



# North Dakota Legislative Council

Prepared for the Water Topics Overview Committee

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## **STORMWATER PROJECTS STUDY AND WASTEWATER PROJECTS FUND STUDY - BACKGROUND MEMORANDUM**

Section 19 of House Bill No. 1020 (2025) ([Appendix A](#)) provides for a study during the 2025-26 interim regarding funding for storm water projects in the state, including current funding sources, related statutes, and the policies of the State Water Commission. The study must include information regarding recently completed storm water projects and funding needs for future storm water projects in the state.

Section 3 of House Bill No. 1577 (2025) ([Appendix B](#)) provides for a study during the 2025-26 interim regarding the feasibility and desirability of establishing a wastewater projects fund to provide for grants for upgrading, constructing, or replacing wastewater infrastructure. The study must include input from cities, counties, townships, and water resource districts.

The Legislative Management assigned the responsibility for these studies to the interim Water Topics Overview Committee.

### **STATUTORY PROVISIONS**

#### **Water Distribution and Wastewater Systems Operators**

North Dakota Century Code Chapter 23.1-07 provides for the regulation and administration of water distribution and wastewater systems operators. The Department of Environmental Quality (DEQ) is required to classify all water treatment plants, water distribution systems, wastewater treatment plants, and wastewater collection systems. The department is required to certify wastewater system operators and document the classification of treatment plant or system the operator is qualified to supervise. The department may charge fees for wastewater system operator initial certifications and annual renewal certification which must be deposited in the operators' certification fund for use by the department in enforcing Chapter 23.1-07 and for conducting operator training programs.

#### **Onsite Wastewater Treatment Systems**

Senate Bill No. 2267 (2025) created Chapter 23.1-07.1 related to onsite wastewater treatment systems and the authority of DEQ to license individuals engaged in the business of installing an onsite wastewater treatment system. The department may charge fees for issuing onsite wastewater system installer licenses which must be deposited in the DEQ operating fund.

Section 4 of the bill repealed Sections 23-35-02.2 and 23-35-02.3, related to public health units adopting an onsite wastewater recycling treatment guide and the onsite wastewater recycling technical committee.

Section 5 of the bill included an appropriation of \$99,500 of one-time funding from the general fund for the regulation of onsite wastewater treatment systems for the 2025-27 biennium. It is anticipated the fees collected pursuant to Chapter 23.1-07.1 will be sufficient to pay for expenditures related to onsite wastewater treatment system certifications after the 2025-27 biennium.

#### **Wastewater Infrastructure Grant Program**

Section 1 of House Bill No. 1577 (2025) enacted Section 23.1-07-09 to establish a wastewater infrastructure grant program and require DEQ to award grants to cities, counties, townships, water resource districts, recreation service districts, and water districts operating wastewater systems in the state to upgrade, replace, or construct infrastructure for a wastewater collection system, wastewater disposal system, or wastewater treatment plant.

The department is required to prioritize eligible entities that have experienced a reduction in previously approved federal funds or federal assistance related to wastewater infrastructure projects and entities that are prepared to begin the wastewater infrastructure project upon receipt of the grants. Eligible projects may not include operations and maintenance costs. The department may not award a grant in excess of 60 percent of the total cost of a project. Communities are limited to grant funding for one project per biennium.

Section 4 of House Bill No. 1577 included an appropriation of \$9.7 million of one-time funding through a Bank of North Dakota line of credit to DEQ for providing wastewater infrastructure grants during the 2025-27 biennium. The department is required to provide grants of \$7.8 million and \$1.9 million to entities with eligible wastewater infrastructure projects.

The department is required to request a deficiency appropriation from the 2027 Legislative Assembly to repay the line of credit. If an entity awarded funding under this section receives federal funding for the same wastewater infrastructure project, the entity is required to remit the federal funding to DEQ for the repayment of the line of credit.

