



# North Dakota Legislative Council

Prepared for the Water Topics Overview Committee  
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## **WATER TOPICS OVERVIEW COMMITTEE - BACKGROUND MEMORANDUM**

North Dakota Century Code Section 54-35-02.7 directs the Legislative Management during each interim to appoint a Water Topics Overview Committee in the same manner as the Legislative Management appoints other interim committees, and to designate a chairman. The committee initially was named the Water-Related Topics Overview Committee when the statute first was enacted in 2009 and was later renamed as the Water Topics Overview Committee in 2013.

The committee is required to meet quarterly during the interim and operate according to the statutes and procedure governing the operation of other Legislative Management interim committees. The committee is responsible for legislative overview of water topics and related matters; the Garrison Diversion Project; and for any necessary discussions with adjacent states on water topics. The committee must work collaboratively with the State Water Commission (SWC), report on the committee's project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants, and contracts. Section 10 of House Bill No. 1020 (2025) assigned additional responsibilities to the Water Topics Overview Committee. The committee is required to receive and review any request anticipated to be submitted to SWC or to the next Legislative Assembly for which the state cost-share is estimated to be \$10 million or more before May 31 of each even-numbered year. Once these requests are received, the committee is required to review the requests and make a recommendation on the prioritization of the project for consideration by the next Legislative Assembly. The committee must create a report concerning each new water project request, which must be provided to each Appropriations Committee of the Legislative Assembly. A bill containing a project requesting state funds of \$10 million or more must be accompanied by a report from the Water Topics Overview Committee. If a bill is introduced without a committee report, the committee must meet, consider the request, issue a report containing the committee's recommendation, and provide the report to each Appropriations Committee of the Legislative Assembly. The committee also may solicit draft measures and proposals from persons interested in water management and undertake study directives from the Legislative Management and Legislative Assembly.

In addition to its statutory duties, the committee was assigned the duty to:

- Receive a report from the Department of Water Resources (DWR) regarding the status of and any recommendations from Phase 2 of the Missouri River intake sites study.
- Receive a draft report from SWC by March 31, 2026, regarding the results of and recommendations from the regional water systems governance and finance study.
- Receive a draft report from SWC by March 31, 2026, regarding the results of and any recommendations from the commission's cost-share policy study.
- Receive a report from the Department of Environmental Quality (DEQ) before August 1, 2026, regarding the use of one-time funding for regulation of onsite wastewater treatment systems.
- Receive quarterly reports from SWC on each project SWC has designated as a carryover project that has had a cost-share agreement in place for at least 4 years. The committee may make a recommendation to SWC that a carryover project included in a report be terminated under Section 61-02-14.3 and any funds remaining for the carryover project be reallocated and made available for projects with the same general purpose as the carryover project.

## **WATER IN NORTH DAKOTA**

North Dakota is located in a region of central North America which bridges the divide between "too wet" and "too dry." The 100<sup>th</sup> meridian line of longitude roughly splits the state in half. East of this line, there generally is more precipitation in the form of snow and rain than west of the 100<sup>th</sup> meridian. North Dakota's extreme climate largely is driven by air masses from three areas--the Rocky Mountains, where the mountains block much of the Pacific moisture; the polar region, which brings much of the state's cold weather; and the Gulf of America, which brings much of the state's precipitation. Several studies of lake sediment in North Dakota have demonstrated the state is subject to long-term climatic variation, alternating between extended wet and dry cycles.

### **Surface Water Resources**

North Dakota is separated into two major drainage basins by a continental divide running from the northwest to the southeast corners of the state. The northeastern portion of the state falls generally within the Hudson Bay drainage, while the southwestern part is drained by the Missouri River to the Gulf of America. For planning purposes, DWR has divided the state into five major watersheds--the Missouri River Basin, James River Basin, Mouse River Basin, Red River Basin, and Devils Lake Basin.

The Missouri River drainage system includes the major subbasins of the Missouri and James Rivers. The tributaries on the south and west sides of the Missouri River typically occupy small but sharply defined valleys. This area is well-drained with few natural lakes. The topography is characterized by rolling, hilly plains with numerous flat-topped, steep-sided buttes. The most prominent are located in the Badlands along the Little Missouri River. Areas east of the Missouri River include glaciated areas that are characterized by many small lakes and wetlands.

The James River, which is a major tributary of the Missouri River, begins in the drift prairie of central North Dakota but does not join the Missouri River until it reaches Yankton, South Dakota. The James River system is poorly to moderately drained with a large number of wetlands.

The Hudson Bay drainage includes the Mouse River and Red River systems and the Devils Lake Basin. The Mouse River originates in Saskatchewan and then loops through North Dakota before it re-enters Canada west of the Turtle Mountains. The topography is varied within the basin with hilly terrain in the southwest, a flat glacial lake plain in the east, and forested hills of the Turtle Mountains in the northeast.

The Red River winds northward almost 400 miles, forming the border between North Dakota and Minnesota. From the international boundary with Canada, the Red River flows another 155 river miles to Lake Winnipeg in Manitoba. The valley through which the river flows is the former bed of glacial Lake Agassiz. The ancient lakebed is extremely flat and is home to some of the most productive farmland in the world.

The Devils Lake Basin is a noncontributing subbasin of the Red River Basin. The drainage system is formed by chains of waterways and connecting lakes, many of which ultimately terminate in Devils Lake itself.

The flow in all North Dakota streams and rivers is seasonably variable. Runoff is greatest in early spring as a result of snowmelt water and spring rainfall. Many smaller streams experience little or no flow for extended periods during summer months, although dramatic flow variations in river discharges can be caused by changes in weather patterns, isolated storm events, evaporation rates, and snowpack conditions.

As of 2023, according to information in North Dakota's water quality assessment report provided by DEQ to the federal Environmental Protection Agency (EPA), the state contains 151 manmade reservoirs, 186 natural lakes, and an estimated 56,828 miles of rivers and streams.

Although this memorandum focuses on state involvement in water management and projects, one area in which there is bottom-up control is the draining of surface water. The Legislative Assembly enacted authority to establish legal drain boards in 1895. In 1935, the Legislative Assembly established water control and conservation districts separate from legal drain boards. In 1973, the Legislative Assembly determined each county should have a water conservation and resource district and also changed the name of these districts to water management districts. In 1977, the Legislative Assembly authorized joint boards to allow two or more water management districts to jointly do what one board could do alone. The first joint board was the Red River Joint Board, which was created in 1979.

During the 1979-80 interim, the Legislative Council studied water organizations. At that time, there were drain boards, water management districts, and joint boards, all of which were designed to manage water. The Legislative Council reviewed the Nebraska system under which one district undertakes all of the functions undertaken by separate water organizations and which are organized on watershed boundaries as opposed to political boundaries. The study resulted in changing the term for water management districts to water resource districts and changing the term for legal drains to assessment drains. The study also resulted in abolishing legal drain boards and transferring the authority over drainage to water resource districts.

