

**FIRST ENGROSSMENT**

Sixty-seventh  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1020**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water  
2 commission; to create and enact a new section to chapter 61-02 and a new section to  
3 chapter 61-40, relating to reporting requirements for carryover projects and bonding authority of  
4 the western area water supply; to amend and reenact section 61-02-79 of the North Dakota  
5 Century Code, relating to the authorization of a Bank of North Dakota line of credit; to provide  
6 for an exemption; to provide for legislative management studies; to provide for a report to  
7 legislative management; to provide statements of legislative intent; to provide for a pilot project;  
8 to provide for an application; and to declare an emergency.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
11 as may be necessary, are appropriated from special funds derived from federal funds and other  
12 income, to the state water commission for the purpose of defraying the expenses of the state  
13 water commission, for the period beginning with the effective date of this Act, and ending June  
14 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 <del>Salaries and wages</del>	<del>\$19,831,986</del>	<del>\$682,761</del>	<del>\$20,514,747</del>
18 <u>Salaries and wages</u>	<u>\$19,831,986</u>	<u>\$705,881</u>	<u>\$20,537,867</u>
19 Operating expenses	43,855,753	(489,203)	43,366,550
20 <del>Capital assets</del>	<del>105,938,758</del>	<del>57,528,679</del>	<del>163,467,437</del>
21 <u>Capital assets</u>	<u>105,938,758</u>	<u>42,528,679</u>	<u>148,467,437</u>
22 Project carryover	308,333,818	(308,333,818)	0
23 <del>Water supply - grants</del>	<del>128,000,000</del>	<del>(32,000,000)</del>	<del>96,000,000</del>

Sixty-seventh  
Legislative Assembly

1	<del>Rural water supply - grants</del>	<del>37,200,000</del>	<del>3,400,000</del>	<del>40,600,000</del>
2	<del>Flood control projects</del>	<del>0</del>	<del>38,000,000</del>	<del>38,000,000</del>
3	<u>Water supply - grants</u>	<u>128,000,000</u>	<u>(3,000,000)</u>	<u>125,000,000</u>
4	<u>Rural water supply - grants</u>	<u>37,200,000</u>	<u>22,400,000</u>	<u>59,600,000</u>
5	<u>Flood control projects</u>	<u>0</u>	<u>48,000,000</u>	<u>48,000,000</u>
6	Fargo area flood control, including the	66,500,000	(66,500,000)	0
7	Fargo-Moorhead diversion			
8	Mouse River flood control	82,500,000	(82,500,000)	0
9	Flood control projects other than Fargo	48,000,000	(48,000,000)	0
10	area flood control, including the			
11	Fargo-Moorhead diversion			
12	General water - grants	27,093,776	(12,866,501)	14,227,275
13	Basinwide plan implementation	0	1,100,000	1,100,000
14	<del>Total special funds</del>	<del>\$867,254,091</del>	<del>(\$449,978,082)</del>	<del>\$417,276,009</del>
15	<u>Total special funds</u>	<u>\$867,254,091</u>	<u>(\$406,954,962)</u>	<u>\$460,299,129</u>
16	Full-time equivalent positions	90.00	0.00	90.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
22	<del>Line of credit - Bank of North Dakota</del>	<del>\$75,000,000</del>	<del>\$75,000,000</del>
23	<u>Line of credit - Bank of North Dakota</u>	<u>\$75,000,000</u>	<u>\$50,000,000</u>
24	Basinwide plan implementation	0	1,100,000
25	Payoff of outstanding debt	<u>25,900,000</u>	<u>0</u>
26	<del>Total special funds</del>	<del>\$100,900,000</del>	<del>\$76,100,000</del>
27	<u>Total special funds</u>	<u>\$100,900,000</u>	<u>\$51,100,000</u>

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The state water commission shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

1       **SECTION 3. ADDITIONAL INCOME - APPROPRIATION - BUDGET SECTION**

2       **APPROVAL.** In addition to the amounts appropriated in section 1 of this Act, any additional  
3 amounts in the resources trust fund which become available are appropriated, subject to budget  
4 section approval, to the state water commission for the purpose of defraying the expenses of  
5 that agency, for the period beginning with the effective date of this Act, and ending June 30,  
6 2023. Before approving any request, the budget section shall determine:

- 7       1. Approving additional appropriations will not negatively affect the sixty-seventh  
8       legislative assembly's ability to address water-related needs;
- 9       2. The proposed use of the additional income complies with legislative intent; and
- 10      3. The proposed use of the additional income will not result in future funding  
11      commitments.

