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Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Conference Committee Amendments
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 department of
2 water resources; to create and enact a new section to chapter 61-24.6 of the North Dakota
3 Century Code, relating to the northwest area water supply biota water treatment plant operating
4 fund; to amend and reenact subsection 1 of section 54-12-08 and sections 54-35-02.7 and
5 61-02-79 of the North Dakota Century Code, relating to state agency employment of attorneys,
6 the powers and duties of the water topics overview committee, and a Bank of North Dakota line
7 of credit; to provide legislative intent; to provide for a report; to provide for a study; to provide a
8 continuing appropriation; to provide for a transfer; to provide an exemption; and to declare an
9 emergency.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
12 as may be necessary, are appropriated from other funds, derived from special funds and federal
13 funds, to the department of water resources for the purpose of defraying the expenses of the
14 department of water resources, for the period beginning with the effective date of this Act, and
15 ending June 30, 2027, as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$22,998,148	\$2,333,877	\$25,332,025
19 New and vacant FTE pool	0	2,371,058	2,371,058
20 Operating expenses	56,625,923	(26,082,810)	30,543,113
21 Capital assets	124,136,712	(121,582,762)	2,553,950
22 Southwest pipeline project	0	101,000,000	101,000,000

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1	Northwest area water supply	0	106,857,325	106,857,325
2	Water supply - grants	316,200,000	(316,200,000)	0
3	Rural water supply - grants	52,000,000	(52,000,000)	0
4	Water supply	0	110,000,000	110,000,000
5	Regional water supply	0	245,000,000	245,000,000
6	General water - grants	12,000,000	(12,000,000)	0
7	General water	0	18,000,000	18,000,000
8	Flood control grants	115,700,000	(115,700,000)	0
9	Flood control	0	117,600,000	117,600,000
10	Discretionary funding	<u>0</u>	<u>10,000,000</u>	<u>10,000,000</u>
11	Total other funds	\$699,660,783	\$69,596,688	\$769,257,471
12	Full-time equivalent positions	93.00	5.00	98.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE

SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>Other Funds</u>
19 New FTE costs	\$36,000
20 Board of water well contractors costs	30,000
21 Emergency pumps replacement	480,000
22 Excavator replacement	400,000
23 Data logger replacement	60,000
24 Bank of North Dakota line of credit	<u>260,000,000</u>
25 Total other funds	\$261,006,000

SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST. The department of water resources may not spend funds appropriated in the new and vacant FTE pool line item in section 1 of this Act, but may request the office of management and budget to transfer funds from the new and vacant FTE pool line item to the salaries and wages line item in accordance with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the sixty-ninth legislative assembly.

1 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the
2 amounts appropriated in section 1 of this Act, any additional federal funds and other amounts in
3 the resources trust fund and water commission fund which become available are appropriated
4 to the department of water resources for the purpose of defraying the expenses of the
5 department of water resources, for the period beginning with the effective date of this Act, and
6 ending June 30, 2027. Any additional amounts in the resources trust fund must be allocated
7 equally between municipal water supply grants and rural water supply grants. Any additional
8 amounts in the water commission fund must be allocated to the project for which the funding
9 was intended. Any additional federal funds which become available to the department of water
10 resources must be allocated for the purpose for which the funds were received. The director of
11 the department of water resources shall report to the legislative management on the use of any
12 additional appropriation authority pursuant to this section.

13 **SECTION 5. OTHER FUNDS - WATER PROJECTS STABILIZATION FUND.** The total
14 other funds line item in section 1 of this Act includes \$42,500,000 from the water projects
15 stabilization fund for water supply grants for the period beginning with the effective date of this
16 Act, and ending June 30, 2027.

17 **SECTION 6. DEPARTMENT OF WATER RESOURCES DISCRETIONARY FUNDING.** The
18 discretionary funding appropriated to the department of water resources in section 1 of this Act
19 or continued in section 24 of this Act may be used as necessary, except for salaries and wages,
20 for the period beginning with the effective date of this Act, and ending June 30, 2027.

21 **SECTION 7. TRANSFER - RESOURCES TRUST FUND - WATER INFRASTRUCTURE**
22 **REVOLVING LOAN FUND.** The state treasurer shall transfer \$40,000,000 from the resources
23 trust fund to the water infrastructure revolving loan fund at the Bank of North Dakota for
24 providing loans for water projects, as requested by the director of the department of water
25 resources, during the period beginning with the effective date of this Act, and ending June 30,
26 2027.

