rural independence implies users may not need urban efficiencies to supplement their lifestyle.
- Municipal Perspective, (60% increased to 65%)
 - This may make infrastructure affordable to build, yet unaffordable at the local level to maintain and replace as needed.
 - Limits or slows regionalization rates (pace) due to reduced municipal local costs and compromises the incentive to regionalize for some small communities. (The state is down to approximately 40 communities to bring into the regional/rural supply model.)
 - May make urban sprawl cost competitive with interior urban development by keeping the cost of infrastructure in line with city services to match differentials.
 - Infill may be disincentivized in favor of edge development if served by a lower infrastructure construction cost for the developer.
 - The water rate may impact the buyer and will not likely be evaluated rationally with lot and land development costs.
 - Rates are not evaluated as soundly as the financing of internalized lot costs when added to lot-cost or special assessments vs marginally higher water bills.
 - Constituent Comment - If the rate for a specific cost-share category is below 65%, leave the lower state participation rates where they are.
- Other Categories of Risk

- The rate at which full regional build-out happens will be constrained by local share participation limits for any specific system, yet it will spread the marginal advancement across more entities as the state rural financial capacity is shared more broadly but at a lower individual magnitude. Meaning, fewer dollars into each project but more projects.
- Financial limiting factors like credit, tax base, emergency reserves, long-term tax base commitments, and tax base size are all important factors for consideration. The opportunity cost of local share becomes a more important consideration, where communities weigh if they apply their limited taxing capacity to water infrastructure or some other priority need in the community.
- Smart growth could be negatively impacted when flagpole and sprawl are incentivized at a higher rate than urban infill.
- Infrastructure sizing is also important to consider. Growth estimates and planning are not always supported by census data. Should rural towns limit risk by using more conservative population projections to keep costs down and to limit overbuilding and the budgetary risk of future maintenance and replacement risk.
- Other notable comments:
 - Dropping from 75% to 65% allows the state to participate in an increase of 2.6 rural projects per biennium – based on project needs identified in the 2021 Water Development Plan.
 - Increasing from 60% to 65% precludes the state from participating in 4.1 municipal projects per biennium – based on project needs identified in the 2021 Water Development Plan.
 - If the cost-share percent is lowered, based on historic responses, impacted interest groups may lobby the legislature to directly restore higher participation percentages by the state.

2021-23 Water Plan								
	#	Non-Fed	Avg Non-Fed	Current	Proposed	Increase/Decrease	Increase (Decrease) State Expense	Number of Projects
Municipal	82	154,935,316	1,889,455	60%	65%	5%	7,746,766	-4.1
Rural	26	99,141,164	3,813,122	75%	65%	-10%	(9,914,116)	2.6
						Net Difference	(2,167,351)	-1.5

As of December 31, 2021

	Federal (Including MR&I)	State	Local	Cost-Share State	Cost-Share State & Federal	Loan	Loan Repayment (Principal)	Loan Repayment (Interest)	Capital Repayment
SWPP*	\$121,900,000	\$287,660,000		70%	100%				\$84,210,000
NAWS**	\$146,400,000	\$65,000,000	\$72,000,000	23%	75%				
WAWS***		\$227,767,000	\$164,465,000	58%	58%	\$153,209,245	\$44,715,061	\$19,953,386	
RRVWSP ****		\$116,985,554	\$25,336,025	81%	81%				
TOTAL	\$268,300,000	\$697,412,554	\$261,801,205						