### **Municipality Special Assessments**

Section 40-22-01 provides any municipality may defray community improvements or expenses through special assessments, including the construction of a water supply system or sewerage system, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, water mains, sanitary and storm sewer mains and outlets, facilities for the treatment and disposal of sewage and other municipal, industrial, and domestic wastes, and all other appurtenances, contrivances, and structures used or useful for a complete water supply and sewerage system.

### **Municipality Sewer or Water Improvements**

Section 40-22-16 provides a municipality constructing a sewer or water improvement or a parking lot under the special assessment method may require a portion of the cost of the improvement be raised by service charges for the use of the improvement. The governing body of the municipality is required to provide for the establishment, imposition, and collection of service charges for the services furnished by the improvement.

### **Water Resource Districts Sanitary and Storm Sewer Systems**

Section 61-16.1-09 provides each water resource board has the power and authority to plan, locate, relocate, construct, reconstruct, modify, extend, improve, operate, maintain, and repair sanitary and storm sewer systems, including sewage and water treatment plants, and regulate the quantity of sewage discharged from municipal lagoons. The section provides water resource districts may contract with the federal government, state agencies, political subdivisions, private or public corporations or limited liability companies, and any municipality or individual for work related to sanitary and storm sewer systems.

### **Water Districts Water Supply System and Sewerage System**

Section 61-35-48 provides a water district may defray the expense of special assessments, including the construction, improvement, extension, or replacement of all or a part of a water supply system or a sewerage system, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, water mains, sanitary and storm sewer mains and outlets, facilities for the treatment and disposal of sewage and other district, industrial, and domestic wastes, and all other structures used for a complete water supply and sewerage system.

## **FUNDING SOURCES**

### **Resources Trust Fund**

#### **Statutory Authority and History**

The resources trust fund was created pursuant to the passage of Initiated Measure No. 6 in the November 1980 general election. Section 22 of Article X of the North Dakota Constitution establishes the resources trust fund and provides the principal of the fund may be expended pursuant to legislative appropriations for constructing water-related projects, including rural water systems, and for funding energy conservation programs.

The resources trust fund is established in statute in Subsection 1 of Section 57-51.1-07, which provides 20 percent of oil extraction tax revenues be deposited in the resources trust fund. Money in the fund is available pursuant to legislative appropriations to:

1. The State Water Commission (SWC) for planning for and construction of water-related projects, including rural water systems.
2. The Industrial Commission for the funding of programs for development of renewable energy sources, studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel, studies for development of waste products utilization, and for grants and loans related to these purposes.
3. The Department of Commerce for the funding of programs for development of energy conservation and for grants and loans relating to energy conservation.

Subsection 2 of Section 57-51.1-07 provides an additional 0.5 percent of oil extraction tax revenues be allocated to the resources trust fund beginning in the 2019-21 biennium until a total of \$128,740,000 has been collected. Revenue deposited in the resources trust fund pursuant to this section during the 2019-21 biennium through the 2023-25 biennium totaled approximately \$31.1 million.

The remaining oil extraction tax revenues are deposited in the common schools trust fund and foundation aid stabilization fund (20 percent), legacy fund (30 percent), and the remaining amount collected to various state funds, including the general fund.

Section 57-51.1-07.1 provides a political subdivision or rural water system seeking loans, grants, or other financial assistance by legislative appropriation from the resources trust fund for a water-related project or study must submit the proposed water-related project or study to the SWC for review.

The State Water Commission may require the political subdivision or rural water system to supply information as it considers necessary to review the request. After consideration and review of the proposed water-related project or study, the SWC may conduct or require the project sponsor to conduct a preliminary study for the proposed project or study.

Subsection 2 of Section 57-51.1-07.1 provides every legislative bill appropriating money from the resources trust fund must be accompanied by a SWC report, which must include:

1. A summary of the engineering feasibility study of the proposed water project.
2. Statements concerning the proposed water project as it relates to the comprehensive state water plan of the SWC.
3. The need for the proposed water project, including any alternative projects which would satisfy such need.
4. The availability of other sources of funding or financial assistance for such water project.
5. A recommendation as to whether or not the proposed water project should receive financial assistance through legislative appropriation from the resources trust fund.
6. Other items as deemed necessary or appropriate by the SWC.