12       **SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE WATER**

13       **COMMISSION DISCRETIONARY FUNDING.** There is appropriated out of any moneys in the  
14 resources trust fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or  
15 so much of the sum as may be necessary, to the state water commission for the purpose of  
16 providing discretionary funds for water project grants, for the biennium beginning July 1, 2021,  
17 and ending June 30, 2023. This funding is considered to be a one-time funding item.

18       **SECTION 5. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS -**

19       **CARRYOVER AUTHORITY.** Section 54-44.1-11 does not apply to funding of \$22,000,000 in the  
20 capital assets line item relating to state-owned projects and \$295,363,183 in the project  
21 carryover line item in section 1 of chapter 45 of the 2019 Session Laws. Any unspent funds from  
22 these appropriations may be continued into the 2021-23 biennium. Any funds continued may be  
23 expended only for the purpose for which it was originally appropriated. The state water  
24 commission may seek emergency commission and budget section approval under section  
25 54-16-04.2 to increase carryover spending authority of funds appropriated in the 2019-21  
26 biennium into the 2021-23 biennium.

27       **SECTION 6.** A new section to chapter 61-02 of the North Dakota Century Code is created  
28 and enacted as follows:

29       **Carryover projects - Reporting requirements to the legislative management.**

- 30      1. The state water commission shall report quarterly to a legislative committee  
31      designated by the legislative management.

- 1           a. Each project the state water commission has designated as a carryover project
- 2           for at least three years;
- 3           b. The amount of funds still committed for each carryover project included in the
- 4           report;
- 5           c. The total amount of funds reallocated or made available from carryover projects
- 6           included in a previous report to other projects since the commission's preceding
- 7           report; and
- 8           d. The status of each carryover project for which the committee has made a
- 9           recommendation under subsection 2 since the commission's preceding report.
- 10          2. The legislative committee designated by the legislative management to receive the
- 11          state water commission's reports may make a recommendation to the state water
- 12          commission that a carryover project included in a report be terminated under section
- 13          61-02-14.3 and any funds remaining for the carryover project be reallocated and made
- 14          available for projects with the same general purpose as the carryover project.

15           **SECTION 7. AMENDMENT.** Section 61-02-79 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **61-02-79. Bank of North Dakota - Line of credit.**

18           The Bank of North Dakota shall extend a line of credit not to exceed ~~seventy-five~~fifty million  
19 dollars at a rate of one and one-half percent over the three month London interbank offered  
20 rate, but may not exceed three percent to the state water commission. The state water  
21 commission shall repay the line of credit from funds available in the resources trust fund, water  
22 development trust fund, or other funds, as appropriated by the legislative assembly. The state  
23 water commission may access the line of credit, as necessary, to provide funding as authorized  
24 by the legislative assembly for ~~water supply projects approved before June 30, 2021~~2023, and  
25 ~~flood control projects that have approval for funding before~~the northwest area water supply  
26 project during the biennium beginning July 1, 2021, and ending June 30, 20212023.

27           **SECTION 8.** A new section to chapter 61-40 of the North Dakota Century Code is created  
28 and enacted as follows:

29           **Revenue bonds and bonds** ~~exemption~~exempt from taxation.

- 30          1. The authority shall have the power and authority to issue revenue bonds, to include
- 31          refunding bonds, for the purpose of financing construction of projects and incidental

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

16           **SECTION 9. PILOT PROJECT - BASINWIDE WATER PLAN IMPLEMENTATION -**

17   **REPORT TO LEGISLATIVE MANAGEMENT.** Of the \$1,100,000 in the basinwide plan  
18   implementation line item in section 1 of this Act, up to \$100,000 may be provided as a grant to  
19   reimburse water resource districts for costs incurred in the development of a basinwide water  
20   plan, and up to \$1,000,000 may be used to provide grants for the pilot project authorized in this  
21   section, for the period beginning with the effective date of this Act, and ending June 30, 2023.  
22   These funds are not subject to state water commission cost-share policies. Water resource  
23   districts and joint water resource districts in a basin may develop a basinwide water plan  
24   identifying water conveyance, flood control, and other water projects to be undertaken in the  
25   basin, and may jointly apply to the state water commission for a grant of up to \$1,000,000 for  
26   implementation of the plan. The state water commission may select a basinwide plan submitted  
27   under this section for funding and enter into one cooperative agreement with the water resource  
28   districts and joint water resource districts that submitted the plan. The cooperative agreement  
29   must include the amount of funding the state water commission will provide, ~~the applicable cost-~~  
30   ~~share requirements~~, a prohibition on using funds granted for implementation of the plan for  
31   planning or any purpose other than implementation of the basinwide plan, and the obligations of

1 the state water commission and each water resource district and joint water resource district in  
2 implementing the basinwide plan. The agreement also must provide for monitoring and  
3 oversight of the basinwide plan's implementation. The state water commission shall report to  
4 the legislative management on the results of this pilot project no later than August 1, 2022.