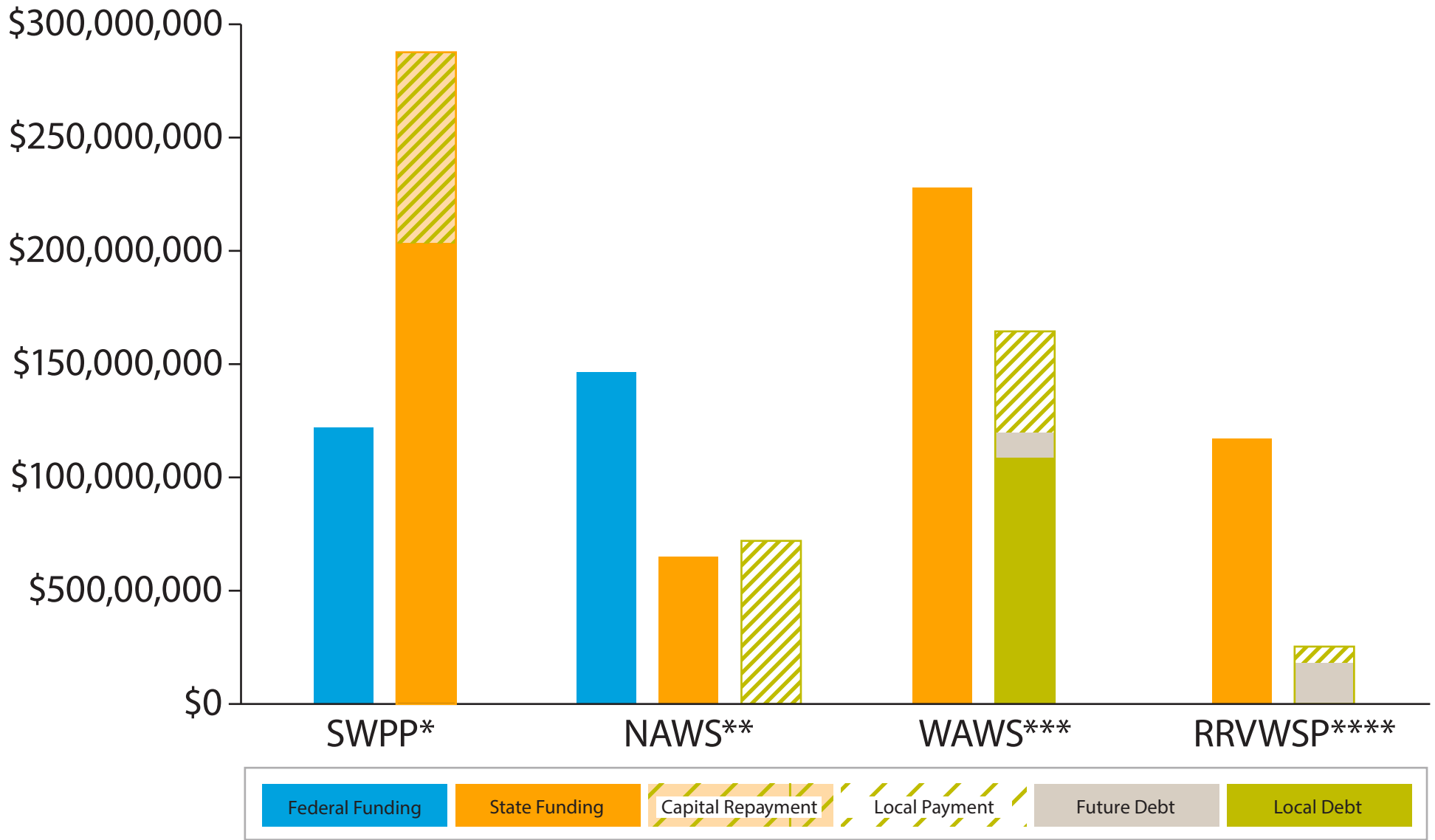
* Capital Repayment includes \$19.25M in bond payments and \$5.5M from Perkins County, SD.