### **Funding**

As of the end of the 2025 legislative session, the estimated revenue available in the resources trust fund, including investment earnings, is approximately \$880.2 million for the 2025-27 biennium. Estimated expenditures and transfers from the fund total approximately \$878.4 million, resulting in an estimated fund balance of approximately \$1.8 million at the end of the 2025-27 biennium. An analysis of the resources trust fund for the 2023-25 and 2025-27 bienniums is attached as [Appendix C](#).

## **Infrastructure Revolving Loan Fund**

### **Statutory Authority and History**

House Bill No. 1443 (2015), created the infrastructure revolving loan fund, codified as Section 6-09-49, which requires the Bank of North Dakota to provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz Water Authority for essential infrastructure projects. The maximum term of a loan under the program is the lesser of 30 years or the useful life of the project. The interest rate on the loan may not exceed 2 percent. The maximum outstanding loan amount for infrastructure projects under the infrastructure revolving loan fund is \$20 million.

Subsection 2 of Section 6-09-49 provides an essential infrastructure project includes capital construction projects to construct new infrastructure or replace existing infrastructure but does not include routine maintenance and repair projects. The following are allowable uses of loan funding:

1. The Red River Valley water supply project;
2. Water treatment plants;
3. Wastewater treatment plants;
4. Sewer lines and waterlines, including lift stations and pumping systems;
5. Storm water infrastructure, including curb and gutter construction;
6. Water storage systems, including dams, water tanks, and water towers;
7. Road and bridge infrastructure, including paved and unpaved roads and bridges;
8. Airport infrastructure;

9. Electricity transmission infrastructure;
10. Natural gas transmission infrastructure;
11. Communications infrastructure;
12. Emergency services facilities, excluding hospitals;
13. Critical political subdivision buildings and infrastructure; and
14. Infrastructure required to service recreation and community facilities, not including the construction of a building or recreational amenity.

Section 6-09-49 provides the Bank of North Dakota a continuing appropriation for the infrastructure revolving loan fund.

### **Funding**

The 2025 Legislative Assembly did not provide new funding for the infrastructure revolving loan fund for the 2025-27 biennium. The Bank of North Dakota estimates approximately \$32 million will be available for new loans during the 2025-27 biennium based on scheduled repayments from outstanding loans. There were 120 outstanding loans totaling \$199.9 million from the infrastructure revolving loan fund at the end of the 2023-25 biennium.

## **Legacy Infrastructure Loan Fund**

### **Statutory Authority and History**

House Bill No. 1425 (2021) created Section 6-09-49.1 to establish the legacy infrastructure loan fund and requires the Bank of North Dakota to provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz Water Authority for new infrastructure projects or to replace infrastructure. The maximum term of a loan under the program is the lesser of 30 years or the useful life of the project. The interest rate on the loan may not exceed 2 percent. The maximum outstanding loan amount for infrastructure projects under the legacy infrastructure loan fund is \$40 million.

Subsection 7 of Section 6-09-49.1 provides an infrastructure project includes capital construction projects to construct new infrastructure or replace existing infrastructure and provides the fixed installations necessary for the function of a political subdivision, but does not include routine maintenance and repair projects. The following are allowable uses of loan funding:

1. Water treatment plants;
2. Wastewater treatment plants;
3. Sewer lines and waterlines, including lift stations and pumping stations;
4. Water storage systems, including dams, water tanks, and water towers;
5. Storm water infrastructure, including curb and gutter construction;
6. Road and bridge infrastructure, including paved and unpaved roads and bridges;
7. Airport infrastructure;
8. Electricity transmission infrastructure;
9. Natural gas transmission infrastructure;
10. Communications infrastructure;
11. Emergency services facilities, excluding hospitals;
12. Essential political subdivision building and infrastructure; and
13. The Red River Valley water supply project.

