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**The following information is provided to the N.M. Interim Committee on Water & Natural Resources.**

### OVERVIEW

State water governance interacts with multiple levels of government (e.g., federal, local, regional, international) and involves the policies and laws that impact water users, public health and the environment. State agencies have a variety of roles and responsibilities: water allocation and water rights; policy and planning; drinking water and wastewater; environmental protection; public health; education; conservation; and more. For example:

- Planning and policy development may include supply protection, flood control, conservation measures, drought response and planning, and much more. Engagement with stakeholders and the public also is a key piece of how state agencies approach these responsibilities.
- State engineers in Western states may oversee the management or allocation of water resources.
- Drinking water and wastewater systems depend on the supply and quality of water resources and follow utility regulations and public health policy.
- Within these different state agencies or for a separate entity, education on water issues, including conservation, can also be a key responsibility.
- States also address and protect water's important environment functions through policy options such as instream flows, source water regulations and stream and lake protections.

States also vary in consideration and approaches for the management of surface water and groundwater. Some states are coordinating policy approaches through planning efforts, such as state water plans. The [South Carolina Department of Natural Resources](#) establishes the water resources and planning for the state, including river basin plans and hydrologic models for both surface water and groundwater.

State water management contributes to the economy, public health and the environment. Thus, state agencies and programs with a variety of missions (e.g., agriculture, health, wildlife) can also impact water user, supply and quality. State agricultural agencies can encourage or regulate practices that promote water conservation and protect water quality. State natural resource and wildlife programs consider how water policy impacts specific species and ecosystems. For example, the Colorado Division of Parks and Wildlife reviews and makes policy recommendations to the Colorado Water Conservation Board.

#### *Minnesota Evaluation of Water Governance:*

In 2011, the Minnesota Legislature authorized the [evaluation of water governance](#), including the related statutes, rules and structures to address sustainable water management. The Minnesota Pollution Control Agency along with other state water management agencies, the Metropolitan Council and the University of



Minnesota developed recommendations. The report focuses on three levels—state, regional and local—and recommended implementing water management at a watershed scale at all levels of governance. The report also identifies the state agencies and water-related programs by primary area of focus: education, planning, financial assistance or regulation. As recommended in the report, the Board of Water and Soil Resources administers the One Watershed, One Plan program (Minn. Stat. §103B.801).

## STATE SUMMARIES

The following state summaries provide information on state agencies that are directly involved in water allocation, policy and planning.

### Arizona

- In 1980, the Arizona Department of Water Resources (ADWR) was created and given the duties of the state water engineer. As of 2022, ADWR has 24 programs that contribute to the protection of the state’s water supplies; these programs include Conservation, Dam Safety, Permitting and Wells, Recharge, Rural Programs, Surface Water, and several others.
- The Arizona Department of Environmental Quality has two divisions that provide oversight for water systems: the Waste Programs Division and the Water Quality Division.
- The Governor’s Water Augmentation Council was created by executive order in 2015. Executive Order 2019-02 expanded this work with the formation of the new Governor’s Water Augmentation, Innovation, and Conservation Council, focused on expanding water resources and conservation efforts.

### Colorado

- The Division of Water Resources is also known as the Office of the State Engineer and is part of the Department of Natural Resources. The state engineer must be a “registered engineer in Colorado having the background of knowledge and experience in areas essential to the proper discharge of his duties and functions” (Colo. Rev. Stat. § 37-80-113).
- The Colorado Water Conservation Board (CWCB) has 15 members. The state engineer serves as a nonvoting member ex officio (Colo. Rev. Stat. § 37-60-104).
- In 2003, the General Assembly commissioned the Statewide Water Supply Initiative (SWSI) to explore water supply and demand issues in each of the state's major river basins. In 2010, the CWCB updated the SWSI to assess municipal and industrial demand and agricultural demand in 2050.
- In 2013, Gov. John Hickenlooper issued an executive order that directed the CWCB to prepare the Colorado Water Plan, which was released in 2015. The next version is set to be released in 2023.