During the 2025 legislative session, the Legislative Assembly enacted Senate Bill No. 2276. Among other statutes, this bill amended Section 61-16.1-15.1, which now requires the creation of a joint water resource board for any water project benefiting more than one county before levying an assessment for or beginning construction of the project. The bill requires a joint water resource board to have equal representation from each county comprising the joint board. The bill provides if a joint board cannot agree on the necessity of the project, the joint board must submit the dispute to the North Dakota Mediation Service, and if mediation is unsuccessful, a member of the joint board may file an appeal with DWR. The Agriculture Commissioner administers the North Dakota Mediation Service under Section 6-09.10-03. The bill authorizes a member of the joint board to appeal the decision of DWR to the district court. The bill provides if the board members of a water resource district fail to form a joint board when required by law, a board within the common river basin may commence an action in district court to determine the dispute.

### **Ground Water Resources**

Ground water underlies the land surface throughout the state. Ground water generally occurs in two major types of rock--unconsolidated deposits and bedrock. Unconsolidated deposits are loose beds of gravel, sand, silt, or clay of glacial origin. Bedrock consists primarily of shale and sandstone.

Aquifers of glacial origin generally are more productive to wells than aquifers found in the underlying bedrock. Bedrock aquifers underlie the entire state and tend to be more continuous and widespread than aquifers in the unconsolidated deposits. It is estimated 60 million acre-feet of water is stored in the major unconsolidated aquifers in the state. The amount of water available in the major bedrock aquifers is estimated to be approximately 435 million acre-feet.

### **Garrison Diversion Conservancy District**

#### **The Pick-Sloan Missouri Basin Program**

On December 22, 1944, the United States Congress authorized the Flood Control Act of 1944, later renamed the Pick-Sloan Missouri Basin Program. The primary purpose of the program was for flood control, navigation, irrigation, and hydropower, which would be facilitated by the construction of dams on the main stem of the Missouri River. These dams include Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point.

Under the plan, North Dakota originally was to receive its irrigation from water diverted from the Fort Peck Dam in eastern Montana. Originally known as the "Missouri-Souris Project," the project included 1.275 million acres of irrigation.

Between 1944 and 1965, soil surveys and studies were conducted to assess the feasibility of irrigating the 1.275 million acres originally planned for North Dakota. The studies indicated the soil in northwestern North Dakota was not suitable for irrigation according to federal irrigation standards. Drainage problems caused by the unusual high density of glacial subsoil were a primary factor. As a result, the United States Bureau of Reclamation revised the diversion plan proposing instead to take water from the Garrison Dam and Reservoir and irrigate other lands to the east. With the new name "Garrison Diversion," the Bureau of Reclamation 1957 feasibility study on the redesigned project recommended irrigation of 1.007 million acres and other water development in central and eastern North Dakota.

### **Garrison Diversion Unit**

Due to changes to the original plan and the language in the 1964 appropriations Act requiring specific reauthorization for all units of the Pick-Sloan Missouri Basin Program, the Bureau of Reclamation returned to Congress for reauthorization. During the process of reauthorization, supporters of the project identified the many benefits for North Dakota and the need to compensate the state for land inundated by the construction of the Garrison Dam and Reservoir. Opponents criticized the large cost of even the scaled-down project, the conflict with federal farm policies, and the relatively small amount of money to be repaid by water users.

On August 5, 1965, Congress addressed these concerns by enacting legislation for the Garrison Diversion Unit. The primary focus of the plan was to include in the initial stage municipal and industrial water, fish and wildlife development, recreation, and flood control along with irrigation of 250,000 acres. Between 1968 and 1984, construction and preparatory activities progressed on many features.

### **Garrison Diversion Unit Reformulation Act**

As a provision of the fiscal year 1986 appropriation, Congress stipulated that new construction contracts not be awarded, or additional land acquired, unless the project was reauthorized by March 31, 1986. The state and the Garrison Diversion Conservancy District subsequently elected to support reauthorization of the project. The Garrison Diversion Unit Reformulation Act of 1986 was signed into law May 12, 1986, to authorize the recommendations of the Garrison Diversion Unit Commission's final report. In conjunction with the new Act, a "statement of principles" was signed by all primary stakeholders in the previous project conflicts.

Following the 1986 Act, activities began on municipal, rural, and industrial water supply projects and mitigation of wildlife habitat. Construction continued on some of the water delivery features. The continuing evaluation of a smaller Lonetree Reservoir as a project feature and further analysis of the recommended Sykeston Canal deferred progress with construction of the principal water delivery facilities. In 1990, funding for the Garrison Diversion Project was not included in the President's submitted fiscal year 1991 budget.

In connection with the administration's decision to terminate Garrison Diversion funding in fiscal year 1991, the Secretary of the Interior established a task group to develop a policy on support for future funding of the authorized project. The task group's decision was to continue funding only those features of the reformulated project which are consistent with the contemporary water needs, national priorities, and the history of Garrison Diversion but not to fund features which would be used for mitigation. The recommendations also included continuation of the municipal, rural, and industrial water supply grant program; Indian municipal, rural, and industrial water supply programs; irrigation development on 17,580 acres to include two Indian reservations; continued operation of the Oakes Test Area research activities; recreation, fish, wildlife mitigation, and enhancement initiatives; and a minimum level of operation and maintenance on the already constructed main supply system facilities. Funding for these features would be considered by the administration within the context of national priorities.

### **Red River Valley Water Supply Project**

Communities in the Red River Valley have experienced unreliable supplies of water due to the fluctuations in the Red River water levels and increased population growth in the valley. Although the river is known to flood, it also has experienced drought conditions that jeopardize residents' access to

drinking water and industrial water. To ensure residents in the Red River Valley have access to a reliable water supply, the federal Dakota Water Resources Act of 2000 authorized the Red River Valley water supply project (RRVWSP).

The Dakota Water Resources Act required North Dakota and the Bureau of Reclamation within the United States Department of the Interior to prepare an Environmental Impact Statement (EIS) assessing alternative methods to accomplish the goals of RRVWSP. The Garrison Diversion Conservancy District was tasked with representing North Dakota in this effort and entered a memorandum of understanding with the Bureau of Reclamation. A draft EIS identifying eight alternatives for the project was released in 2005 and supplemented in 2007 after the comments on the draft statement were considered. The final EIS was released later in 2007 and identified a preferred alternative called the Garrison Diversion Unit for the project. The Garrison Diversion Unit was intended to transport water through the McClusky Canal and utilize a buried pipeline from a biota treatment facility to the Sheyenne River north of Lake Ashtabula. The lake would act as a regulating reservoir, and water would flow from the lake into the Red River. The final EIS also included responses to public comments received on the prior iterations of the document, a final biological assessment prepared in compliance with the federal Endangered Species Act, an analysis of forecasted depletions and sedimentation on the Missouri River main stem reservoir system, and a review of climate change literature.