The State Water commission is required to review and approve eligible projects to construct new water-related infrastructure or to replace existing water-related infrastructure which provide the fixed installations necessary for the function of a political subdivision. Capital construction projects include those related to flood control, conveyance projects, rural water supply, water supply, and general water management.

Section 6-09-49.1 provides the Bank of North Dakota a continuing appropriation for the legacy infrastructure loan fund. The Bank is required to transfer all payments of principal and interest paid on loans made from the legacy infrastructure loan fund to the legacy fund.

## Funding

The 2025 Legislative Assembly did not provide new funding for the legacy infrastructure loan fund for the 2025-27 biennium. The Bank of North Dakota estimates approximately \$12 million will be available for new loans during the 2025-27 biennium based on scheduled repayments from outstanding loans. There were 23 outstanding loans totaling \$89.3 million from the legacy infrastructure loan fund at the end of the 2023-25 biennium.

## Water Infrastructure Revolving Loan Fund

### Statutory Authority and History

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 maximum balance 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.

House Bill No. 1431 (2021) and Senate Bill No. 2014 (2021) created Section 6-09-49.2 establishing the water infrastructure revolving loan fund and requiring the Bank of North Dakota to provide loans for water supply, flood protection, or other water development and water management projects. The balances and outstanding loans from the community water facility loan fund and the infrastructure revolving loan fund were transferred to the water infrastructure revolving loan fund.

Subsection 2 of Section 6-09-49.2 provides the SWC is required to consider the following when evaluating eligible projects:

1. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why the project is in the public interest, and the overall economic impact of the project.
2. The estimated cost of the project, the amount of loan funding requested, and other proposed sources of funding.
3. The extent to which completion of the project will provide a benefit to the state or regions within the state.

Projects not eligible for the drinking water treatment revolving loan fund under Section 61-28.1-11 and the water pollution control revolving loan fund under Section 61-28.2-01 must be given priority for loans from the water infrastructure revolving loan fund. Section 6-09-49.2 provides the Bank of North Dakota a continuing appropriation for the water infrastructure revolving loan fund.

### Funding

House Bill No. 1024 (2025) provided a \$10 million deficiency appropriation from the resources trust fund for a line of credit repayment for the water infrastructure revolving loan fund.

Section 7 of House Bill No. 1020 (2025) provided for a \$40 million transfer from the resources trust fund to the water infrastructure revolving loan fund for providing loans for water projects, as requested by the Director of the Department of Water Resources (DWR), for the 2025-27 biennium.

Section 8 of House Bill No. 1020 authorized DWR to request a \$100 million Bank of North Dakota line of credit be transferred to the water infrastructure revolving loan fund to provide local cost-share loans for projects approved by the SWC for the 2025-27 biennium. The department is required to request a deficiency appropriation from the 2027 Legislative Assembly to repay the line of credit.

The Bank of North Dakota estimates approximately \$151.9 million is available from the fund for the 2025-27 biennium. There were 66 outstanding loans totaling \$71 million from the water infrastructure revolving loan fund at the end of the 2023-25 biennium. After considering previously approved projects, approximately \$1.2 million is available for new loans for the 2025-27 biennium.

### **Clean Water State Revolving Fund**

The State Department of Health began operation of the clean water state revolving fund in 1990 after the fund was authorized by Congress under the 1987 amendments to the federal Clean Water Act. Administration of the fund was transferred to DEQ during the 2017-19 biennium.

Section 61-28.2-01 establishes a water pollution control revolving loan fund, also known as the clean water state revolving fund, to be administered by DEQ to provide federal funds and state matching funds to political subdivisions for the planning, design, construction, and rehabilitation of wastewater treatment facilities, public water supply systems, and other lawful activities connected to federal wastewater construction grant programs.