## Nevada

- The Office of the State Engineer was created in 1903 and is responsible for the administration of state water law. The State Engineer oversees the Division of Water Resources within the Nevada Department of Conservation and Natural Resources.
- The Nevada State Water Plan was first developed in the late 1960s and early 1970s. It was last updated in 1999.
  - In 2021, the Division of Water Resources released a survey to gather public input on updating the plan. The new state water plan will address specific challenges, including the increased demand for limited water supplies, floods, drought and dam safety.
- The state's Colorado River Commission has a seven-member board tasked with protecting Colorado River water and power resources in Nevada.
- Regional water planning is done through the Southern Nevada Water Authority (created through a cooperative agreement) and the Western Regional Water Commission (created legislatively in 2007).
- In April 2015, Gov. Brian Sandoval established the Nevada Drought Forum to bring together stakeholders to assess the drought in Nevada, identify best conservation practices and policy needs, and make recommendations for next steps. The group released its recommendations report in December 2015.

## North Dakota

- In 2021, legislative action (HB 1353) reorganized the State Water Commission and Office of the State Engineer, which became the renamed Department of Water Resources (DWR). The DWR Director is now a governor appointee and cabinet member.
- The first statewide water plan was published by the State Planning Board in 1937. State water plans are completed on a 10-year cycle. The 2021 Water Development Plan is the most recent report that has been released. North Dakota law requires the State Water Commission to develop and maintain a comprehensive plan (N. D. Cent. Code § 61-02-14).

## Wyoming

- The State Board of Control, which is comprised of the state engineer and the superintendents for each state water division, has jurisdiction over adjudication, administration and amendment of water rights.
  - The Wyoming State Engineer's Office regulates and administers water resources.
- The Wyoming Water Development Office administers the Water Development Program, which provides for the planning, selection, financing, construction, acquisition and operation of projects to develop and preserve the state's water resources.
- The Wyoming Water Development Commission (WWDC), comprised of 10 governor-appointed representatives of the four state water divisions and the Wind River Reservation, has statutory authority for the Wyoming Water Development Program.



- In 1997, the Legislature directed the WWDC to conduct a Water Planning Feasibility Study with the state engineer and the University of Wyoming.
- Each of the major drainage basin plans were completed between 2000 and 2006.
- In 2005, the Legislature authorized funding for the Statewide Framework Water Plan, which was released in 2007.

### ENACTED STATE LEGISLATION (2019 TO PRESENT)

The following examples of recent legislation have addressed policies such as state water planning, supply management and drinking water system accountability. Maine reestablished its Water Resources Planning Committee. Utah directed the Legislative Water Development Commission to support the development of a unified, statewide water strategy to promote water conservation and efficiency. Some states considered policies to assess performance of systems and have sought to consolidate small drinking water systems that have failed to supply adequate and safe drinking water.

#### Example of recent legislation:

- Alabama HB 631 (2021): Relates to public waterways, establishes the State Reservoir Management Development Program within the Department of Conservation and Natural Resources.
- Arizona HB 2618 (2020): Continues the Department of Water Resources (until July 2028) to focus the responsibility for water management and administration of water-related programs in the state.
- Arizona HB 2231 (2022): Relates to universities; relates to water rights adjudication; provides for assistance with adjudication by certain universities for claimants who are small landowners.
- Arizona SB 1564 (2022): Relates to On Farm Irrigation Efficiency Pilot Program; relates to on farm irrigation efficiency fund; provides grants; provides requirements; provides annual report; defines terms.
- Arizona SB 1740 (2022): Relates to water infrastructure financing; relates to supply; relates to augmentation; relates to powers and duties of attorney general; restrictions on state agencies as to legal counsel.
- California SB 19 (2019): Requires the Department of Water Resources and the State Water Resources Control Board, upon an appropriation of funds by the Legislature, to develop a plan to deploy a network of stream gages that includes a determination of funding needs and opportunities for modernizing and reactivating existing gages and deploying new gages.
- California AB 658 (2019): Authorizes a groundwater sustainability agency or local agency to apply for, and the State Water Resources Control Board to issue, a conditional temporary permit for diversion of



surface water to underground storage for beneficial use that advances the sustainability goal of a groundwater basin.