Although Congress was briefed on the Garrison Diversion Unit, the federal government has not authorized construction of the project. As a result, in 2013 RRVWSP's local stakeholders began work to identify ways to implement the project without federal participation. The stakeholders conducted additional studies and determined the best option for the project would be to bring water from the Missouri River to the Sheyenne River via a buried pipeline running close to Highway 200. The new plan included an intake facility located on the Missouri River close to Washburn and kept Lake Ashtabula as a reservoir. Under the new plan, water is treated before it crosses the continental divide. Due to state legislation passed in 2015, the project was expanded to serve users along the pipeline route in central North Dakota. The Garrison Diversion Conservancy District continues to serve as the state representative on the project, and the Lake Agassiz Water Authority serves as the representative of the local water users to be served by the project.

The concept for the state and local project was completed in 2016, and the preliminary design report was completed in 2018. As the project has progressed, changes have been made to the design. For example, the original plan was intended to avoid a nexus with federal agencies and utilize horizontal collector wells above the ordinary high water mark of the Missouri River, but in 2020 the Garrison Diversion Conservancy District asked the Bureau of Reclamation to provide 145 cubic feet per second of water from the McClusky Canal, in addition to 20 cubic feet per second already authorized, as an alternate water supply for RRVWSP. The Garrison Diversion Conservancy District indicated the alternate water supply will result in savings for the state and local water users. The Bureau of Reclamation conducted the required EIS regarding the allocation of water, and a record of decision effectively authorizing the alternate water supply was signed in January 2021. Construction on the project's pipeline and the discharge structure six miles south of Cooperstown is ongoing. According to project sponsors, construction on the intake screen structure and tunnel is contingent on the receipt of funding from SWC.

## **DEPARTMENT OF WATER RESOURCES**

The State Water Commission was created in 1937 in response to the drought of the 1930s and was charged with developing irrigation in the state. From 1937 to 1981, the Legislative Assembly funded the commission on a biennium-to-biennium basis with approximately \$500,000 to \$2 million appropriated per biennium. This changed with the creation of the resources trust fund in 1981. When the resources trust fund was created, the proceeds of the fund were dedicated to financing the Southwest Pipeline Project (SWPP), which was the first state water project. Since then, the number and scope of water projects overseen and regulated by the commission increased dramatically. The commission now serves many functions, including allocating the state's waters, overseeing dam safety, managing sovereign lands, and approving and funding water projects throughout the state.

The Department of Water Resources, previously called the State Engineer's office, was created by House Bill No. 1353 (2021). The bill restructured the agency, required the Governor to appoint the Director of DWR, subject to the approval of SWC, and required the Director to hire a State Engineer.

The department has the authority to investigate, plan, construct, and develop water-related projects, and serves as a mechanism to financially support those efforts throughout the state. The department is comprised of seven divisions--Administration, Data and Atmospheric Resources, Planning and Education, Regulatory, State Engineer, Water Appropriation, and Water Development.

The department's mission is to responsibly manage the state's water needs and risks for the people's benefit. The department sustainably manages and develops the state's water resources for the health, safety, and prosperity of the state's people, businesses, agriculture, energy, industry, recreation, and natural resources.

### **WATER FUNDING Resources Trust Fund**

The resources trust fund was created pursuant to passage of Measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990, the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide the principal and income of the fund could be spent only upon legislative appropriations for constructing water-related projects, including rural water systems, and energy conservation programs. In November 1994, the voters of North Dakota approved a constitutional amendment, which is now Section 24 of Article X of the Constitution of North Dakota, to provide 20 percent of oil extraction taxes be allocated 50 percent to the common schools trust fund and 50 percent to the foundation aid stabilization fund. During the 2015 legislative session, the Legislative Assembly approved Senate Concurrent Resolution No. 4003. This resolution proposed an amendment to Section 24 of Article X of the Constitution of North Dakota. The question was placed on the 2016 general election ballot as Measure No. 2, which voters approved by a vote of 209,651 in favor to 116,148 opposed. As amended, this section provides 10 percent of oil extraction taxes must be deposited in the common schools trust fund and 10 percent must be deposited in the foundation aid stabilization fund. North Dakota Century Code Section 57-51.1-07 provides oil extraction tax revenues be distributed as follows:

- 20 percent to the resources trust fund;
- An additional 0.5 percent to the resources trust fund until \$128,740,000 has been allocated pursuant to the 0.5 percent allocation;
- 20 percent to the common schools trust fund and foundation aid stabilization fund as provided in Section 24 of Article X of the Constitution of North Dakota;
- 30 percent to the legacy fund as provided in Section 26 of Article X of the Constitution of North Dakota; and
- The remainder to the general fund.

The 2025 Legislative Assembly estimated the resources trust fund would receive \$383.5 million of revenue during the 2025-27 biennium, including \$354.5 million from the oil extraction tax allocation and \$29 million from repayments, reimbursements, investment earnings, and other miscellaneous income.

### **Water Projects Stabilization Fund**

In 2021, the Legislative Assembly created the water projects stabilization fund with a transfer of \$1 million from the resources trust fund. Senate Bill No. 2345 (2021) provided any oil extraction tax revenues deposited in the resources trust fund that exceed the amount included in the 2021 legislative forecast during the period beginning August 1, 2021, and ending February 28, 2023, must be transferred quarterly from the resources trust fund to the water projects stabilization fund. The water projects stabilization fund 2021-23 biennium revenue totaled \$153.4 million, of which \$30 million was appropriated in Senate Bill No. 2020 (2023) to DWR to repay loans issued by the Bank of North Dakota to the Western

Area Water Supply (WAWS) Authority and the remainder appropriated to water supply grants. Section 6 of Senate Bill No. 2020 continued the transfer of excess resources trust fund revenue to the water projects stabilization fund for the 2023-25 biennium. Section 5 of House Bill No. 1020 (2025) provided that \$42.5 million from the water projects stabilization fund could be used for water supply grants for the 2025-27 biennium.

### **Water Infrastructure Revolving Loan Fund**

In 1977, the Legislative Assembly created the community water facility loan fund to provide loans to supplement United States Department of Agriculture Rural Development financing for community water projects for the development, storage, treatment, purification, and distribution of water. The fund was established with a ceiling of \$10 million, which was subsequently increased to \$25 million by the 2013 Legislative Assembly, from Bank of North Dakota profits. The Bank was responsible for investigating and considering approval of loan applications, in cooperation with the United States Department of Agriculture Rural Development.