** The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M will be covered with Federal MR&I funds.

*** HB 1431 included \$74.5M in debt service, which was applied to the state share.

**** Local share includes \$18,125,000 WIRLF loan. The balance has been paid with GDCD cash on hand.

TABLE 2.1 GRAPHIC



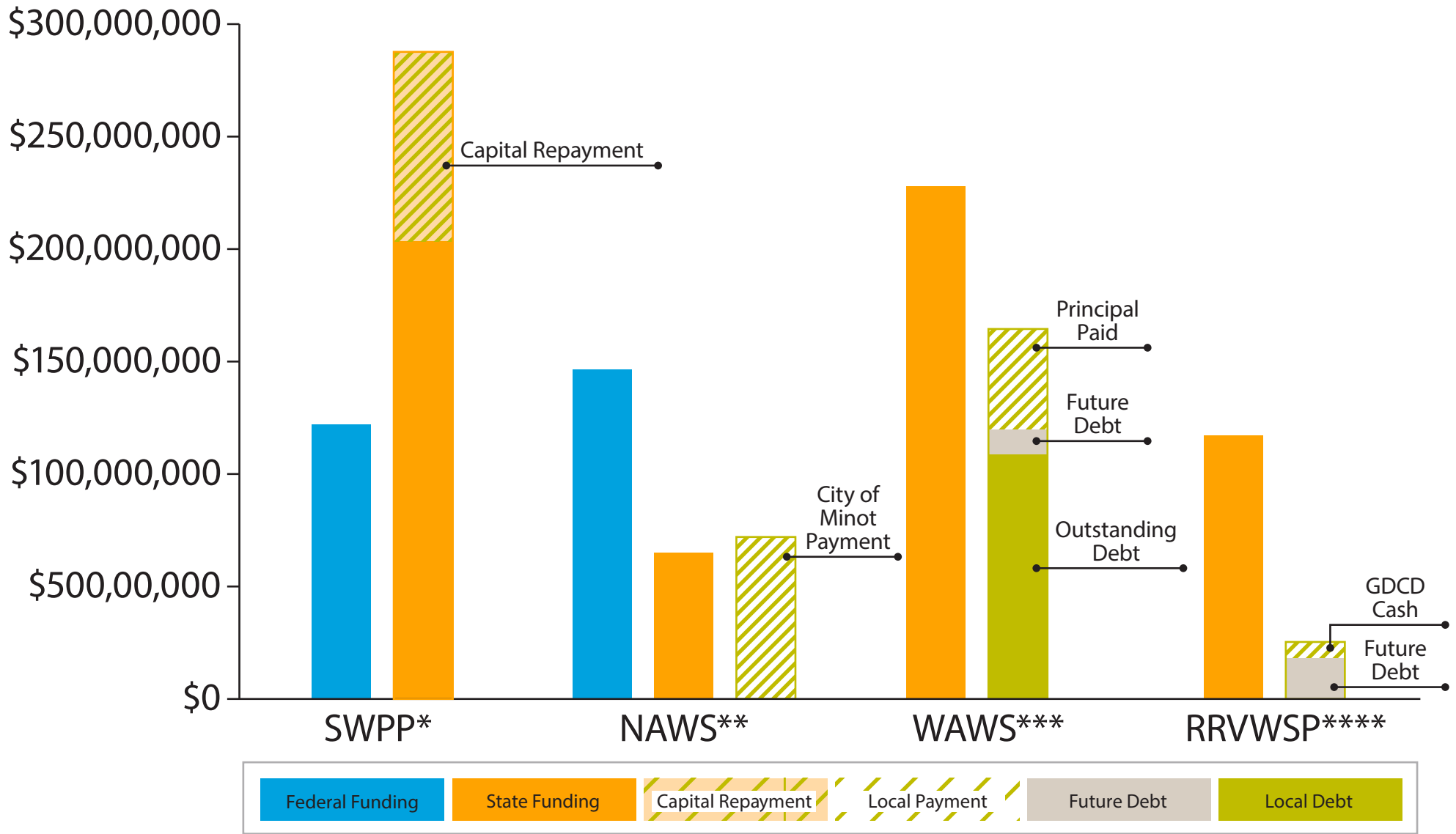
* Local Funding in the form of capital repayments includes \$19.25M in bond payments and \$5.5M from Perkins County, SD. Capital repayments are considered a reduction in the State Share.

** Local sponsor is the City of Minot (paid through sales tax). The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M Federal share will be covered with Federal MR&I Funds.

*** Local WAWS funding includes \$164M in loans, with 44.7M of repaid principal, \$20M in interest paid (not pictured above), and \$11M in future debt. HB 1431 included \$74M in debt service, which was applied to the state share.

**** Local share includes \$18,125,000 WIRLF loan.

TABLE 2.1 GRAPHIC



* Local Funding in the form of capital repayments includes \$19.25M in bond payments and \$5.5M from Perkins County, SD. Capital repayments are considered a reduction in the State Share.

** Local sponsor is the City of Minot (paid through sales tax). The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M Federal share will be covered with Federal MR&I Funds.

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**** Local share includes \$18,125,000 WIRLF loan.

Other States Funding Programs

In spring 2021, DWR's planning team members gathered information about the grant and loan programs available in some of the other states and the attached table is the summary of the information collected.

DWR team members also reached out to AE2S/NEXUS to gather information in addition to what was reported in the Strategic Governance and Finance Study report regarding funding programs in neighboring states. Information below is from AE2S/NEXUS.

Minnesota:

Historically Minnesota focused on grant funding for wastewater projects. In recent years, this funding has been expanded to offer limited grant funding to water projects. This approach to grant funding prioritizes projects that have water quality impacts and offer centralized treatment systems for communities.