- California SB 1301 (2020): Requires the State Environmental Protection Agency and the Natural Resources Agency to collaborate to create a Tijuana River Valley Watershed Action Plan, to be reviewed and updated on a three-year cycle. Requires the agencies to consult with governmental entities to develop a common watershed action plan to address issues.
- California SB 403 (2021): Authorizes the State Water Resources Control Board to also order consolidation where a water system serving a disadvantaged community is an at-risk water system, as defined, or where a disadvantaged community is substantially reliant on at-risk domestic wells, as defined. Requires the state board, before ordering consolidation or extension of service, to consult with any groundwater sustainability agency, as defined, that provides groundwater supply to the affected area.
- California SB 552 (2021): Requires small water suppliers, as defined, serving 1,000 to 2,999 service connections, inclusive, and nontransient noncommunity water systems that are schools, no later than a specified date, to develop and maintain an abridged water shortage contingency plan that includes specified drought-planning elements. Requires a small water supplier serving fewer than 1,000 service connections to add drought planning elements to its emergency notification or response plan and submit the plan to the state board.
- Colorado HB 1037 (2020): Concerns the State Water Conservation Board's authority to augment stream flows with acquired water rights that have been previously decreed for augmentation use, authorizes the board to augment stream flows to preserve or improve the natural environment to a reasonable degree by use of an acquired water right that has been previously quantified and changed to include augmentation use, without a further change of the water right being required.
- Colorado HB 1260 (2021): Concerns transfers of money from the general fund to implement the state water plan, makes an appropriation.
- Colorado SB 28 (2022): Concerns the creation of the groundwater compact compliance and sustainability fund, makes an appropriation.
- Florida SB 976 (2021): Creates incentives for conservation and sustainable development while conserving green infrastructure, maintains wildlife access and habitats for migration and genetic exchange, prevents fragmentation of wildlife habitats, protects the headwaters of major watersheds, provides ecological connectivity of the lands needed for flood and sea level rise resiliency and large scale ecosystem functions, preserves land and waters that are critical to the state's groundwater recharge and drinking water.



- Illinois HB 2650 (2019): Requires the Environmental Protection Agency to adopt rules to expand the usage of federally allowable set aside programs within the Water Revolving Fund, including, but not limited to, programs that provide financial assistance to utilities exploring consolidation or other collaborative approaches with separate utilities for the purpose of improving efficiency, sustainable water management, and equitable water rates.
- Louisiana SB 129 (2021): Relates to public drinking water, creates and provides for the Community Drinking Water Infrastructure Sustainability Act, provides for a statewide system of community water system accountability, provides for development of a letter grade schedule reflective of community water system quality and performance, to provide for publication of quality and performance scores and letter grades, requires an improvement plan, provides for penalties, provides for the use of federal funds, provides for rates.
- Maine HB 162 (2019): Reestablishes the Water Resources Planning Committee, describes requirements related to committee membership, meetings, and reporting, requires the committee to conduct an annual review of state policy in regard to water resources, provide guidance to municipalities, and develop and disseminate educational materials on water resources and the regulatory regimen.
- New Hampshire SB 164 (2019): Establishes a committee to study unprotected drinking water sources and estimate the costs of protecting such sources.
- New Hampshire HB 495 (2019): Establishes the Long Term Seacoast Commission on Drinking Water, utilizes and expands upon existing studies to plan for seasonal or drought supply issues, prepares and discusses mutual aid between seacoast towns for firefighting and mutual aid agreements for emergency or replacement drinking water supply where contaminated, creates a centralized planning group to encourage coordination and support between towns and cities, evaluates threats to groundwater quality due to environmental issues.
- New Hampshire HB 235 (2021): Requires the Department of Environmental Services to adopt rules concerning small groundwater withdrawals from new sources of water, provides that the department shall adopt rules specifying criteria and procedures to ensure a groundwater withdrawal less than a specified number of gallons over any 24-hour period from a new source of water for a community water system.
- North Carolina HB 1087 (2020): Improves viability of the water and wastewater systems of units of local government by requiring local government commission approval of grant applications, requires water and wastewater systems to undergo a review of infrastructure management, organizational management and financial management, creates and provides funding for the viable utility reserve to provide grant money for local government units, provides a statutory process for merger and dissolution of water and wastewater systems.