The clean water state revolving fund and loan program are managed by DEQ and the North Dakota Public Finance Authority. Cities, counties, townships, water resource districts, and recreation service districts are eligible for centralized wastewater treatment, energy conservation, water conservation, nontreatment stormwater, and nontreatment landfill projects. Operation and maintenance costs are not eligible expenses for a loan under the program.

The department is required to administer and disburse funds in accordance with the federal Clean Water and Safe Drinking Water Acts. Funding is provided from the United States Environmental Protection Agency (EPA) to DEQ through the federal capitalization grant for eligible projects under the program, which includes a 20 percent state matching requirement. The Public Finance Authority issues bonds to satisfy state matching requirements, which are repaid from program participants loan repayments. Loans may be issued for up to 30 years at a rate of 2 percent.

The Public Finance Authority estimates approximately \$140 million to \$170 million is available from the fund for the 2025-27 biennium, dependent on federal capitalization funding available from the EPA and how many loans are provided through the drinking water state revolving fund. There were 196 outstanding loans totaling \$586.3 million from the clean water state revolving fund at the end of the 2023-25 biennium.

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

The State Department of Health began operation of the drinking water treatment revolving loan fund in 1998 after the fund was authorized by Congress under the 1996 amendments to the federal Safe Drinking Water Act. The overall purpose of the fund is to assist public water and wastewater systems in financing the costs of infrastructure needed to achieve and maintain compliance with the Safe Drinking Water Act and to protect public health. Federal funding is provided for eligible projects under the program, which includes a 20 percent state matching requirement. Administration of the fund was transferred to DEQ during the 2017-19 biennium.

Section 61-28.1-11 establishes a drinking water treatment revolving loan fund, also known as the drinking water state revolving fund, to be administered by DEQ to coordinate funding for public water systems in the state in conjunction with the federal Safe Drinking Water Act.

The drinking water state revolving fund and loan program are managed by DEQ and the Public Finance Authority.

Grants from the EPA, allotted to the state for the capitalization of the drinking water treatment revolving loan fund, and required state matching funds must be deposited in the drinking water treatment revolving loan fund. The principal of the grants must be available in perpetuity for providing financial assistance as allowed under the federal Safe Drinking Water Act. Federal funding is provided from the EPA to DEQ through the federal capitalization grant. The Public Finance Authority issues bonds to satisfy state matching requirements, which are repaid from program participants loan repayments. Loans may be issued for up to 30 years at a rate of 2 percent.

The Department of Environmental Quality is required to establish assistance priorities for funding in the drinking water state revolving fund and may expend funding after consulting with DWR.

Section 61-28.1-12 allows DEQ to combine the financial administration of the drinking water treatment revolving loan fund and the financial administration of the water pollution control revolving loan fund established under Chapter 61-28.2.

The governor, or the governor's designee, may transfer grant funds from the drinking water treatment revolving loan fund to the water pollution control revolving loan fund established under Chapter 61-28.2 and from the water pollution control revolving loan fund to the drinking water treatment revolving loan fund, as authorized by the Safe Drinking Water Act.

The Public Finance Authority estimates approximately \$140 million to \$170 million is available from the fund for the 2025-27 biennium, dependent on federal capitalization funding available from the EPA and how many loans are provided through the clean water state revolving fund. There were 256 outstanding loans totaling \$405.3 million from the drinking water state revolving fund at the end of the 2023-25 biennium.

## **Wastewater Operators Certification Fund**

### **Statutory Authority and History**

Section 23.1-07-05 establishes a wastewater operators certification fund to be administered by DEQ for the collection of fees charged for costs associated with certifying wastewater system operators and for providing operator training programs. Any surplus at the end of each fiscal year must be retained by DEQ for future expenditures.

### **Funding**

Fee revenue collected during the 2023-25 biennium totaled \$117,849 and the balance in the fund was \$113,917 at the end of the 2023-25 biennium.