27 **SECTION 8. BANK OF NORTH DAKOTA LINE OF CREDIT - WATER**
28 **INFRASTRUCTURE REVOLVING LOAN FUND - TRANSFER.** The department of water
29 resources may request a line of credit from the Bank of North Dakota not to exceed
30 \$100,000,000 to be transferred to the water infrastructure revolving loan fund as requested by
31 the director of the department of water resources to provide local cost-share loans for projects

1 approved by the state water commission pursuant to section 6-09-49.2 for the period beginning
2 with the effective date of this Act, and ending June 30, 2027. The interest rate associated with
3 the line of credit must be the prevailing interest rate charged to North Dakota government
4 entities. The department of water resources shall request a deficiency appropriation from the
5 seventieth legislative assembly to repay the line of credit.

6 **SECTION 9. AMENDMENT.** Subsection 1 of section 54-12-08 of the North Dakota Century
7 Code is amended and reenacted as follows:

- 8 1. After consultation with the head of the state department or institution or with the state
9 board, commission, committee, or agency affected, the attorney general may appoint
10 assistant or special assistant attorneys general to represent the state board,
11 commission, committee, or agency. A state officer, head of any state department,
12 whether elected or appointed, or state department, board, commission, committee, or
13 agency may not employ legal counsel, and ~~no person may~~ a person may not act as
14 legal counsel in any matter, action, or proceeding in which the state or any state
15 department, board, commission, committee, or agency is interested or is a party,
16 except upon written appointment by the attorney general. Workforce safety and
17 insurance, the department of transportation, the state tax commissioner, the public
18 service commission, the insurance commissioner, the agriculture commissioner, and
19 the ~~securities commissioner~~ department of water resources may employ attorneys to
20 represent them. These entities shall pay the salaries and expenses of the attorneys
21 they employ within the limits of legislative appropriations. The attorneys that represent
22 these entities must be special assistant attorneys general appointed by the attorney
23 general pursuant to this section. Absent good cause, the attorney general shall appoint
24 as special assistant attorneys general licensed attorneys selected by these entities.
25 The attorney general may revoke the appointment only for good cause or upon the
26 request of the entity. Good cause means an inadequate level of experience,
27 competence, or ethical standards.

28 **SECTION 10. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **54-35-02.7. Water topics overview committee - Duties Powers and duties.**

- 2 1. The legislative management, during each ~~interim~~biennium, shall appoint a water topics
3 overview committee in the same manner as the legislative management appoints
4 other interim committees. The committee must meet quarterly during the interim and is
5 responsible for legislative overview of water topics and related matters, the Garrison
6 diversion project, and for any necessary discussions with adjacent states on water
7 topics. The legislative management shall designate the chairman of the committee.
8 The committee shall operate according to the statutes and procedure governing the
9 operation of other legislative management interim committees.
- 10 2. Any request anticipated to be submitted to the state water commission or to the next
11 legislative assembly for which the state cost-share is estimated to be ten million
12 dollars or more must be reported to the water topics overview committee before May
13 thirty-first of each even-numbered year. The committee shall review the request and
14 make a recommendation on the prioritization of the project for consideration by the
15 next legislative assembly. A copy of the committee's report concerning a new water
16 project request must be provided to the appropriations committees of the legislative
17 assembly.
- 18 3. The committee may solicit draft measures and proposals from interested persons
19 during the interim between legislative sessions, and also may study measures and
20 proposals referred to the committee by the legislative assembly or the legislative
21 management.
- 22 4. If a water project requesting state funds of ten million dollars or more is introduced in
23 either house without a report from the committee, the committee shall consider and
24 report its recommendation regarding the project. A copy of the committee's report
25 concerning the new water project request must be provided to the appropriations
26 committees of the legislative assembly.
- 27 5. The committee shall work collaboratively with the state water commission and may
28 meet with the state water commission.
- 29 6. The committee shall report on the committee's project prioritization process, provide
30 updates on allocated program expenditures, and report on the fund balances of
31 projects, grants, and contracts. ~~The legislative management shall designate the~~

1 chairman of the committee. The committee shall operate according to the statutes and
2 procedure governing the operation of other legislative management interim
3 committees.

4 7. The committee shall report the findings and recommendations of the committee, along
5 with any necessary legislation, to the legislative management and to the legislative
6 assembly.

7 **SECTION 11. AMENDMENT.** Section 61-02-79 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **61-02-79. Bank of North Dakota - Line of credit.**

10 The ~~Bank of North Dakota shall extend~~ department of water resources may request a line of
11 credit ~~from the Bank of North Dakota~~ not to exceed ~~one hundred million~~ two hundred sixty million
12 dollars at the prevailing interest rate charged to North Dakota government entities. The
13 department of water resources shall repay the line of credit from funds available in the
14 resources trust fund or other funds, as appropriated by the legislative assembly. If the moneys
15 available at the end of each biennium are not sufficient to repay the line of credit, the
16 department of water resources shall request from the legislative assembly a deficiency
17 appropriation to repay the line of credit. The department of water resources may access the line
18 of credit, as necessary, to provide up to ~~fifty million dollars for the northwest area water supply~~
19 ~~project and up to fifty million dollars for the southwest pipeline project during the biennium~~
20 ~~beginning July 1, 2023, and ending June 30, 2025~~ and two hundred ten million dollars for water
21 projects.