In addition to the standard funding programs, Minnesota has a significant amount of funding that is directly appropriated by the legislature and distributed through their funding agencies. Loan funding in Minnesota is not as plentiful as it is in North Dakota. Minnesota's loan programs offer reduced interest rates to communities through a buy-down approach. This approach uses the limited direct funding available to the program and allocates it to the top scoring programs. As a result, a project is not guaranteed to receive funding unless it has a highly competitive score based on SRF criteria.

Minnesota has an active collaboration with Rural Development and will review funding applications to help the project sponsor determine what the most advantageous funding route is. Should SRF funding not be available, and the project qualify for RD funding, the State will recommend they go that route. Similarly, this collaboration also extends to the State's grant funding for water and wastewater projects. Projects that qualify for RD funding are submitted automatically by USDA for consideration under the state grant program.

Montana:

Montana is a good example of program collaboration through the uniform application. It is very common for MT communities to use multiple sources to fund a single project.

Montana's grant funding programs are fairly limited but targeted to resource producing communities. The Montana Coal Endowment Program (formerly Treasure State Endowment Program) offers limited grants to communities within the coal producing regions of the state. Similar to the NDSWC, the MCEP program requires planning applications be submitted in the year before the legislative session, delaying the timetable for projects to receive funding.

Funding for water and wastewater projects in the state has been greatly increased by the addition of ARPA funding. Nearly \$400 million was allocated to these projects on a competitive basis. The first round of funding saw over 200 applicants for these grant funds.

In recent years, the SRF program in Montana has faced a shortage of funds as well. This has resulted in projects not receiving grant funding and seeking funding through non-state sponsored programs

South Dakota:

South Dakota has the most limited grant funding for water/wastewater projects. There is loan forgiveness available through SRF, but traditionally any funding was allocated through the Governor's fund as part of a business attraction.

The SD SRF program funds loans in a similar manner to the ND SRF program so has not traditionally seen shortages of funds for projects and been able to offer loans to all projects. Recently, SD has allocated \$600 million in ARPA funding to water and wastewater projects through the State's SRF program. This will provide grant funding to a large number of projects based on SRF ranking criteria.

After the November 2021 special State Water Commission meeting, DWR's Strategic Governance and Finance Study team member's research was concentrated on North Carolina's and Texas's programs and the information from the research is summarized below.

North Carolina:

In the 2013 legislative session, North Carolina General Assembly created the Division of Water Infrastructure to consolidate the state and federal funding programs. Funding decisions are made by the State Infrastructure Authority (SWIA) created during the same legislative session. SWIA was created to assess and make recommendations about the water and wastewater infrastructure needs and the infrastructure funding programs available to the local government and utilities. The General Assembly tasked the Authority with twelve different activities which included developing a master plan to meet the state's water infrastructure needs, making recommendations on the role of the state in the development and funding water infrastructure, and developing a troubled systems protocol.

In 2017, North Carolina's Statewide Water and Wastewater Infrastructure Master Plan: The Road to Viability was published. The SWIA's vision is for viable water utilities across North Carolina.

Some of the highlights from the plan are listed below:

- According to the plan, utility systems can become viable by focusing on: Infrastructure management, organizational management, and financial management.
- To meet the vision of viable utilities across the state, it requires actions by state, local governments, and utility providers.
- Viable water utilities through the state water infrastructure funding programs can be promoted by recognizing that many entities can afford to incur some amount of debt and by encouraging utilities to transition to local funding solutions and end long term reliance on grant funding.
- The plan estimates North Carolina's water infrastructure needs at 17 billion over the next 20 years. It is also estimated that only a small fraction of this capital needs can be met with grant funds. Over 93% must be funded by utility providers, most likely through higher water rates.
- State's role is to provide strategic project funding to support utilities - Transition to permanent local funding solutions, access non-subsidized forms of capital, end long term reliance on grant funding.
- Issues identified by SWIA includes significant gap between infrastructure needs and available funding through grants and loans, incentives are needed to encourage utilities to become more proactive in management and financing of the systems, and State grant and loans may not be reaching the most economically distressed communities.
- To address the issues identified, SWIA proposed fundamental changes to state's approach to water infrastructure funding which included: 1. Expanding access to capital by simplifying the application process, developing a strategic comprehensive priority rating system, and refining the criteria for project affordability 2. Incentivizing utility management by creating a new grant program to allow a utility to develop an inventory, condition assessment, and prioritization of critical capital needs and to study feasibility of merging or regionalizing with other systems 3. Focusing on economically distressed utilities by identifying the factors struggling utilities face and initiated working with local government commission to develop "troubled system" protocol and seek solutions to the issues.