In 2013, the Legislative Assembly created the infrastructure revolving loan fund to begin in 2015 to provide loans for water supply, flood protection, and other water projects. Money in the fund came from 10 percent of the oil extraction revenue deposited in the resources trust fund. The State Water Commission approved projects and loans from the fund and the Bank of North Dakota managed and administered the loans.

The balances and outstanding loans from the community water facility loan fund and the infrastructure revolving loan fund were transferred to a newly created water infrastructure revolving loan fund by the 2021 Legislative Assembly. The State Water Commission approved projects and loans from the fund and the Bank of North Dakota managed and administered the loans. Section 5 of Senate Bill No. 2020 (2023) provided for the transfer of \$100 million of Bank profits to the water infrastructure revolving loan fund, as requested by the Director of DWR.

Under Section 7 of House Bill No. 1020 (2025), the State Treasurer is required to transfer \$40 million from the resources trust fund to the water infrastructure revolving loan fund at the Bank of North Dakota for providing loans for water projects during the 2025-27 biennium. Under Section 8 of the bill, DWR may request a line of credit from the Bank not to exceed \$100 million to be transferred to the water infrastructure revolving loan fund as requested by the Director of DWR to provide local cost-share loans for projects approved by SWC pursuant to Section 6-09-49.2 for the 2025-27 biennium.

### **Bonding**

Section 61-02-46 authorizes SWC to issue revenue bonds of up to \$2 million per project. The Legislative Assembly must authorize revenue bond authority beyond \$2 million per project. In 1991, the Legislative Assembly authorized full revenue bond authority for the Northwest Area Water Supply (NAWS) Project. In 1997, the Legislative Assembly authorized \$15 million of revenue bonds for SWPP. In 2001, the Legislative Assembly raised SWPP's bonding authority to \$25 million.

In 1999, SWC was authorized to issue up to \$84.8 million in appropriation bonds under the provisions of Senate Bill No. 2188. The Legislative Assembly's intent was to partially fund flood control projects at Grand Forks, Devils Lake, Wahpeton, and Grafton and to continue funding for SWPP. In March 2000, the commission issued bonds generating \$27.5 million, thus reducing available bonding authority to \$57.3 million. Recognizing the need for water development projects in addition to those identified in Senate Bill No. 2188, the 2003 Legislative Assembly allowed authority for the unissued \$57.3 million to expire but then authorized \$60 million of bonding authority for statewide water development projects. In June 2005, the commission issued bonds generating \$60 million.

House Bill No. 1020 (2013) provided funding for the purpose of paying off or defeasing all of SWC's bond issues during the 2013-15 biennium. Senate Bill No. 2020 (2015) directed SWC to refinance the bonds through a loan with the Bank of North Dakota. The commission borrowed \$45,840,222 to pay off

the last outstanding bonds. The loan payments will be funded for the 15-year term with revenues from the resources trust fund.

House Bill No. 1431 (2021) provided bonding authority to the public finance authority to fund the remaining \$435.5 million of the state's intended share of \$850 million for the Fargo diversion project.

### **Drinking Water State Revolving Loan Fund**

An additional source of funding for water supply development projects is the drinking water state revolving loan fund, established in Section 61-28.1-11. Under this program, funding is distributed in the form of a grant from EPA and administered by DEQ in conjunction with the Public Finance Authority (PFA), which provides bonding and financial administration. The fund provides below-market rate interest loans of 2 percent to public water systems for capital improvements aimed at increasing public health protection and compliance under the federal Safe Drinking Water Act. The repayment of previous loans and bonding is deposited in the fund. Loan amounts under the program have ranged from \$22,000 to \$98,000,000.

The Department of Water Resources' involvement with the fund is twofold. The Department of Environmental Quality and PFA must administer and disburse funds. The Department of Environmental Quality must establish assistance priorities and expend grant funds pursuant to the priority list for the drinking water revolving loan fund. The process of prioritizing new and modified projects is completed on an annual basis. Each year, DEQ provides an intended use plan, which contains a comprehensive project priority list and a fundable project list. The entities on the list must provide an update to remain on the list each year along with the new projects added to the list.

### **PREVIOUS WATER TOPICS OVERVIEW COMMITTEE STUDIES**

In the 2017-18 interim, the committee studied the Garrison Diversion Project with a focus on RRVWSP, the collaboration with SWC, the operation of SWC, statewide flood hazard risk management, industrial water usage, the Fargo flood control projects, the FM Area Diversion Project, the WAWS Authority's industrial water supply assets, the regulation of sediments and dredging operations from beds of reservoirs, the WAWS Authority's consolidation loan, the Souris River Basin flood control projects, SWPP, the NAWS Project, cloud seeding, and Lake Sakakawea and Lake Audubon.

In the 2019-20 interim, the committee studied RRVWSP, a basinwide joint water resource district, life cycle cost analysis and economic analyses of SWC, the Fargo flood control project, the FM Area Diversion Project, the Souris River Basin flood control project, the NAWS Project, a federal alternative funding for water projects, tribal interests in water-related projects, the WAWS Project, SWPP, and municipal and rural water supply projects.

In the 2021-22 interim, the committee studied the NAWS Project, RRVWSP, Missouri River water usage, the Fargo flood control projects, the FM Area Diversion Project, the Souris River Basin flood control project, the WAWS Authority, SWPP, water development on North Dakota trust lands, DEQ and the state drinking water program, and the Upper Sheyenne River Joint Water Resource Board.

In the 2023-24 interim, the committee studied Missouri River water usage, the North Dakota Rural Water Systems Association and municipal water systems, the administration of the Clean Water Act, which is administered by DEQ, the methods for managed aquifer recharge and recovery, the operation of water resource boards, aquatic nuisance species in the state, the FM Area Diversion Project, the Souris River Basin flood control projects, the NAWS Project, RRVWSP, the WAWS Authority, and SWPP.

The committee has studied a number of subjects continually throughout each interim. The studied subjects have included RRVWSP, the WAWS Authority, the Souris River Basin flood control projects, the Fargo flood control projects, and the NAWS Project. The following briefly reviews this committee's work relating to these subjects.

## RED RIVER VALLEY WATER SUPPLY PROJECT

During the 2017-18 interim, the committee reviewed the status of RRVWSP and was informed the necessary permits and approvals for the project were on track. The United States Department of the Interior issued a "finding of no significant impact" for the 20 cubic feet of water per second to flow through the McClusky Canal after conducting the department's final environmental assessment. Property acquisitions for the project were continuing with the anticipation of obtaining a water service contract and special use permit from the Bureau of Reclamation. Representatives of the Garrison Diversion Conservancy District informed the committee it planned to seek a \$150 million appropriation during the 2019 legislative session. After due consideration and evaluation of technical hydrologic, design aspects, and water permitting and environmental impacts, the state and the Bureau of Reclamation each identified the Garrison Diversion Unit import to the Sheyenne River alternative as the preferred alternative. However, the federal government did not approve the project. As a result, the project became a state and local project, led by the Garrison Diversion Conservancy District.

