

Introduced by

Senators Patten, Beard, Bekkedahl, Kannianen

Representatives J. Olson, Richter

1 A BILL for an Act to create and enact two new sections to chapter 61-40 of the North Dakota  
2 Century Code, relating to the infrastructure revolving loan fund and accrued and unpaid interest  
3 in western area water supply authority loans; to amend and reenact ~~section 61-02-79,~~  
4 subsection 13 of section 61-40-05, and sections 61-40-09, 61-40-10, and 61-40-11 of the North  
5 Dakota Century Code, relating to the oversight of the western area water supply authority and  
6 ~~the authorized line of credit~~infrastructure revolving loan fund payments; and to provide an  
7 appropriation.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 ~~— **SECTION 1. AMENDMENT.** Section 61-02-79 of the North Dakota Century Code is~~  
10 ~~amended and reenacted as follows:~~  
11 ~~— **61-02-79. Bank of North Dakota -- Line of credit.**~~  
12 ~~— The Bank of North Dakota shall extend a line of credit not to exceed fifty million dollars at a~~  
13 ~~rate of one and one-half percent over the three month London interbank offered rate, but may~~  
14 ~~not exceed three percent to the state water commission~~the prevailing interest rate charged to  
15 North Dakota governmental entities. ~~The state water commission shall repay the line of credit~~  
16 ~~from funds available in the resources trust fund, water development trust fund, or other funds,~~  
17 ~~as appropriated by the legislative assembly. The state water commission may access the line of~~  
18 ~~credit, as necessary, to provide funding as authorized by the legislative assembly for the~~  
19 ~~northwest area water supply project during the biennium beginning July 1, 2021~~2023, ~~and~~  
20 ~~ending June 30, 2023~~2025.

21 **SECTION 1. AMENDMENT.** Subsection 13 of section 61-40-05 of the North Dakota  
22 Century Code is amended and reenacted as follows:

23 13. Accept from any authorized state or federal agency loans or grants for the planning,  
24 construction, acquisition, lease, or other provision of a project, and enter agreements

1 with the agency respecting the loans or grants. Other than state-guaranteed loans,  
2 additional debt that may form the basis of a claim for territorial or franchise protection  
3 for industrial water sales for oil and gas exploration and production may be acquired  
4 by the authority or member entities only upon approval by the industrialstate water  
5 commission and the emergency commission.

6 **SECTION 2. AMENDMENT.** Section 61-40-09 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **61-40-09. Default.**

9 ~~The industrial commission may review the ability of water depot and lateral sales to meet~~  
10 ~~expenses in subdivisions a through d of subsection 1 of section 61-40-10, and if the industrial~~  
11 ~~commission is uncertain of that ability, the industrial commission shall provide written notification~~  
12 ~~to the state water commission and direct the Bank of North Dakota to consider revision of the~~  
13 ~~terms of the loan repayments. If the authority is in default in the payment of the principal or or~~  
14 ~~interest on the obligation to the Bank of North Dakota for a loan for which the Bank of North~~  
15 ~~Dakota is the source of funds for the loan, the state water commission shall request funding~~  
16 ~~from the legislative assembly to repay the principal and interest due~~lf the western area water  
17 supply authority defaults on its payment of the principal or interest on the infrastructure  
18 revolving loan provided for in section 65 of this Act, the Bank of North Dakota shall notify the  
19 legislative council, and the state water commission shall provide a payment, subject to budget  
20 section approval, to the Bank of North Dakota in an amount of the default as certified to the  
21 budget section by the Bank of North Dakota.

22 **SECTION 3. AMENDMENT.** Section 61-40-10 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **61-40-10. Industrial water depot and lateral sales.**

25 1. An accounting of industrial water depot and lateral sales collected and distributed by  
26 the authority must be reported to the industrialstate water commission on a monthly  
27 basis. Participating member entities shall transfer industrial water depot and lateral  
28 sales to the authority within thirty days of receipt of the revenues. The boards of the  
29 authority and participating member entities must be notified of the sweep of revenues;  
30 however, board approval is not required. Upon the receipt of industrial water depot and

