

May 2, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1020

Introduced by

Appropriations Committee

In place of amendment (25.0164.02001) adopted by the Senate, Engrossed House Bill No. 1020 is amended by amendment (25.0164.02004) as follows:

A BILL for an Act to provide an appropriation for defraying the expenses of the department of water resources; ~~to provide an appropriation to the parks and recreation department;~~ to create and enact a new section to chapter 61-24.6 of the North Dakota Century Code, relating to the northwest area water supply biota water treatment plant operating fund; to amend and reenact ~~section~~ subsection 1 of section 54-12-08 and sections 54-35-02.7 and 61-02-79 of the North Dakota Century Code, relating to state agency employment of attorneys, the powers and duties of the water topics overview committee, and a Bank of North Dakota line of credit; ~~to authorize the state water commission to issue and sell bonds for water projects;~~ to provide legislative intent; to provide for a report; to provide for a study; to provide a continuing appropriation; to provide for a transfer; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

	Adjustments or		
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$22,998,148	\$2,358,350	\$25,356,498

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1	New and vacant FTE pool	0	2,428,615	2,428,615
2	Operating expenses	56,625,923	(22,686,142)	33,939,781
3	Capital assets	124,136,712	(120,932,762)	3,203,950
4	Southwest pipeline project	0	131,713,336	131,713,336
5	Northwest area water supply	0	106,857,325	106,857,325
6	Water supply - grants	316,200,000	(316,200,000)	0
7	Rural water supply - grants	52,000,000	(52,000,000)	0
8	Water supply	0	105,000,000	105,000,000
9	Regional water supply	0	306,500,000	306,500,000
10	General water - grants	12,000,000	(12,000,000)	0
11	General water	0	29,000,000	29,000,000
12	Flood control grants	115,700,000	(115,700,000)	0
13	Flood control	0	168,500,000	168,500,000
14	Discretionary funding	0	10,000,000	10,000,000
15	Total other funds	\$699,660,783	\$222,838,722	\$922,499,505
16	Full-time equivalent positions	93.00	6.00	99.00
17	Salaries and wages	\$22,998,148	\$2,333,877	\$25,332,025
18	New and vacant FTE pool	0	2,371,058	2,371,058
19	Operating expenses	56,625,923	(26,082,810)	30,543,113
20	Capital assets	124,136,712	(121,582,762)	2,553,950
21	Southwest pipeline project	0	101,000,000	101,000,000
22	Northwest area water supply	0	106,857,325	106,857,325
23	Water supply - grants	316,200,000	(316,200,000)	0
24	Rural water supply - grants	52,000,000	(52,000,000)	0
25	Water supply	0	110,000,000	110,000,000
26	Regional water supply	0	245,000,000	245,000,000
27	General water - grants	12,000,000	(12,000,000)	0
28	General water	0	18,000,000	18,000,000
29	Flood control grants	115,700,000	(115,700,000)	0
30	Flood control	0	117,600,000	117,600,000
31	Discretionary funding	0	10,000,000	10,000,000

1	<u>Total other funds</u>	<u>\$699,660,783</u>	<u>\$69,596,688</u>	<u>\$769,257,471</u>
2	<u>Full-time equivalent positions</u>	<u>93.00</u>	<u>5.00</u>	<u>98.00</u>

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

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

8	<u>One-Time Funding Description</u>	<u>Other Funds</u>
9	New FTE costs	\$42,500
10	<u>New FTE costs</u>	<u>\$36,000</u>
11	<u>Board of water well contractors costs</u>	<u>30,000</u>
12	Emergency pumps replacement	480,000
13	Excavator replacement	400,000
14	Data logger replacement	60,000
15	Missouri River intake sites field investigation	600,000
16	Bank of North Dakota line of credit	200,000,000
17	Total other funds	\$201,582,500
18	<u>Bank of North Dakota line of credit</u>	<u>260,000,000</u>
19	<u>Total other funds</u>	<u>\$261,006,000</u>

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

26 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the
27 amounts appropriated in section 1 of this Act, any additional federal funds and other amounts in
28 the resources trust fund and water commission fund which become available are appropriated
29 to the department of water resources for the purpose of ~~providing funding for water projects and~~
30 ~~grants~~defraying the expenses of the department of water resources, for the period beginning
31 with the effective date of this Act, and ending June 30, 2027. Any additional amounts in the

resources trust fund must be allocated equally between municipal water supply grants and rural water supply grants. Any additional amounts in the water commission fund must be allocated to the project for which the funding was intended. Any additional federal funds which become available to the department of water resources must be allocated for the purpose for which the funds were received. The director of the department of water resources shall report to the legislative management on the use of any additional appropriation authority pursuant to this section.