During the 2019-20 interim, the committee reviewed several conditions of the 66<sup>th</sup> Legislative Assembly before providing additional funds and initiating construction on Phase 1 of the project. Four state permits for RRVWSP were received, half the necessary easements were secured for the project corridor, and construction was anticipated to be completed by 2023. Additionally, the Garrison Diversion Conservancy District met all four conditions of the Legislative Assembly, and the Budget Section approved the certification from SWC and the State Engineer to begin the project. The commission had received a request for \$16.4 million for RRVWSP costs associated with the Missouri River intake, transmission pipeline, Sheyenne River discharge structure, property acquisition, and planning, and the remainder of the \$43 million available for the project. The committee anticipated RRVWSP sponsors would request \$50 million in the 2021-23 biennium for construction costs. The State of Missouri initiated litigation regarding the project on February 4, 2020, by claiming the Bureau of Reclamation's environmental review of the project was flawed. On August 25, 2021, the district court dismissed the lawsuit and on July 10, 2023, the order to dismiss was affirmed by the Eighth Circuit Court of Appeals.

During the 2021-22 interim, the Garrison Diversion Conservancy District proposed an accelerated timeline for construction of the project that would decrease project costs by \$20 million for each biennium. An alternative plan regarding the intake location for RRVWSP named the eastern North Dakota alternative water supply (ENDAWS) project was proposed. Under the alternative plan, RRVWSP would receive water out of the McClusky Canal, rather than directly from the Missouri River in Washburn. The committee was informed using the ENDAWS project alternative to the Washburn intake structure may save up to \$200 million in overall construction costs. The committee was informed a decision to move forward on portions of the project dependent on ENDAWS would have needed to be made within 2 years. The state had not set a maximum appropriation amount for the project with an anticipated life cycle of 100 years. Construction was progressing four miles south of Washburn on an intake wet well, cofferdam, and the screens and piping connecting the wet well to the Missouri River. The committee anticipated a funding request of \$255 million for the 2023-25 biennium. As of June 2022, the state had allocated \$86 million to RRVWSP and political subdivisions had provided \$26 million. Only 8.2 percent of the \$1.36 billion in necessary project funds had been secured. The committee also received information from landowners affected by RRVWSP. Landowners expressed a preference for easement negotiations as opposed to eminent domain proceedings. Additionally, landowners expressed concerns related to project ownership, the uncertain completion date, federal and international cooperation, and abandonment procedures at the end of the project's life cycle.

During the 2023-24 interim, the committee was informed Senate Bill No. 2020 (2023) provided an appropriation of \$180 million for RRVWSP and provided legislative intent for total state commitment of \$953 million. The Garrison Diversion Conservancy District explained that biennium funding for RRVWSP was \$240 million, with the addition of \$60 million in local shares for the 2023-25 biennium. The City of Grand Forks and the City of Fargo contribute 80 percent of the local share for RRVWSP. Rural and municipal water systems committing to join the project are required to pay 10 percent of the local share in development costs. The committee was informed 35 water systems have committed to the project.

The Garrison Diversion Conservancy District explained that Contract 1 and Contract 2, consisting of the Missouri River pumping station wet well and site development and the Missouri River intake screen structure and tunnel, are each complete. Other completed construction consists of the initial pipeline south of Carrington and the Sheyenne River outfall discharge structure and site development. The committee was informed Phase 1 of the project was under construction, specifically, three contracts for transmission pipeline east and west of Carrington. Once completed, the 72-inch steel transmission pipeline will extend a total of 125 miles from McClusky to Cooperstown.

The committee received information indicating designs were in progress for 11 miles of transmission pipeline for ENDAWS and the 41 miles of pipeline west of Carrington. The committee was informed additional designs were in progress for the McClusky Canal intake and biota water treatment plant, which were estimated to be completed in the 2025-27 biennium.

The Garrison Diversion Conservancy District indicated it anticipates full restoration of the easement corridors could take 3 to 10 years. The committee was informed the project's crop damage policy will extend until the landowner determines damages from the pipeline can no longer be proven.

### **WESTERN AREA WATER SUPPLY**

During the 2017-18 interim, the committee reviewed several reports on the status of the Industrial Commission's study of the feasibility and desirability of the sale or lease of the industrial water supply assets of the WAWS Authority. The study concluded few of the industrial water supply assets were owned wholly by the WAWS Authority, and the value of the assets depended heavily on long-term water supply contracts. The committee was informed it was unlikely any private entity would be willing to purchase the assets without a contract.

During the 2019-20 interim, the committee received information from the WAWS Authority regarding the status of the WAWS Project. The committee learned the sponsor planned to use \$22 million of the \$40 million to be received from the state during the biennium to expand supply, treatment, and transmission capabilities over the next 4 years.

During the 2021-22 interim, the committee was informed the total connections of the WAWS Project had increased by 193 percent since 2011, serving roughly 5,000 customers. This increase was consistent with population growth in northwest North Dakota. Some WAWS debt was restructured, which gave the authority more flexibility from an accounting standpoint.

During the 2023-24 interim, the committee was informed by WAWS that from 2011 to 2022, total connections increased by 193 percent. The committee was informed McKenzie and Williams Counties had significant population growth over the past 10 years, specifically, 83 percent growth in Williams County and 131 percent growth in McKenzie County. The Western Area Water Supply Authority had over \$170 million in total project costs relating to domestic expansion. The committee was informed WAWS was moved from the Industrial Commission to DWR during the 2023 legislative session. The authority now reports to DWR.

### **SOURIS RIVER BASIN FLOOD CONTROL**

During the 2017-18 interim, the committee received information regarding the status of flood protection in rural areas around Minot, including the rural structure acquisition, relocation, or ring dike program which helps rural landowners pay for flood protection efforts. The committee was informed Phases 1 through 3 of the Minot flood control project had been completed or were under construction, with a continued focus on acquiring properties for and designing Phases 4 and 5. The committee learned the available funding for the project was sufficient to advance Phase 4 to a 50 percent design level, but an additional \$8 million was needed to match federal funds for property acquisitions to proceed to Phase 5. The \$20 million in project savings was returned to SWC and was reallocated to property acquisitions and other parts of the project. The total project will require the acquisition of approximately 650 homes, businesses, and lots, and will result in removing 60 percent of the residents from the Federal Emergency Management Agency regulatory floodplain.