- 1 lateral revenues by the authority, the authority shall apply immediately all revenues  
2 each month in the following order:
- 3 a. ~~One hundred fifty thousand dollars per biennium to the industrial commission for~~  
4 ~~one additional full-time equivalent position to implement this section.~~
- 5 b. Reimburse the authority for industrial water depot capital improvements and the  
6 cost for delivery of potable or nonpotable water sold at industrial water depots  
7 and lateral lines, at a cost no greater than the participating member, or  
8 submember, if applicable, entity rate at the location of the depot or lateral line.
- 9 e.b. Regular payments on the participating member entity debt as described in the  
10 agreements with the authority as of March 31, 2013, and baseline 2010 industrial  
11 water sales included in and subject to the terms of the authority and participating  
12 member agreements as of March 31, 2013. Baseline 2010 industrial water sales  
13 for the city of Tioga in the year 2013 are limited to the lesser of legally permitted  
14 industrial water sales or the amount in the member agreement.
- 15 d.c. Required monthly payments on state-guaranteed loans. The required transfer  
16 must occur no later than the twentieth day of the following month.
- 17 e.d. Additional principal payment on state-guaranteed loans.
- 18 f.e. Payment to the resources trust fund.
- 19 2. If the ~~state-guaranteed loans have~~debt has not been repaid, without the written  
20 consent of the ~~industrial~~state water commission the authority may not sell, lease,  
21 abandon, encumber, or otherwise dispose of any part of the property used in a water  
22 system of the authority if the property is used to provide revenue. Any requirements on  
23 the state-guaranteed loans for establishment of reserve funds for operation and  
24 maintenance or debt service are waived.
- 25 3. ~~The state water commission shall approve the planning, location, and water supply~~  
26 ~~contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales~~  
27 ~~for oil and gas exploration and production after July 1, 2013~~western area water supply  
28 authority shall make additional principal payments on the infrastructure revolving fund  
29 loan, authorized in section 65 of this Act, in any month in which the debt service  
30 coverage ratio exceeds one and one-tenth. Any amount in excess of one and  
31 one-tenth must be paid as an additional principal reduction on the infrastructure

1 ~~revolving fund loan.~~ Debt service coverage ratio means net income before capital  
2 expenditures, interest expense, and depreciation expense divided by the sum of  
3 interest expenses and the required principal and interest payment.

4 **SECTION 4. AMENDMENT.** Section 61-40-11 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-40-11. Water rates.**

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

15 **SECTION 5.** A new section to chapter 61-40 of the North Dakota Century Code is created  
16 and enacted as follows:

17 **Western area water supply authority - Bank of North Dakota loan - Transfer.**

18 The Bank of North Dakota shall transfer the outstanding principal balance of the  
19 consolidation loan authorized in section 9 of chapter 19 of the 2017 Session Laws to the  
20 infrastructure revolving loan fund, on August 1, 2023. Any accrued and unpaid interest of the  
21 consolidation loan authorized in section 9 of chapter 19 of the 2017 Session Laws must be  
22 consolidated with the principal balance of the loan transferred to the infrastructure revolving  
23 loan fund. The loan must have an interest rate of two percent and a final maturity date not to  
24 extend beyond July 1, 2053.

25 **SECTION 6.** A new section to chapter 61-40 of the North Dakota Century Code is created  
26 and enacted as follows:

27 **Western area water supply authority accrued and unpaid interest.**

28 All accrued and unpaid interest on the twenty-five million dollar loan from the general fund  
29 to the western area water supply authority authorized in section 3 of chapter 500 of the 2011  
30 Session Laws must be ~~forgiven~~ transferred to the general fund. All accrued and unpaid interest

1 on the ten million dollar, twenty million dollar, and nineteen million five hundred thousand dollar  
2 loans from the resources trust fund to the western area water supply authority must be forgiven.

3 **SECTION 7. APPROPRIATION - DEPARTMENT OF WATER RESOURCES -**  
4 **RESOURCES TRUST FUND.** There is appropriated out of any moneys in the resources trust  
5 fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the  
6 sum as may be necessary, to the department of water resources for the purpose of paying  
7 accrued and unpaid interest on the \$25,000,000 loan from the general fund to the western area  
8 water supply authority authorized in section 3 of chapter 500 of the 2011 Session Laws, for the  
9 biennium beginning July 1, 2023, and ending June 30, 2025.