22 **SECTION 12.** A new section to chapter 61-24.6 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Biota water treatment plant operating fund - Continuing appropriation.**

25 The biota water treatment plant operating fund is a special fund in the state treasury into
26 which all federal funds received for the operation of the northwest area water supply's biota
27 water treatment plant must be deposited. All moneys in the fund are appropriated to the
28 department of water resources on a continuing basis for operations of the biota water treatment
29 plant.

30 **SECTION 13. STATE WATER COMMISSION - RED RIVER VALLEY WATER SUPPLY**
31 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Red River

1 valley water supply projects prior to the 2023-25 biennium, the state water commission may not
2 approve state funding for the Red River valley water supply project in excess of a total of
3 \$953,000,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly
4 that of the \$773,000,000 yet to be designated, \$205,000,000 is provided from funds
5 appropriated to the department of water resources for regional water supply in section 1 of this
6 Act.

7 **SECTION 14. RED RIVER VALLEY WATER SUPPLY PROJECT - FEDERAL FUNDING -**
8 **LEGISLATIVE INTENT.** It is the intent of the sixty-ninth legislative assembly that any federal
9 funds received for the Red River valley water supply project be allocated seventy-five percent to
10 the state cost share and twenty-five percent to the local cost share for the project.

11 **SECTION 15. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL**
12 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Mouse River
13 flood control projects prior to the 2023-25 biennium, the state water commission may not
14 approve state funding for the Mouse River flood control project in excess of a total of
15 \$380,500,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly
16 that of the \$304,400,000 yet to be designated, \$81,100,000 is provided from funds appropriated
17 to the department of water resources for flood control in section 1 of this Act.

18 **SECTION 16. STATE WATER COMMISSION - GRANTS AND WATER PROJECTS -**
19 **2025-27 BIENNIUM - LEGISLATIVE INTENT.** It is the intent of the sixty-ninth legislative
20 assembly that the funds appropriated in the water supply, regional water supply, flood control,
21 and general water line items in section 1 of this Act be designated as follows, although funding
22 may be reallocated between designations in each line item:

- 23 1. \$110,000,000 for water supply, including:
 - 24 a. \$40,000,000 for municipal water supply; and
 - 25 b. \$70,000,000 for rural water supply.
- 26 2. \$245,000,000 for regional water supply, including:
 - 27 a. \$205,000,000 for Red River valley water supply project; and
 - 28 b. \$40,000,000 for western area water supply project.
- 29 3. \$117,600,000 for flood control, including:
 - 30 a. \$81,100,000 for Mouse River flood control;
 - 31 b. \$12,000,000 for Valley City flood control;

- 1 c. \$17,000,000 for city of Bismarck flood control; and
- 2 d. \$7,500,000 for other flood control projects.
- 3 4. \$18,000,000 for general water, including:
- 4 a. \$15,000,000 for water conveyance; and
- 5 b. \$3,000,000 for other general water projects.

6 **SECTION 17. MISSOURI RIVER AND OTHER WATER SYSTEMS - LEGISLATIVE**

7 **INTENT.** It is the intent of the sixty-ninth legislative assembly that the department of water
8 resources continue to support efforts that protect and develop beneficial use of Missouri River
9 system water and other available water supply sources.

10 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - DESIGNATED APPROPRIATIONS**

11 **FOR WATER PROJECTS.** During the 2025-26 interim, the legislative management shall
12 consider studying designated appropriations for water projects. The study must include an
13 evaluation of the impact of designating appropriations for water projects and of providing
14 legislative intent for funding to be provided over multiple bienniums for water projects. The study
15 must also consider the appropriate involvement of the legislative management's water topics
16 overview committee in the prioritization of funding for water projects. The legislative
17 management shall report its findings and recommendations, together with any legislation
18 required to implement the recommendations, to the seventieth legislative assembly.

19 **SECTION 19. LEGISLATIVE MANAGEMENT STUDY - STORM WATER PROJECTS.**

20 During the 2025-26 interim, the legislative management shall consider studying funding for
21 storm water projects in the state, including current funding sources, related statutes, and the
22 policies of the state water commission. The study must include information regarding recently
23 completed storm water projects and funding needs for future storm water projects in the state.
24 The legislative management shall report its findings and recommendations, together with any
25 legislation required to implement the recommendations, to the seventieth legislative assembly.