During the 2019-20 interim, construction on Phase 1 of the project continued while Phases 2 and 3 were nearing completion. The committee learned all 10 phases of the project could be completed in 15 years if sufficient funding is available for construction. Of the \$82.5 million appropriated for the project during the biennium, \$46 million would be used inside Minot, and the remaining \$36 million would be used outside Minot. The committee was informed that Minot may need to issue bonds to pay for the local cost-share for the project. In June 2020, the committee received information the funding request for the project for the biennium could be reduced to \$49.5 million in light of the SWC budget shortfall.

During the 2021-22 interim, the project received \$84.5 million throughout the 2021-23 biennium. House Bill No. 1431 (2021) appropriated \$74.5 million to the project and \$10 million to SWC. Of the total funds appropriated, \$71.35 million was allocated to the Souris River Joint Board (SRJB) for the construction and engineering throughout the Souris River Basin. The remaining \$13.15 million was allocated to the City of Minot for acquisition activities within Minot city limits. The first milestone of the project was nearing completion.

During the 2023-24 interim, the committee received information from representatives of the City of Minot and SRJB regarding the ongoing efforts to enhance flood protection in the Mouse River Basin. Testimony indicated during the 2023-25 biennium, SRJB received \$66.35 million for construction and engineering costs throughout the Mouse River Basin and the City of Minot received \$9.75 million for acquisition costs. The committee received information indicating the anticipated work plan had shifted from MI-4 Maple Diversion to MI-6 and MI-7 due to continued negotiations with BNSF Railway Company. The committee was informed Phase MI-6 involves constructing a downtown floodwall and levee system, while Phase MI-7 focuses on the Roosevelt Park levee and floodwall. The committee heard both phases are crucial to protecting Minot from floods, with Phase MI-6 expected to cost \$59 million and Phase MI-7 around \$41 million. The committee was informed the Maple Diversion is the most critical component of the Army Corps of Engineers contribution to the flood protection plan. The committee heard the Maple Diversion will form part of what is called "Milestone 1" for Minot and will remove approximately 60 percent of Minot Valley residents from the Federal Emergency Management Agency regulatory floodplain once completed. The estimated cost of this phase is \$61.45 million, with 65 percent covered by federal funds. The committee was informed the project is expected to start construction in 2026 and be completed by 2029. Milestone 1 will significantly reduce flood risk in Minot and provide a major step forward in floodplain management, lowering insurance costs and mitigating future flood damages. The committee was informed inflation continues to be a major concern for the project. The project's original budget, established in 2013, was \$1.028 billion, but inflation has driven the total cost up to \$1.083 billion, with an estimated \$674 million needed to complete the project. The legislative intent provided in Section 14 of Senate Bill No. 2020 (2023) requires \$76.1 million in state funding per biennium for 5 successive biennia, totaling \$380.5 million. However, only \$304.4 million of that amount has been formally appropriated, leaving future funding dependent on legislative action.

## **FARGO FLOOD CONTROL PROJECTS**

During the 2017-18 interim, the anticipated cost of the Fargo area flood control project was increased from \$1.8 billion to \$2.2 billion, and one-half of that sum was anticipated to come from federal and state funds. During the 2019 session, the Legislative Assembly appropriated \$65.5 million for the Fargo area flood control project and expressed the legislative intent to provide no more than \$750 million for the project in total. Of the \$750 million, \$371 million had been made available for the project in previous bienniums. Of the remaining \$379 million, \$66.5 million was to be provided in each of the bienniums through the 2027-29 biennium, and \$47 million was to be provided in the 2029-31 biennium.

During the 2019-20 interim, the committee learned the diversion authority was planning to request the Legislative Assembly commit to providing \$870 million in total for the project rather than the \$750 million the 2019 Legislative Assembly intended as the total amount of state funding to provide for the project. The committee received information the diversion authority anticipated receiving a total of \$900 million from the federal government for the project over several years, but the federal funds are not guaranteed.

During the 2021-22 interim, the committee was informed of material and market concerns due to the large quantity of materials needed for the project and the possible impacts on the market for those materials in the state. Project sponsors outlined these concerns to ensure local companies do not face material shortages as a result of the project. Project sponsors had acquired approximately 700 parcels for the project, at least 90 of which were acquired through eminent domain. Minnesota appropriated \$4 million to \$5 million, out of an anticipated total of \$17 million, for the project during the 2023 legislative session. The Minnesota Legislature plans to appropriate the remaining amounts for Minnesota's project components before the scheduled construction period of 2026-27. North Dakota's and Minnesota's federal delegation secured \$437 million for the project under the federal Infrastructure Investment and Jobs Act.

During the 2023-24 interim, the committee was informed the project, which employs a public-private partnership model, is expected to safeguard 260,000 residents and \$18 billion in property by providing protection from 100-year flood events, with the capability to handle a 500-year flood. The committee received an update on the project's four major components--the storm water diversion channel and associated infrastructure, the southern embankment and associated infrastructure, local flood protection and associated infrastructure, and mitigation features and associated infrastructure. The committee received information regarding the construction of the 30-mile storm water diversion channel, which began in August 2022 and remains on schedule for completion in 2027. The diversion outlet was expected to be completed by November 2024. The structure will feature 24,000 cubic yards of riprap and more than 450 boulders to facilitate fish passage and ensure the stability of the channel. The committee also received updates on the Maple River and Sheyenne River aqueducts, which were scheduled for completion by 2025. The committee received an update regarding the progress of the 22-mile southern embankment, which serves as a primary flood defense barrier for the Red River Valley. The committee was informed the diversion inlet structure was nearly complete, with 99 percent of construction finished, and only required final work on gate machinery and turf establishment. The structure was expected to be completed by early 2024 and features three 50-foot-wide gates to regulate water flow during flood events. The committee was informed of the near completion of the Wild Rice River structure, with 98 percent of the project finished as of June 2023. The remaining tasks, including adjustments to the operational machinery and landscaping, were expected to be completed in 2024. The Red River structure, which is the largest of the three control structures, was 59 percent complete and expected to be finished by 2026. The committee heard updates regarding the progress of local flood protection measures in Fargo, Moorhead, and the surrounding counties. Significant progress had been made in constructing levees, floodwalls, storm water lift stations, and road improvements, all of which are designed to provide localized flood protection. The committee heard 259 properties had been acquired in Fargo and Cass County, and 276 properties had been acquired in Moorhead and Clay County, to make room for essential flood protection infrastructures. Additionally, road improvement projects, including raising road grades to ensure vital transportation routes remain accessible during floods, are underway. The committee also received an update regarding the installation of storm water lift stations and modifications to storm structures, which is designed to ensure local storm water systems can handle heavy rainfall more efficiently. The committee was informed local protection efforts were expected to continue through 2025, with several key projects showing significant progress.