North Carolina through legislation signed in July 2020, established Viable Utility Reserve Program which is a funding program to help distressed units. The program defines criteria to identify distressed systems and funding is provided to the distressed utility to conduct an asset assessment and rate study, participate in training and educational program, and develop an action plan.

Texas:

Texas Water Development Board (TWDB) has numerous financial assistance programs. Below is the brief description of "Board Participation" program in which the TWDB holds temporary ownership interest of a project to accommodate future demand.

TWDB will provide financial assistance to political subdivisions through the Board Participation Program for projects where at least 20% of the total facility capacity is serving the existing need. Financing for at least 20% of the total project cost will have to come from sources other than the Board Participation program. In this program, the TWDB interest in the excess capacity portion of the project are limited to 80% of the total project costs.

The political subdivision repurchases the TWDB's ownership interest under a repayment schedule that allows for the structured deferral of both principal and interest. Interest rates are based on the TWDB's cost of funds, which reflects the program's AAA credit rating. Financing terms vary but are generally 34-year term.

The board and the political subdivision enter and execute a master agreement regarding responsibilities, duties and liabilities of each party, the board's cost of acquisition, procedures for disbursement of board funds for the project and a schedule for purchase of the board's interest in the project.

Other State Grant & Loan Project Funding Programs

February 2022 Draft

State	Grant Program	Budget	Project Types Funded	Local Match Required	Loan Program	Size/Budget	Interest Rate	Term
Alaska	Yes Two Separate Programs: 1) Water development program has not been funded since 2017. 2) Alaska Clean Water Grants are primarily for non-point source pollution projects.	•No set budget. •2019-2020 Clean Water Grants Budget of \$689,554 •2018-2019 Clean Water Grants Budget of \$267,163	•Non-Point source pollution •Watershed management •Water quality monitoring •Lake/Stream management	40% Minimum	Drinking Water State Revolving Fund (DWSRF) & Clean Water State Revolving Fund (CWSRF)		•20-30 Years: 2% •5-20 Years: 1.5 •0-5 Years: 1%	Maximum: 30 years
Arizona	Yes	No funding available for 2021	•River and riparian projects •Primary purpose of grant program is to protect rivers, streams, and habitats •Channel restoration •Wetland restoration •Erosion control		DWSRF & CWSRF			
California	Yes •Several programs with most focused on drought and disadvantaged communities and water quality/quantity. •Another program provides drinking water to schools at \$1 million per school district.	More than \$100 million for FY 2020 (Includes all grant programs)	•Drought •Flood Control •Water Supply •Water quality and quantity •Disadvantaged communities •Non-point source pollution •Desalination	Most programs require varying degree of local match.	More information requested			
Colorado	Yes •Various grant types •3 Major: Water Plan Grants, Water Supply Grants, Watershed Grants	•Based on oil and gas revenues so difficult to predict. •Water Supply Reserve Fund: \$10 million/year •Water Plan Grants: \$7million/year •Total: ~\$20 million/year	Wide range of eligibility.	•Varies from project-to-project •State is pushing for a 50/50 match threshold through the legislature •Local sponsors often use state loans to cover their local share, but the state is not supportive of this practice	•Colorado Water Conservation Board •Water Project Loan Program	•Portfolio size: ~\$1 billion •Whole agency is run on proceeds from this program •Took 50 years to build portfolio	•Agricultural: 1.5% •Municipal: 2%-3% •Hydroelectric: 2%	•30-Year •Rates increased by 0.45% for 40-year term
Hawaii	No •In 2016, there was a one-time legislative appropriation for water conservation, recharge, and reuse. All funds have been disbursed.	\$0	NA	NA	DWSRF & CWSRF			
Idaho	Yes •Competitive program through state DEQ and USDA •Not in statute, so needs to be approved annually	~\$1 million per year	•Stream channel repair/improvement •Flood risk reduction •Flood prevention	50% Minimum	•Broad list of eligible projects •Sponsor must be a public entity	•\$10 million per year plus interest earned •Current balance: ~\$13 million •Occasionally get one-time appropriations for specific projects	•Statute states "reasonable" rate •Average is 3.5%	•5-30 years •Average is 10-15 years •Statute allows for 60 years
Kansas	No •Community Development Block Grant (CDBG) and US Department of Ag Rural Development •Kansas has groundwater management districts that operate independently from the state. They may have grant programs, but it is not likely.	\$0	NA	NA	DWSRF & CWSRF			
Montana	Yes •Irrigation development grants	•\$300,000 per biennium •Maximum grant is \$20,000	Irrigation	•No match required for political subs •Private entities are 50% minimum	Private Water Development Loans	State law allows a maximum outstanding balance of \$20 million	Currently 3.3%	•15-year max for new systems •10-Year max for existing systems
Nebraska	Yes Source Water Protection Grants Program	\$100,000 per Year	Protection of public drinking water sources	10% minimum	DWSRF & CWSRF			
Nevada	Yes Capital Improvements Grant Program	Previous 6 biennium budgets have been \$0-\$3M	•Drinking water improvements •Septic-to-sewer consolidations •Irrigation •Conservation measures	25% to 75%	No	NA	NA	NA
New Mexico	Yes Water Project Finance Act - New Mexico Finance Authority (Combined Loan/Grant Program)	•Variable and funded by State Severance Tax Bonds •2020: \$39.4M •2019: \$25.5M •Projects receive a grant/loan package	•Water storage, conveyance, delivery •Water conservation or treatment •Watershed restoration/management •Flood prevention (Dams) •Endangered Species Act implementation	Variable depending on priority for funding	Water Project Finance Act - New Mexico Finance Authority (Combined Loan/Grant Program)	•Variable and funded by State Severance Tax Bonds •Projects receive a grant/loan package		
Oklahoma	Yes •Emergency Grants •Rural Economic Action Plan (REAP) Grant	•Emergency Grants: \$100,000 per project/applicant (2-3 Projects per year) •Rural Economic Action Plan (REAP) Grants: \$1.2 million funded from Legislature divided evenly between 11 Councils of Government. •\$150,000 max per project	•Emergency Grants: Water and wastewater with emergency defined by life, health, or threatening situation. •Rural Economic Action Plan (REAP) Grants: Water and wastewater in communities with smaller populations.	•Emergency Grants: 15% local contribution •Rural Economic Action Plan (REAP): No match required	Financial Assistance Program for water, wastewater, studies, and engineering	Sell revenue bonds as needed to fund projects.	Generally 2.3% or less	