~~—SECTION 5. APPROPRIATION -- 2023-25 BIENNIUM -- DEPARTMENT OF WATER RESOURCES -- STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.~~ There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the department of water resources for the purpose of repaying a Bank of North Dakota line of credit for the water infrastructure revolving loan fund, for the period beginning with the effective date of this Act, and ending June 30, 2025.

~~—SECTION 6. APPROPRIATION -- PARKS AND RECREATION DEPARTMENT -- SOVEREIGN LANDS RECREATION USE GRANTS -- ONE-TIME FUNDING.~~ There is appropriated from special funds derived from a grant from the state water commission, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the parks and recreation department for the purpose of providing grants for developing recreation opportunities on sovereign lands in the state, for the period beginning with the effective date of this Act, and ending June 30, 2027. An eligible grant recipient must identify \$1 of matching funds for each \$1 awarded pursuant to this section. This funding is considered to be a one-time funding item.

~~—SECTION 7. SOVEREIGN LANDS RECREATION USE GRANT.~~ The general water line item in section 1 of this Act includes \$2,500,000 from the resources trust fund which the state water commission shall provide as a grant to the parks and recreation department for developing recreation opportunities on sovereign lands in the state, for the period beginning with the effective date of this Act, and ending June 30, 2027.

SECTION 5. OTHER FUNDS - WATER PROJECTS STABILIZATION FUND. The total other funds line item in section 1 of this Act includes \$42,500,000 from the water projects

1 stabilization fund for water supply grants for the period beginning with the effective date of this
2 Act, and ending June 30, 2027.

3 **SECTION 6. DEPARTMENT OF WATER RESOURCES DISCRETIONARY FUNDING.** The
4 discretionary funding appropriated to the department of water resources in section 1 of this Act
5 or continued in section ~~22~~24 of this Act may be used as necessary, except for salaries and
6 wages, for the period beginning with the effective date of this Act, and ending June 30, 2027.

7 ~~SECTION 10. BOND ISSUANCE AUTHORIZATION - SOUTHWEST PIPELINE PROJECT.~~
8 ~~The state water commission, in accordance with chapter 61-02, may arrange for up to~~
9 ~~one hundred million dollars for southwest pipeline projects, declared to be in the public interest,~~
10 ~~through the issuance of evidences of indebtedness under chapter 61-02, beginning with the~~
11 ~~effective date of this Act, and ending June 30, 2027.~~

12 **SECTION 7. TRANSFER - RESOURCES TRUST FUND - WATER INFRASTRUCTURE**
13 **REVOLVING LOAN FUND.** The state treasurer shall transfer ~~\$45,000,000~~\$40,000,000 from the
14 resources trust fund to the water infrastructure revolving loan fund at the Bank of North Dakota
15 for providing loans for water projects, as requested by the director of the department of water
16 resources, during the period beginning with the effective date of this Act, and ending June 30,
17 2027.

18 **SECTION 8. BANK OF NORTH DAKOTA LINE OF CREDIT - WATER**
19 **INFRASTRUCTURE REVOLVING LOAN FUND - TRANSFER.** The ~~Bank of North Dakota shall~~
20 ~~extend~~department of water resources may request a line of credit from the Bank of North
21 Dakota not to exceed \$100,000,000 ~~to the department of water resources~~ to be transferred to
22 the water infrastructure revolving loan fund as requested by the director of the department of
23 water resources to provide local cost-share loans for projects approved by the state water
24 commission pursuant to section 6-09-49.2 for the period beginning with the effective date of this
25 Act and ending June 30, 2027. The interest rate associated with the line of credit must be the
26 prevailing interest rate charged to North Dakota government entities. The department of water
27 resources shall request a deficiency appropriation from the seventieth legislative assembly to
28 repay the line of credit.

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

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

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

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

1. The legislative management, during each ~~interim~~ biennium, shall appoint a water topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly during the interim and is responsible for legislative overview of water topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water topics. The legislative management shall designate the chairman of the committee.
The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

2. Any request anticipated to be submitted to the state water commission or to the next legislative assembly for which the state cost share is estimated to be ten million dollars or more must be reported to the water topics overview committee before May thirty-first of each even-numbered year. The committee shall review the request and make a recommendation on the prioritization of the project for consideration by the next legislative assembly. A copy of the committee's report concerning a new water project request must be provided to the appropriations committees of the legislative assembly.