### **NORTHWEST AREA WATER SUPPLY PROJECT**

During the 2017-18 interim, the committee was updated on the NAWWS Project, which provides water to approximately 81,000 people in Burke, Ward, Renville, Bottineau, and McHenry Counties. In 2002, Manitoba filed a lawsuit to halt construction of the NAWWS Project due to environmental concerns. In 2005, a court ordered the Bureau of Reclamation to conduct additional environmental studies of the project, and in 2009, a final EIS and record of decision were issued by the bureau. However, the State of Missouri initiated a lawsuit claiming the bureau's conclusions and decisions were insufficient to fully analyze the environmental impacts of the project. The court ordered the bureau to conduct further studies, and a new decision was issued in 2015. In August 2017, the court ruled in favor of the bureau and North Dakota, and construction on the NAWWS Project was allowed to continue pending an appeal by Manitoba and Missouri.

During the 2019-20 interim, the committee received an update regarding the continued construction and awarded contracts for the project. The project is funded by the Municipal, Rural, and Industrial Water Supply Program, which is a federal grant program administered by SWC; a local cost-share from Minot; and state funds. The committee learned the statutorily created NAWS Advisory Committee had not been holding meetings, and the committee expressed concern regarding the lack of meetings.

During the 2021-22 interim, the committee was assigned the responsibility to receive a report from the NAWS Advisory Committee regarding recommendations for the transition of the long-term operation and management of the NAWS Project and was directed to consider, with input from SWC, whether an entity other than the state should own, manage, and operate the project.

At the conclusion of the study, the committee was informed the NAWS Project must continue to operate as a state-owned project and all existing contracts must be honored due to numerous water service, finance, and interim water supply contracts that have been in place for several decades. Based on the information provided during the interim, the committee determined the state should continue to own, manage, and operate the NAWS Project until the project's completion.

The total cost of the project was unknown as contracts for some phases of the project had not been bid. According to figures provided by SWC, the estimated cost of the contracts awarded through July 2021 was roughly \$171 million. Much of that amount was needed to complete the biota water treatment Plant near Max. The committee was informed although the federal government is responsible for the cost of the plant pursuant to the federal Dakota Water Resources Act, the only federal funding available for the project is through the Municipal, Rural, and Industrial Water Supply Program, which is limited to \$200 million.

Future contracts will be necessary to construct booster pump stations and water treatment plants for the project. Approximately \$91 million of the \$171 million for existing contracts will come from federal funds, and approximately \$22 million will come from Minot. State funds are expected to cover the remaining \$58 million. In February 2022, SWC approved \$750,000 in cost-share for an additional well in the Sindre Aquifer to maintain raw water capacity for the city of Minot and the NAWS Project. The new well will ensure NAWS can meet interim water demands until Lake Sakakawea water can be delivered to Minot. The intake system will be located at the Snake Creek Pumping Plant. Internal and external work is necessary to ensure the facility can operate at its required capacity. Internal modifications do not require permits for the Army Corps of Engineers; however, external modification will require a section 408 permit for the Corps. The project is slated to be completed by 2030, dependent on the receipt of adequate federal, state, and local funding.

During the 2023-24 interim, the committee received testimony from representatives of the NAWS Project regarding the progress and challenges of providing a reliable water supply to approximately 81,000 people in northwestern North Dakota. The committee received information regarding several key aspects of the project, including the status of major infrastructure improvements; funding arrangements; coordination between state, local, and federal partners; and the ongoing difficulty posed by procurement delays and permitting issues.

The committee received information regarding the contracts for the Snake Creek Pumping Plant intake modification. The committee was informed Contract 1 focuses on internal modifications within the plant, while Contract 2 covers external work, including the installation of pipelines and a permanent intake structure. The committee received information indicating Contract 1 had experienced significant delays. This contract, which includes procurement, demolition, and construction phases, was plagued by extensive supply chain disruptions, particularly in the delivery of electrical equipment. Originally, the project team expected equipment deliveries by March 2024, but critical components were delayed until March 2025. Additionally, the demolition contract, which involved removing Pump Unit No. 1 and constructing a bulkhead in the discharge structure at Lake Audubon, had faced delays due to extensive review processes with the Bureau of Reclamation. This resulted in a new completion target of July 2025 for the entirety of Contract 1.

Contract 2, which covers external modifications to the Snake Creek Pumping Plant, also was broken into two parts--Contract 2-1E, which involves the installation of a discharge pipeline; and Contract 1-1A, which focuses on building a permanent intake structure. Testimony contended the discharge pipeline is vital because it will transfer water from the Snake Creek Pumping Plant to the biota water treatment plant, located at Max. The discharge pipeline contract was awarded in June 2023, with a target completion date of fall 2024. However, testimony indicated design changes and delays related to permitting processes with the Army Corps of Engineers were likely to further delay the completion date. Contract 1-1A, which includes the construction of a permanent intake pipe and screen structure, was still under design. The committee was informed the timeline for this critical component will extend into 2027 because the construction is complicated by lakebed installation requirements and the need for environmental and structural permits. The committee was informed the biota water treatment plant (Phase 1) is another central aspect of the NAWS Project. Testimony indicated this facility is constructed to comply with the Boundary Waters Treaty Act and is therefore a federal responsibility under the Dakota Water Resources Act. This component suffered delays. To avoid further delays, the project team was pursuing a modified startup using ground water from the Sindre Aquifer, allowing the plant to begin operations before lake water becomes available. This plan was intended to ensure the biota water treatment plant would be fully functional by the time lake water reaches Minot in mid-2025.

The committee was informed the South Prairie Reservoir and hydraulic control structure are other significant projects within the NAWS system. Testimony indicated the hydraulic control structure, located eight miles north of Max, is designed to protect the pipeline from pressure spikes, ensuring the safety and stability of water flow through the system. The South Prairie Reservoir, which has a capacity of 10.5 million gallons, will serve as a critical storage point within the NAWS infrastructure. The reservoir and control structure have been substantially completed.

The committee was informed the timeline for delivering lake water to Minot remained a major focus of the NAWS Project. The original plan was to have lake water delivered by mid-2025, but this timeline is now closely tied to the completion of the Snake Creek Pumping Plant modifications and the associated discharge pipeline. The committee was informed the temporary intake at Snake Creek, which will serve as an interim solution until the permanent intake is completed, was expected to be operational by July 2025. This would allow water to be delivered from Lake Audubon to Minot through the newly constructed pipelines. However, the permanent intake structure, necessary for long-term water supply stability, will not be ready until 2026 or 2027, meaning the temporary system will need to function for 1 to 2 years until the full infrastructure is completed. In addition to information relating to the large-scale infrastructure developments, the committee received information regarding the financial arrangements for the NAWS Project. The committee was informed the City of Minot is providing 35 percent of the local cost-share, except for the biota water treatment plant, which is fully funded by federal sources. The remainder of the local share is funded through a 1 percent sales tax collected by the City of Minot. Testimony indicated SWC and the City of Minot have updated and finalized the financing agreement to ensure adequate funds are available to cover the cost of ongoing construction. The committee was informed the NAWS Project also extends water services to several additional districts. The committee received information indicating water service was extended to Bottineau in October 2022, to the Upper Souris Water District in February 2023, and to Westhope in October 2023. Testimony contended these expansions highlight the broader regional benefits of the NAWS Project as more communities gain access to a reliable water supply.