State	Grant Program	Budget	Project Types Funded	Local Match Required	Loan Program	Size/Budget	Interest Rate	Term
Oregon	Yes •Special Public Works Fund (SPWF) •Water/Wastewater Financing Program	•All programs are funded by the Lottery. •SPWF is limited to \$500,000 or 85% of project costs. •Water/Wastewater Financing Program can give grants up to \$750,000 based on needed or ability to repay.	•SPWF: Water and wastewater but not exclusively for water projects. Can be used for any publicly owed facilities. •Water/Wastewater Financing Program: Drinking and wastewater improvements related to community compliance	•SPWF: 15% local share or remaining balance above \$500,000. (Must create or retain trade sector jobs) •Water/Wastewater Financing Program: Funding cap is \$750,000	•Special Public Works Fund (SPWF) •Oregon Water/Wastewater Financing Program	•SPWF: \$131 million out in loans and \$200 million available. •Water/Wastewater Financing Program: \$60 million out in loans and \$35 million available	Interest rates are based on the state's Moody's Credit Rating - generally around 1%	
South Dakota	Yes Consolidated Water Facilities Construction Program	Over the past few years average is about \$10 million.	•Water resource projects including water and wastewater •Project must be included in the State Water Facilities Plan	20% Minimum	Consolidated Water Facilities Construction Program	Average of about \$10 million/year	•1.875% for 10 year •2.00% for 20 years •2.125% for up to 30 years	•1.875% for 10 year •2.00% for 20 years •2.125% for up to 30 years
Texas	Yes •Flood Infrastructure Fund(FIF) •Economically Distressed Areas Program (EDAP)	•FIF: \$770,000,000 was available in 2020 with \$231M for grants and \$539M for loans. No Project would receive more than \$23,100,000 in grant funding. Interest Rates on all FIF loans would be 0%. •EDAP: Has a bond authorization for \$200M	•FIF: -Drainage -Flood Control Infrastructure -Flood Mitigation Infrastructure -Retention/Detention Basins -Erosion Control -Pumpstations -Property Acquisitions -Riparian Restoration -Project design -Engineering -Coordination and Development, Hydraulic Studies. •EDAP: Available for economically distressed areas where water or sewer services do not exist or do not meet minimum standards. EDAP can be used by cities, counties, water districts, non-profit water supply systems and all other political subdivisions.	•FIF: The portion not covered by the grant can be taken as a 0% interest loan rather than being contributed in cash or in-kind services. •EDAP: Awards include a loan and a grant, however they do have the ability to make full grants. The ratio of each project is calculated based on several factors, including whether a public health nuisance has been declared.	•Texas Water Development Fund (D-Fund): A catch-all loan when other programs are oversubscribed. In addition to water supply and wastewater, flood control projects can also use this fund. •State Water Implementation Fund and State Water Implementation Fund for Texas (SWIFT): Available to any political subdivision with a project included in the most recently adopted state water plan. Water conservation, pipelines, reservoirs, well fields, and purchasing water rights.	•D-Fund: Has a \$6 billion bond authorization but the amount at any given time varies depending on repayments of existing projects. •SWIFT: Capacity is calculated from bond sales. Each year's total capacity is calculated by a contracted financial advisor. Since 2015 it has funded \$8.2B in projects.	•D-Fund: Depending on credit rating is 0.95% to 1.60%. •SWIFT: 20 year low interest - graduated from 0.10% to 1.55%; 25 year low interest graduated from 0.12% to 0.11% to 2.20%; 30 year low interest graduated from 0.12% to 2.48%; and rural/agriculture 20 year graduated from 0.09% to 1.20% •FIF-related loans are 0%.	•D-Fund: Depending on credit rating is 0.95% to 1.60%. •SWIFT: 20 year low interest - graduated from 0.10% to 1.55%; 25 year low interest graduated from 0.11% to 2.20%; 30 year low interest graduated from 0.12% to 2.48%; and rural/agriculture 20 year graduated from 0.09% to 1.20% •FIF-related loans are 0%.