## **Water Projects Stabilization Fund**

### **Statutory Authority and History**

Section 61-01-26.3 was created by Special Session Senate Bill No. 2345 (2021) to establish the water projects stabilization fund to be used for defraying planning and construction expenses of water-related projects. The bill provided for a \$1 million transfer from the resources trust fund to the water projects stabilization fund during the 2021-23 biennium. The bill also provided that 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, be transferred at least quarterly by the Office of Management and Budget from the resources trust fund to the water projects stabilization fund.

### **Funding**

Transfers from the resources trust fund to the water projects stabilization fund totaled \$151.8 million during the 2021-23 biennium.

Senate Bill No. 2020 (2023) provided an appropriation of \$30 million of one-time funding from the water projects stabilization fund for the repayment of loans issued by the Bank of North Dakota to the Western Area Water Supply Authority for the 2023-25 biennium. The bill also provided for the transfer of any oil extraction tax revenues deposited in the resources trust fund that exceed the amount included in the March 2023 legislative revenue forecast from July 1, 2023, through June 30, 2025, from the resources trust fund to the water projects stabilization fund, on a quarterly basis. Transfers from the resources trust fund to the water projects stabilization fund totaled \$25.7 million during the 2023-25 biennium.

House Bill No. 1020 (2025) provided an appropriation of \$42.5 million from the water projects stabilization fund to DWR for water supply grants during the 2025-27 biennium.

The balance in the fund was \$148,326,392 at the end of the 2023-25 biennium. The department has allocated this funding for the Red River Valley water supply project and the Western Area Water Supply Project through prior biennium appropriation authority.

## **Municipal Infrastructure Fund**

House Bill No. 1066 (2019) created Section 57-51.1-07.7 to establish the municipal infrastructure fund as part of "Operation Prairie Dog." Section 57-51.1-07.5, as amended in Senate Bill No. 2012 (2025) provides up to \$80 million of the state share of oil and gas tax revenue collections may be deposited in the municipal infrastructure fund during the 2025-27 biennium.

Section 57-51.1-07.7 provides that the first \$40 million deposited in the fund be appropriated to the State Treasurer on a continuing basis for providing grants to cities in non-oil-producing counties, excluding hub cities, for essential infrastructure projects, which are defined as capital construction projects to construct new infrastructure or replace existing infrastructure that provide the fixed installations necessary for the function of a city. Capital construction projects exclude debt repayments and routine maintenance and repair projects but include:

1. Water treatment plants;
2. Wastewater treatment plants;
3. Sewer lines and water lines, including lift stations and pumping systems;
4. Water storage systems, including dams, water tanks, and water towers;
5. Storm water infrastructure, including curb and gutter construction;
6. Road and bridge infrastructure, including paved and unpaved roads and bridges;
7. Airport infrastructure;
8. Electricity transmission infrastructure;

9. Natural gas transmission infrastructure; and
10. Communications infrastructure, excluding fiber optic infrastructure.

The State Treasurer is required to distribute the funding as follows:

1. \$2.5 million to each city with a population of at least 5,000 individuals
2. \$500,000 to each city with a population of at least 2,000 individuals but fewer than 5,000 individuals
3. \$125,000 to each city with a population of at least 1,000 individuals but fewer than 2,000 individuals.

If the money in the fund is less than the amount needed for the grants under Section 57-51.1-07.7, the State Treasurer is required to distribute the grants on a pro rata basis.

The next \$40 million deposited in the fund is available to the Department of Transportation for providing grants to cities in non-oil-producing counties through the flexible transportation fund established under Section 24-02-37.3, subject to legislative appropriations.

### **Water Development Trust Fund**

Senate Bill No. 2188 (1999) created Section 61-02.1-05 to establish the water development trust fund for paying for bonds issued for water projects and the Red River Valley water supply project. Revenue in the fund was derived from tobacco settlement proceeds deposited in the tobacco settlement trust fund and subsequently transferred to the water development trust fund. The 2021 Legislative Assembly repealed the water development trust fund.