### **SOUTHWEST PIPELINE PROJECT**

During the 2023-24 interim, the committee received information regarding the status of SWPP, which is owned by the state and operated and maintained by the Southwest Water Authority. The Southwest Pipeline Project serves roughly 58,000 customers across 13 counties covering more than 15,000 square miles of southwest North Dakota. The Southwest Water Authority is funding projects to provide additional capacity for 120 subsequent customers. The committee was informed plans for expansion include transmission facilities and strategic hydraulic improvements to reach customers outside the project's service zone. Additional projects for the 2023-25 biennium include the Southwest Water Treatment Plant, rural expansion for Hebron and Burt service areas, West Zone transmission facility and hydraulic

improvements, and attempts to finalize the supplementary intake pump station. The committee was informed there were 762 potential customers on a waiting list for connection. The committee received information regarding capital repayment, with projected returns totaling \$6.5 million in 2024. The committee also received information regarding proposed projects for the 2025-27 biennium. The anticipated funding needs for SWPP are \$148.6 million.

### **NOTABLE WATER-RELATED LEGISLATION ENACTED IN 2025**

House Bill No. 1020 increases the line of credit amount DWR may request from the Bank of North Dakota from \$100 million to \$260 million. The bill requires DWR to request a deficiency appropriation if the money available at the end of each biennium is not sufficient to repay the line of credit. The bill authorizes DWR to use \$210 million of the \$260 million line of credit for water projects. The bill also creates the biota water treatment plant operating fund and directs all federal funds received for the operation of the NAWS' biota water treatment plant to be deposited in the fund.

House Bill No. 1026 replaces the Insurance Commissioner with the administrator of the state bonding fund as the agent receiving notification of the election or appointment of members or employees of an irrigation district or board of a water resource district required to furnish a bond.

House Bill No. 1040 removes the requirement for an applicant to apply for federal water cost-share assistance before becoming eligible for the state drought disaster livestock water assistance program. The bill was declared to be an emergency measure and became effective March 14, 2025.

House Bill No. 1041 removes the qualifying criteria under which dams, dikes, or other devices are subject to removal under Section 61-16.1-53.

House Bill No. 1042 eliminates the application in the forfeiture of a conditional water permit due to the lack of a renewal request process and replaces it with a permit.

House Bill No. 1043 removes the requirement that the Governor serve as Chairman of the SWC and the Vice Chairman be selected by the commission.

House Bill No. 1079 changes the name of the "Division of Homeland Security" to the "Division of Homeland Security and Emergency Management" for purposes of coordinating floodplain management.

House Bill No. 1162 expands representation on the Lake Agassiz Water Authority's board of directors by adding an additional member from a city in southeast North Dakota with a population of more than 40,000 residents.

House Bill No. 1201 prohibits applications for a conditional water permit for irrigation from exceeding 720 acre-feet of water from a single surface or ground water source.

House Bill No. 1218 places a moratorium on SWC and DWR from conducting an economic analysis for an assessment drain project between August 1, 2025, and July 31, 2027. The bill clarifies after the expiration of the moratorium, SWC may not require an economic analysis for an assessment drain project expected to cost less than \$1 million.

House Bill No. 1280 prohibits an affected landowner from voting on an assessment drain project if the landowner has failed to pay the required assessment levied by the district.

Senate Bill No. 2027 creates a central floodplain management repository containing local floodplain management ordinances, local floodplain management agreements, and all annual certifications submitted to DWR. The bill requires DWR to maintain the repository and update the repository by May 31 of each calendar year. The bill defines "floodplain management" and "floodplain management ordinance" within the chapter governing floodplain management across the state.

Senate Bill No. 2044 authorizes a person subject to a watercourse determination made by a political subdivision or the state to request DWR to review the determination. The bill allows the person to further appeal the decision issued by DWR.

Senate Bill No. 2059 replaces the requirement for DWR to serve a hearing notice for a proposed water appropriation pursuant to the North Dakota Rules of Civil Procedure with a requirement for DWR to send the notice through certified mail. The bill provides if DWR dismisses a complaint for a noncomplying dam,

dike, drain, or other device, the department must notify all parties of record to the appeal. The bill provides that a person aggrieved by a decision issued by DWR relating to a noncomplying dam, dike, drain, or other device may appeal the decision to the district court.

Senate Bill No. 2060 requires a state agency or state entity to inform DWR if the agency or entity constructs state property or structures in a special flood hazard area as determined by the Federal Emergency Management Agency.

Senate Bill No. 2065 removes the requirement of DWR to prepare a report when considering whether to approve a petition to create an irrigation district, but requires the department to issue a determination on the practicality and feasibility of the irrigation plan.

Senate Bill No. 2141 authorizes DWR to approve a change in use of a previously appropriated water right if the change does not adversely affect the water rights of another when the use has superior priority to other rights or the use is in a reservoir where water may not be withdrawn and the reservoir is used for livestock, fish, wildlife, or recreation.

Senate Bill No. 2153 updates the definition of "project" as used by SWC to include a "water conveyance project."

Senate Bill No. 2299 establishes the procedures that must be provided in each water district's bylaws for participating members to be elected to the board of a water district. At least 45 days before the election, or by the mail election deadline established in the district's bylaws, a participating member seeking election to the board must file a petition signed by at least 10 percent of participating members with the secretary of the board or nominating committee. The bill requires participating members to have access to all stages of the election process and authorizes the members of a board of a water district to fill a vacancy on the board. The bill also clarifies the biennial audits of water districts conducted by the State Auditor apply to water resource districts created under Chapter 61-16 and operating under Chapter 61-16.1, and allows the State Auditor to conduct audits of water districts subject to Chapter 61-35 upon a petition of at least 10 percent or 300 participating members of the district, whichever is less.

Senate Bill No. 2308 authorizes the Director of DWR to oversee and implement rules, in consultation with the Water Well Contractors Advisory Board, to certify and regulate water well contractors, water well pump and pitless unit installers, monitoring well contractors, and geothermal system drillers. The board is effective through December 1, 2026. The bill requires a water well installer to submit project information to DWR within 30 days of installing a well. The bill eliminates the Devils Lake Outlet Committee and transfers the responsibilities of overseeing the operations of the water outlets on Devils Lake to the Director of DWR. The bill eliminates the North Dakota Atmospheric Resource Board and transfers the oversight authority of weather modification in the state from the board to DWR.