Utah	Yes •Board of Water Resources Project Funding •Permanent Community Impact Board Grant (CIB)	•Board of Water Resources has two grants programs: 1. High hazard dam owners who need to upgrade/modify dams can get up to 80% in grant funding and can borrow the rest at 0% interest. 2. Sponsors can get a grant for bond insurance. •Permanent Community Impact Board Grant: In 2020 it funded \$10.4 million in water infrastructure projects with grants of up to 25.5%. •No set budget with revenue from a revolving fund.	•Board of Water Resources: -Ag related storage reservoirs, diversion ditches, canals, pipelines -Canal, ditch lining, pipeline projects -Municipal water treatment plants, storage tanks, distribution -Water distribution lines and meter replacement -Remote sensing and measuring devices for agriculture and municipal systems -Dam safety upgrades -Hydropower facilities -stormwater system components •Permanent Community Impact Board Grant: Water infrastructure projects that are normally provided by political subdivisions.	•Board of Water Resources: No match required. •Permanent Community Impact Board Grant: Not required but can be a factor in determining funding allocations.	•Board of Water Resources Project Funding: 1. Conservation and Development 2. Small Projects •DWSRF •Permanent Community Impact Board Loans	•Board of Water Resources: 1. Anything over \$1 million. Can get loans for up to 85% of project. 2. Anything Under \$1 million. Can also get loans for up to 85% of project. •State Revolving Fund: Funded through 1/16 of 1% sales tax and is capped at \$3.8M/year. •Permanent Community Impact Board Loans: \$10.4 million combined loans and grants in 2020.	•Board of Water Resources: Interest rates are based on the municipal bond index with a flat 1% for agriculture projects, and a minimum of 1% to currently around 2% for municipal projects. •State Revolving Funds: Based on bond buyers rate index and not to exceed 2.8%, but generally at 0-1.5%. •Permanent Community Impact Board: On a per-applicant basis, but the benchmark is 2.5%.	
Washington	No	NA	NA	NA	Public Works Board Fund Loans (Revolving Funds): Not Just for Water Infrastructure - can be used by counties, cities, special use districts, and quasi-municipal organizations for: -Domestic water -Roads/Streets -Bridges -Sanitary sewer -Solid waste and Recycling -Stormwater	•Public Works Board Fund Loans: Program is funded on a biennial basis through real estate excise taxes and solid waste tipping fees. -Construction: \$68M for applications on a competitive application process with a \$10M cap and loan term of 20 years or life of improvement. -Pre Construction: \$17M for applications on a competitive application process with a \$1M pre-construction award cap and loan term of 5 years. -Emergency Loans: \$4M on a first-come-first-served basis and a \$1M award limit.	1-3% depending on financial situation.	•Public Works Board Fund Loans: Program is funded on a biennial basis through real estate excise taxes and solid waste tipping fees. -Construction: \$68M for applications on a competitive application process with a \$10M cap and loan term of 20 years or life of improvement. -Pre Construction: \$17M for applications on a competitive application process with a \$1M pre-construction award cap and loan term of 5 years. -Emergency Loans: \$4M on a first-come-first-served basis and a \$1M award limit.
Wyoming	Yes Combination Grant/Loan Program through Wyoming Water Development Office	Variable depending on what is submitted to legislature for omnibus bill. Over the past few years expenditures have been averaging \$42M/year	Public water infrastructure projects	•All planning is 100% grants •Construction is usually 67% grant/33% loan	Combination grant/loan program through Wyoming Water Development Office	Variable depending on what is submitted to legislature for omnibus bill. Over the past few years expenditures have been averaging \$42M/year.	•2% or less •Ag loans are a minimum of 4%	