### **Bank of North Dakota Line of Credit**

Section 61-02-79 provides that DWR may request a line of credit of up to \$260 million from the Bank of North Dakota at the prevailing interest rate charged to North Dakota government entities. The department is required to repay any line of credit executed under this section from the resources trust fund. If money available in the resources trust fund is not sufficient to repay the line of credit, DWR is required to request a deficiency appropriation from the Legislative Assembly to repay the line of credit. The department may use up to \$50 million of the line of credit for the Southwest Pipeline Project and \$210 million for water projects.

House Bill No. 1020 (2025) increased the line of credit authorization from \$100 million to \$260 million.

## **Bonding**

### **State Water Commission**

Section 61-02-46 authorizes the 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 Project. In 1997, the Legislative Assembly authorized \$15 million of revenue bonds for the Southwest Pipeline Project. In 2001, the Legislative Assembly raised the Southwest Pipeline Project bonding authority to \$25 million.

In 1999, the 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 in Grand Forks, Devils Lake, Wahpeton, and Grafton and to continue funding for the Southwest Pipeline Project. 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 the bill, 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 all of the SWC bonds issued during the 2013-15 biennium. Senate Bill No. 2020 (2015) directed the 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 were 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.

### **Municipalities**

Chapter 40-35 provides municipalities may issue revenue bonds for systems, plants, works, instrumentalities, and properties for water conservation, treatment, distribution, and disposal for public and private uses and for the collection, treatment, and disposal of sewage, waste, and storm water. Municipalities may enter contracts with industrial establishments for municipality sewerage facilities when the governing body of the municipality

determines it is in the best interest of the public, is necessary for the protection of public health, and will reduce pollution of water caused by industrial waste.

## **Strategic Investment and Improvements Fund**

### **Statutory Authority and History**

House Bill No. 1451 (2011) provided the lands and minerals trust fund be renamed to the strategic investment and improvements fund (SIIF), and as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to SIIF. The lands and minerals trust fund originated in 1977 when the Legislative Assembly transferred to the Board of University and School Lands possessory interest in properties obtained by the Bank of North Dakota, including tracts of real property and reserved mineral interests. Pursuant to Section 15-08.1-08, all income from the sale, lease, and management of the mineral interests relating to these properties is deposited in SIIF.

The principal and interest of the fund may be used for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. Money in the fund may be included in draft appropriation acts under Section 54-44.1-06 and may be appropriated by the Legislative Assembly, but only to the extent the money is estimated to be available at the beginning of the biennium in which the appropriations are authorized.

The unobligated balance in the fund is defined as the balance in the fund reduced by appropriations or transfers from the fund authorized by the Legislative Assembly, guarantee reserve fund requirements under Section 6-09.7-05, and any fund balance designated by the Board of University and School Lands relating to potential title disputes related to certain riverbed leases.

### **Funding**

As of the end of the 2025 legislative session, the estimated revenue available in SIIF, including investment earnings, is approximately \$2.52 billion for the 2025-27 biennium. Estimated expenditures and transfers from the fund total approximately \$1.62 billion, resulting in an estimated fund balance of approximately \$904 million at the end of the 2025-27 biennium. An analysis of SIIF for the 2023-25 and 2025-27 bienniums is attached as [Appendix D](#).

### **General Fund**

The 2025 Legislative Assembly estimated a July 1, 2025, general fund beginning balance of approximately \$1.15 billion and 2025-27 biennium general fund revenues and transfers of \$5.33 billion, resulting in a total of \$6.48 billion available from the general fund during the biennium. The Legislative Assembly appropriated \$6.26 billion from the general fund for the 2025-27 biennium, resulting in an estimated balance of \$226.72 million at the end of the biennium.