26 **SECTION 20. EXEMPTION - DEPARTMENT OF WATER RESOURCES STUDY -**

27 **MISSOURI RIVER INTAKE SITES STUDY PHASE TWO - REPORT.** During the 2025-26
28 interim, the department of water resources shall study or conduct a field investigation as
29 phase two of the department's study of select intake sites identified in phase one of the Missouri
30 River intake sites study conducted during the biennium beginning July 1, 2023, and ending
31 June 30, 2025. The state water commission is not subject to procurement requirements under

1 chapter 54-44 for the purpose of contracting with a consultant for this study. Funding necessary
2 for the study is included in the appropriation in the discretionary funding line item in section 1 of
3 this Act. The department of water resources shall report to the legislative management during
4 the 2025-26 interim and to the appropriations committees of the seventieth legislative assembly
5 regarding the status of and any recommendations from phase two of the Missouri River intake
6 sites study.

7 **SECTION 21. EXEMPTION - STATE WATER COMMISSION STUDY - REGIONAL WATER**
8 **SYSTEMS GOVERNANCE AND FINANCE - REPORT.** During the 2025-26 interim, the state
9 water commission shall study the long-term governance and finance models of select regional
10 water systems in the state. The study must include the operational and organizational aspects
11 of the southwest pipeline project, northwest area water supply project, and Red River valley
12 water supply project. The state water commission is not subject to procurement requirements
13 under chapter 54-44 for the purpose of contracting with a consultant for this study and may
14 contract for the study only with an entity that does not receive direct or indirect benefits from
15 any regional, municipal, or rural water system within the state. Funding for the study is included
16 in the appropriation in the discretionary funding line item in section 1 of this Act. The state water
17 commission shall provide a draft report to the legislative management by March 31, 2026,
18 regarding the results of and any recommendations from the regional water systems governance
19 and finance study.

20 **SECTION 22. EXEMPTION - STATE WATER COMMISSION STUDY - COST-SHARE**
21 **POLICY AND FINANCIAL PLANNING - REPORT TO LEGISLATIVE MANAGEMENT.** During
22 the 2025-26 interim, the state water commission shall study its cost-share policy, including an
23 evaluation of whether projected funding for water projects, in conjunction with the existing
24 cost-share policy, will adequately address anticipated funding needs for water projects through
25 July 1, 2039. The study must also evaluate the schedules and overall work plans of water
26 projects and the state's financial role in deferred maintenance or replacement projects and must
27 recommend strategies to address any funding shortfalls identified. The state water commission
28 is not subject to procurement requirements under chapter 54-44 for the purpose of contracting
29 for this study and may contract for the study only with an entity that does not receive direct or
30 indirect benefits from the cost-share program. Funding for the study is included in the
31 appropriation in the discretionary funding line item in section 1 of this Act. The state water

1 commission shall provide a draft report to the legislative management by March 31, 2026,
2 regarding the results of and any recommendations from the cost-share policy study.

3 **SECTION 23. EXEMPTION - LINE ITEM TRANSFERS - REPORT.** Notwithstanding section
4 54-16-04, the office of management and budget shall transfer up to \$5,000,000 between the
5 operating expenses and capital assets line items in section 1 of this Act, during the period
6 beginning with the effective date of this Act, and ending June 30, 2027, as requested by the
7 director of the department of water resources. The director of the department of water resources
8 shall report to the legislative management any transfers made pursuant to this section.

9 **SECTION 24. EXEMPTION - GRANTS - WATER-RELATED PROJECTS - UNEXPENDED**
10 **FUNDS - REPORT.** Section 54-44.1-11 does not apply to funding appropriated or continued for
11 grants or water-related projects included in the capital assets, water supply - grants, rural water
12 supply - grants, flood control projects, discretionary funding, and general water - grants line
13 items in sections 1, 3, and 21 of chapter 52 of the 2023 Session Laws. Any unexpended
14 obligated and unobligated funds from these appropriations may be continued into the 2025-27
15 biennium. Any funds continued, estimated by the department of water resources to be
16 \$600,000,000, may be expended only for the purpose for which it was originally appropriated.
17 The director of the department of water resources shall report to the legislative management
18 any funding continued pursuant to this section.

19 **SECTION 25. EXEMPTION - BOWMAN RADAR SYSTEM.** The amount of \$1,800,000
20 appropriated from other funds for the purpose of replacing the Bowman radar system in the
21 capital assets line item in section 1 of chapter 52 of the 2023 Session Laws is not subject to
22 Section 54-44.1-11 and any unexpended funds from this appropriation may be continued and
23 expended for the purpose for which it was originally appropriated during the biennium beginning
24 July 1, 2025, and ending June 30, 2027.

25 **SECTION 26. EMERGENCY.** This Act and House Bill No. 1040, as approved by the
26 sixty-ninth legislative assembly, are declared to be an emergency measure.