5 **SECTION 10. STATE WATER COMMISSION - FARGO FLOOD CONTROL PROJECT**

6 **FUNDING LIMIT - LEGISLATIVE INTENT.** The state water commission may not approve state  
7 funding for Fargo flood control projects, including constructing a federally authorized Fargo  
8 flood control project, in excess of a total of \$850,000,000, which includes \$414,500,000  
9 provided through June 30, 2021, without legislative approval. It is the intent of the sixty-seventh  
10 legislative assembly that the remaining \$435,500,000 is provided from bond proceeds during  
11 the biennium beginning July 1, 2021, and ending June 30, 2023.

12 **SECTION 11. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL**

13 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Mouse River  
14 flood control projects prior to the 2021-23 biennium, the state water commission may not  
15 approve state funding for the Mouse River flood control project in excess of a total of  
16 \$604,000,000 without legislative approval. It is the intent of the sixty-seventh legislative  
17 assembly that of the \$604,000,000, \$74,500,000 is provided from the resources trust fund  
18 through bond proceeds used to repay outstanding loans of the resources trust fund during the  
19 biennium beginning July 1, 2021, and ending June 30, 2023.

20 **SECTION 12. LEGISLATIVE INTENT - RURAL WATER SUPPLY.** It is the intent of the  
21 sixty-seventh legislative assembly that, in addition to any funds approved for the project by the  
22 state water commission in previous bienniums, up to \$1,600,000 of the funding appropriated in  
23 the rural water supply - grants line item be made available during the 2021-23 biennium to the  
24 system 4 connection to system 1 rural water supply project sponsored by all seasons water  
25 district.

26 **SECTION 13. LEGISLATIVE MANAGEMENT STUDY - RED RIVER VALLEY WATER**

27 **SUPPLY MANAGEMENT STUDY - REPORT TO LEGISLATIVE MANAGEMENT.** During the  
28 2021-22 interim, the legislative management, with input from the state water commission and  
29 from stakeholders of the Red River valley water supply project, shall consider studying the  
30 management and operation of the Red River valley water supply project. The study must  
31 include consideration of the appropriate entity to own, manage, and operate the project. The

1 legislative management shall report its findings and recommendations, together with any  
2 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

3 **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - NORTHWEST AREA WATER**

4 **SUPPLY.** During the 2021-23 interim, the legislative management with input from the state  
5 water commission shall consider studying the northwest area water supply project. The study  
6 must include consideration of an entity, other than the state, to own, manage, and operate the  
7 project. The legislative management shall report its findings and recommendations, together  
8 with any legislation required to implement the recommendations, to the sixty-eighth legislative  
9 assembly.

10 **SECTION 15. EMERGENCY.** This Act is declared to be an emergency measure.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, replace line 17 with:

"Salaries and wages	\$19,831,986	\$705,881	\$20,537,867"
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Page 1, replace line 19 with:

"Capital assets	105,938,758	42,528,679	148,467,437"
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Page 1, replace lines 21 through 23 with:

"Water supply - grants	128,000,000	(3,000,000)	125,000,000
Rural water supply - grants	37,200,000	22,400,000	59,600,000
Flood control projects	0	48,000,000	48,000,000"

Page 2, replace line 8 with:

"Total special funds	\$867,254,091	(\$406,954,962)	\$460,299,129"
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Page 2, replace line 15 with:

"Line of credit - Bank of North Dakota		\$75,000,000	\$50,000,000"
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Page 2, replace line 18 with:

"Total special funds		\$100,900,000	\$51,100,000"
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Page 3, after line 2, insert:

**"SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE WATER COMMISSION DISCRETIONARY FUND.** There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing discretionary funds for water project grants, for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered to be a one-time funding item."