### **Cost-Share Program**

Section 61-02-01.4 provides the SWC review, gather stakeholder input on, and rewrite as necessary the SWC's cost-share policy, procedure, and general requirements document and project prioritization guidance document. The section provides the policy:

1. Must provide a water supply project is eligible for a cost-share up to 75 percent of the total eligible project costs.
2. May not determine program eligibility of water supply projects based on a population growth factor. However, a population growth factor may be used in prioritizing projects for that purpose.
3. Must consider all project costs potentially eligible for reimbursement, except the commission shall exclude operations expense, regular maintenance, and removal of vegetative materials and sediment, for assessment drains, and may exclude operations expense and regular maintenance for other projects. Snagging and clearing of watercourses and deepening or widening of existing drains are eligible for reimbursement. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.
4. May not determine program eligibility of water supply projects based on affordability. However, affordability may be used in prioritizing projects for that purpose.

The Department of Water Resources provides for the following cost-share percentages for eligible projects:

- Recreation - 40 percent
- Rural flood control - 45 percent

- Snagging and clearing - 50 percent
- Bank stabilizations - 50 percent
- Federal Emergency Management Agency levee accreditation - 60 percent
- Flood control and assessment drains - 60 percent
- Municipal water supply - 60 percent
- Dam repairs, removals, and retention - 60 percent
- Irrigation - 75 percent
- Rural water and regionalizations - 75 percent
- Low head dam roller mitigation - 75 percent
- Emergency dam action plans - 80 percent

### **PROPOSED STUDY PLANS**

#### **Storm Water Projects Study**

The following is a proposed study plan for the committee's consideration in its study regarding funding for storm water projects:

1. Receive information from the SWC and DWR regarding recent storm water projects approved or considered, storm water infrastructure needs in the state, SWC policies for storm water projects, and potential funding sources for future storm water projects, including the feasibility and desirability of amending the cost-share program for future storm water projects.
2. Receive information from the Bank of North Dakota regarding the agency's role in storm water projects in the state, future storm water infrastructure needs in the state, and potential funding sources for future storm water projects.
3. Receive information from the Public Finance Authority regarding the agency's role in storm water projects in the state, future storm water infrastructure needs in the state, and the feasibility and desirability of the agency assisting political subdivisions with financing storm water projects.
4. Receive information from cities, counties, townships, and water resource districts regarding recent storm water projects, future storm water infrastructure needs in the state, and potential funding sources for future storm water projects, including the feasibility and desirability of amending the cost-share program for future storm water projects.
5. Receive testimony from interested persons regarding the study.
6. Develop recommendations and any bill drafts necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Management.

#### **Wastewater Projects Fund Study**

The following is a proposed study plan for the committee's consideration in its study regarding the feasibility and desirability of establishing a wastewater projects fund:

1. Receive information from DEQ regarding recent wastewater projects, future wastewater project needs in the state, the feasibility and desirability of establishing a wastewater project fund, potential funding sources for future wastewater projects, and the appropriate state agency to administer a wastewater project fund.
2. Receive information from the SWC and DWR regarding the agency's role in wastewater projects in the state, future wastewater infrastructure needs in the state, SWC policies for wastewater projects the feasibility and desirability of establishing a wastewater project fund, the appropriate state agency to administer a wastewater project fund, and potential funding sources for future wastewater projects, including the feasibility and desirability of amending the cost-share program for future wastewater projects.
3. Receive information from the Bank of North Dakota regarding the agency's role in wastewater projects in the state, future wastewater infrastructure needs in the state, the feasibility and desirability of establishing a wastewater project fund, potential funding sources for future wastewater projects, and the appropriate state agency to administer a wastewater project fund.
4. Receive information from the Public Finance Authority regarding the agency's role in wastewater projects in the state, future wastewater infrastructure needs in the state, the feasibility and desirability of establishing

a wastewater project fund, potential funding sources for future wastewater projects, and the appropriate state agency to administer a wastewater project fund.

5. Receive information from cities, counties, townships, and water resource districts regarding recent wastewater projects, future wastewater infrastructure needs in the state, the feasibility and desirability of establishing a wastewater project fund, and potential funding sources for future wastewater projects, including the feasibility and desirability of amending the cost-share program for future wastewater projects.
6. Receive testimony from interested persons regarding the study.
7. Develop recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

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