- North Dakota HB 1088 (2021): Relates to the State Water Commission’s comprehensive water development plan by adding meetings for certain drainage basins. Repeals section related to the outdoor heritage fund grants and their effect on State Water Commission cost-share amounts.
- North Dakota HB 1353 (2021): Relates to the establishment of the Department of Water Resources and powers and duties of the director of the Department of Water Resources, relates to the powers and duties of the state engineer and the water use fund.
- North Dakota SB 2208 (2021): Provides for a legislative management study of drainage and other water-related issues.
- Oklahoma SB 568 (2019): Relates to the State Water Resources Board, creates the Phase II Arbuckle Simpson Hydrology Study Revolving Fund, states uses and provides for deposits into the fund, limits certain expenditures, authorizes the board to coordinate with a certain entity.
- Oklahoma SB 705 (2019): Relates to environment and natural resources, recognizes and declares that the management, funding, protection and conservation of public groundwater supplies and the beneficial uses thereof are essential to the economic prosperity and future well-being of the state.
- Utah HB 40 (2020): Addresses data related to water including water losses, requires the creation of a working group to address how to implement standardized water loss accounting practices, requires reporting and recommendations, lists concepts to be included in developing recommendations.
- Utah SB 199 (2021): Directs the Legislative Water Development Commission to support the development of a unified, statewide water strategy to promote water conservation and efficiency.
- Utah SB 110 (2022): Modifies provisions related to general plans to address water, requires a water use and preservation element to be part of a municipal or county general plan with exceptions, outlines how a water use and preservation element is integrated into a general plan and what steps to take in developing a water use and preservation element, provides for action related to the general plan by the legislative body of a municipality or county, addresses assistance by the Division of Water Resources, appropriates funds.
- Utah HB 131 (2022): Creates the Watershed Restoration Initiative within the Department of Natural Resources, describes how the initiative will be administered and funded, requires the initiative to submit an annual report to the Natural Resources, Agriculture, and Environment Interim Committee, creates the Watershed Restoration Expendable Special Revenue Fund.
- Vermont HB 833 (2020): Requires the secretary of Natural Resources to convene a Surface Water Diversions and Transfers Study Group to investigate and make recommendations regarding the environmental, economic and recreational impacts of transferring surface water between watershed basins and of diversions of surface water in general.



- Virginia HB 542 (2020): Relates to regional water resource planning, relates to State Water Control Board regulations, directs the State Water Control Board to predict the risk that each locality and region will experience water supply shortfalls, to encourage the development of cross jurisdictional water supply projects, and to adopt regulations designating regional planning areas based on river basins.
- Virginia HB 1297 (2022): Relates to comprehensive water supply planning process, relates to state, regional and local water supply plans.
- Washington HB 1622 (2020): Revises provisions relating to drought preparedness and response, provides the Department of Ecology with the authority to take actions when a drought emergency occurs to alleviate hardship on water users and our natural environment, provides requirements for the issuance of grants to eligible public entities to reduce current or future hardship caused by water unavailability stemming from drought conditions.
- Washington HB 1143 (2021): Authorizes the placement of certain water rights banked into the trust water rights program, provides that such water rights must be accepted by as a temporary trust water right donation for a period of up to two years, in the same quantity that the water right was banked.

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## ADDITIONAL RESOURCES

- NCSL [Environment and Natural Resources State Bill Tracking Database](#).
- Environmental Law Institute, [Western Water in the 21<sup>st</sup> Century: Policies and Programs that Stretch Supplies in a Prior Appropriation World](#), 2009.
- Montana Watercourse, [Status of Western States' Water Planning: A Survey of Western States Water Council Members](#), 2014.
- University of California Berkeley School of Law [Learning from California's Experience with Small Water System Consolidations](#), 2018.
- Stanford University Water in the West, [Environmental Water Rights Transfers: A Review of State Laws](#), 2015.
- State-Specific Resources:
  - Colorado Legislative Council, [State Water Policy: A Legislator's Guide to Colorado Water Issues](#), 2018.
  - Minnesota Pollution Control Agency [Water Governance Evaluation](#), 2013 report and 2014 update.
  - Nevada Legislative Counsel Bureau, [Water Policy and Issues in Nevada](#), 2019.
  - North Dakota State Water Commission, [Legislative Update](#), 2021.
  - Wyoming Water Development Program [2020 Legislative Report](#).