Page 4, line 4, overstrike "seventy-five" and insert immediately thereafter "fifty"

Page 4, line 10, overstrike "water supply projects approved before June 30,"

Page 4, line 10, remove "2023"

Page 4, line 10, overstrike ", and"

Page 4, line 11, overstrike "flood control projects that have approval for funding before" and insert immediately thereafter "the northwest area water supply project during the biennium beginning July 1, 2021, and ending"

Page 4, line 14, replace "**EXEMPTION**" with "**EXEMPT**"

Page 5, line 14, remove ", the applicable cost-"

Page 5, line 15, remove "share requirements"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1020 - State Water Commission - Senate Action**

	<b>Base Budget</b>	<b>House Version</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$19,831,986	\$20,514,747	\$23,120	\$20,537,867
Operating expenses	43,855,753	43,366,550		43,366,550
Capital assets	105,938,758	163,467,437	(15,000,000)	148,467,437
Project carryover	308,333,818			
Water supply - Grants	128,000,000	96,000,000	29,000,000	125,000,000
Rural water supply - Grants	37,200,000	40,600,000	19,000,000	59,600,000
Fargo area flood control	66,500,000			
Mouse River flood control	82,500,000			
Other flood control projects	48,000,000			
General water - Grants	27,093,776	14,227,275		14,227,275
Basinwide plan implementation		1,100,000		1,100,000
Flood control - Grants		38,000,000	10,000,000	48,000,000
Discretionary water projects			6,000,000	6,000,000
<b>Total all funds</b>	<b>\$867,254,091</b>	<b>\$417,276,009</b>	<b>\$49,023,120</b>	<b>\$466,299,129</b>
Less estimated income	867,254,091	417,276,009	49,023,120	466,299,129
General fund	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00

**Department 770 - State Water Commission - Detail of Senate Changes**

	<b>Adds Funding for Salary Increases<sup>1</sup></b>	<b>Adjusts Funding for Capital Assets<sup>2</sup></b>	<b>Adjusts Funding for Water Supply Grants<sup>3</sup></b>	<b>Adjusts Funding for Rural Water Supply Grants<sup>4</sup></b>	<b>Increases Funding for Flood Control Projects<sup>5</sup></b>	<b>Reduces Funding from Bank of North Dakota Line of Credit<sup>6</sup></b>
Salaries and wages	\$23,120					
Operating expenses						
Capital assets		\$10,000,000				(\$25,000,000)
Project carryover						
Water supply - Grants			\$29,000,000			
Rural water supply - Grants				\$19,000,000		
Fargo area flood control						
Mouse River flood control						
Other flood control projects						
General water - Grants						
Basinwide plan implementation						
Flood control - Grants					\$10,000,000	
Discretionary water projects						
<b>Total all funds</b>	<b>\$23,120</b>	<b>\$10,000,000</b>	<b>\$29,000,000</b>	<b>\$19,000,000</b>	<b>\$10,000,000</b>	<b>(\$25,000,000)</b>
Less estimated income	23,120	10,000,000	29,000,000	19,000,000	10,000,000	(25,000,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	<b>Adds One-Time Funding for State Water Commission Discretionary Spending<sup>7</sup></b>	<b>Total Senate Changes</b>
Salaries and wages		\$23,120
Operating expenses		
Capital assets		(15,000,000)
Project carryover		
Water supply - Grants		29,000,000
Rural water supply - Grants		19,000,000
Fargo area flood control		
Mouse River flood control		
Other flood control projects		
General water - Grants		
Basinwide plan implementation		
Flood control - Grants		10,000,000
Discretionary water projects	\$6,000,000	6,000,000
Total all funds	\$6,000,000	\$49,023,120
Less estimated income	6,000,000	49,023,120
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> Funding is adjusted to provide salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

<sup>2</sup> Funding for capital assets is increased by \$10 million from the resources trust fund to provide a total of \$148,467,437. The House provided \$138,467,437.

<sup>3</sup> Funding of \$29 million is added from the resources trust fund for water supply grants to provide a total of \$125 million. The House provided \$96 million.

<sup>4</sup> Funding of \$19 million is added from the resources trust fund for rural water supply grants to provide a total of \$59.6 million. The House provided \$40.6 million.

<sup>5</sup> Funding of \$10 million is added from the resources trust fund to provide a total of \$48 million for flood control grants. The House provided \$38 million.

<sup>6</sup> Funding available from a Bank of North Dakota line of credit is reduced by \$25 million, from \$75 million to \$50 million. A section is added amending North Dakota Century Code Section 61-02-79 reducing the Bank of North Dakota line of credit from \$75 million to \$50 million and, specifically identifying the line of credit as being available for costs associated with the Northwest Area Water Supply Project for the 2021-23 biennium. The House provided a \$75 million line of credit with no restrictions on the use of the funds.

<sup>7</sup> A section is added to provide one-time funding of \$6 million from the resources trust fund for providing discretionary water project funding to the State Water Commission. The State Water Commission may allocate the funding based on the needs of the state. The House did not include this section.