PURPOSE FUNDING SUMMARY
State Water Commission Cost-Share
for February 23, 2022
February 15, 2022

2021-2023
Appropriation
Remaining
12-31-21

		\$ 35,995,114
		Cost-Share
Construction	1 Bottineau County WRD: Stone Creek Lateral B Construction	\$ 157,537
		Current Requests \$ 157,537
		Anticipated Construction Requests \$ 7,090,528
		Anticipated Balance = \$ 28,747,049

		\$ 12,258,797
		Cost-Share
Pre-Construction	1 Elm River Joint WRD: Elm River Dams 1 and 2 Improvements (Anticipated Const Request \$2,400,000)	\$ 213,000
		Current Requests \$ 213,000
		Anticipated Construction Requests \$ 3,813,496
		Anticipated Balance = \$ 8,232,301

		\$ 66,139,740
		Cost-Share
Pre-Construction	1 Fargo: Regional Water System Distribution Extensions (Anticipated Const Request \$3,644,000)	\$ 172,000
Pre-Construction	2 Minot: NW Minot Residential Watermain Replacement (Anticipated Const Request \$2,025,000)	\$ 225,000
Pre-Construction	3 Grand Forks: Agribusiness Park Raw Water Supply Improvements (Anticipated Const Request \$8,000,000)	\$ 1,200,000
Pre-Construction	4 Riverdale: Raw Water Supply and Gate Valve Improvements (Anticipated Const Request \$3,389,000)	\$ 225,000
Pre-Construction	5 Portland: 2021 Water System Improvement (Anticipated Const Request TBD)	\$ 97,350
Construction	6 Valley City: Watermain Improvement District 59	\$ 222,600
Construction	7 Valley City: 6th St NW Watermain District 102	\$ 252,000
Construction	8 Jamestown: ER Cross Town Water Supply Repair	\$ 438,000
Construction	9 Garrison: Water Supply Treatment and Transmission Line (Cost Increase)	\$ 924,000
		Current Requests \$ 3,755,950
		Anticipated Construction Requests 43,839,600
		Anticipated Balance = \$ 18,544,190

		\$ 50,209,800
		Cost-Share
Pre-Construction	1 Walsh RWD: Interconnect with NRWD (Anticipated Const Request \$1,364,500)	\$ 161,500
Construction	2 McLean-Sheridan RWD: McClusky Water Tower Replacement	\$ 2,771,000
Construction	3 McLean-Sheridan RWD: System Expansion Phase 2	\$ 7,205,000
Construction	4 Rolette County TMPUC: Thorne Reservoir and Pump Station	\$ 1,135,000
		Current Requests \$ 11,272,500
		Anticipated Construction Requests 24,214,600
		Anticipated Balance = \$ 14,722,700

		\$ 2,000,000
		Cost-Share
	1	\$ -
	2	\$ -
	3	\$ -
		Current Requests \$ -
		Anticipated Construction Requests \$ -
		Anticipated Balance = \$ 2,000,000

		\$ 126,725,487
		Cost-Share
		SWPP
	1	\$ -
	2	\$ -
	3	\$ -
		Current Requests \$ -
		NAWS
	1	\$ -
	2	\$ -
	3	\$ -
		Current Requests \$ -
		Capital Assets Total Current Requests \$ -
		Anticipated Capital Assets Construction Requests \$ -
		Anticipated Capital Assets Balance = \$ 126,725,487

		\$ 293,328,939
		Current Requests \$ 15,398,987
		Anticipated Construction Requests \$ 78,958,224
		Anticipated 2021-2023 Appropriation Balance = \$ 198,971,728