3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and also may study measures and proposals referred to the committee by the legislative assembly or the legislative management.

4. If a water project requesting state funds of ten million dollars or more is introduced in either house without a report from the committee, the committee shall consider and report its recommendation regarding the project. A copy of the committee's report concerning the new water project request must be provided to the appropriations committees of the legislative assembly.

5. The committee shall work collaboratively with the state water commission and may meet with the state water commission.

6. The committee shall report on the committee's project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants, and contracts. ~~The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.~~

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

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

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

The ~~Bank of North Dakota shall extend~~ department of water resources may request a line of credit from the Bank of North Dakota not to exceed one hundred million ~~two hundred million~~ two hundred sixty million dollars at the prevailing interest rate charged to North Dakota government entities. The department of water resources shall repay the line of credit from funds available in the resources trust fund or other funds, as appropriated by the legislative assembly. If the moneys available at the end of each biennium are not sufficient to repay the line of credit, the department of water resources shall request from the legislative assembly a deficiency appropriation to repay the line of credit. The department of water resources may access the line of credit, as necessary, to provide up to fifty million dollars for the northwest area water supply project and up to fifty million dollars for the southwest pipeline project ~~two hundred million and two hundred ten million~~ dollars for water projects ~~during the biennium beginning July 1, 2023 2025, and ending June 30, 2025 2027.~~

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

Biota water treatment plant operating fund - Continuing appropriation.

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

SECTION 13. STATE WATER COMMISSION - RED RIVER VALLEY WATER SUPPLY PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Red River valley water supply projects prior to the 2023-25 biennium, the state water commission may not approve state funding for the Red River valley water supply project in excess of a total of \$953,000,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly that of the \$773,000,000 yet to be designated, ~~\$260,000,000~~ \$205,000,000 is provided from funds appropriated to the department of water resources for regional water supply in section 1 of this Act.

SECTION 14. RED RIVER VALLEY WATER SUPPLY PROJECT - FEDERAL FUNDING - LEGISLATIVE INTENT. It is the intent of the sixty-ninth legislative assembly that any federal

funds received for the Red River valley water supply project be allocated seventy-five percent to the state cost share and twenty-five percent to the local cost share for the project.

SECTION 15. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL

PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Mouse River flood control projects prior to the 2023-25 biennium, the state water commission may not approve state funding for the Mouse River flood control project in excess of a total of \$380,500,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly that of the \$304,400,000 yet to be designated, ~~\$125,000,000~~\$81,100,000 is provided from funds appropriated to the department of water resources for flood control in section 1 of this Act.

~~**SECTION 17. STATE WATER COMMISSION - SOUTH BISMARCK STORM WATER AND FLOOD CONTROL PROJECT FUNDING - LEGISLATIVE INTENT.** The state water commission may not approve state funding for the south Bismarck storm water and flood control project in excess of a total of \$73,000,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly that the state water commission provide funding for a storm water and flood control project in south Bismarck that is largely ineligible for its cost share program and that of the \$73,000,000, \$20,000,000 is provided from funds appropriated to the department of water resources for flood control in section 1 of this Act.~~

SECTION 16. STATE WATER COMMISSION - GRANTS AND WATER PROJECTS -

2025-27 BIENNIUM - LEGISLATIVE INTENT. It is the intent of the sixty-ninth legislative assembly that the funds appropriated in the water supply, regional water supply, flood control, and general water line items in section 1 of this Act be designated as follows, although funding may be reallocated between designations in each line item:

1. ~~\$105,000,000~~\$110,000,000 for water supply, including:
 - a. ~~\$25,000,000~~\$40,000,000 for municipal water supply; and
 - b. ~~\$80,000,000~~\$70,000,000 for rural water supply.
2. ~~\$306,500,000~~\$245,000,000 for regional water supply, including:
 - a. ~~\$260,000,000~~\$205,000,000 for Red River valley water supply project; and
 - b. ~~\$46,500,000~~\$40,000,000 for western area water supply project.
3. ~~\$168,500,000~~\$117,600,000 for flood control, including:
 - a. ~~\$125,000,000~~\$81,100,000 for Mouse River flood control;
 - b. ~~\$16,000,000~~\$12,000,000 for Valley City flood control;

- 1 c. ~~\$20,000,000~~\$17,000,000 for ~~storm water and~~ south city of Bismarck flood control;
2 and
3 d. \$7,500,000 for other flood control projects.
4 4. ~~\$29,000,000~~\$18,000,000 for general water, including:
5 a. \$15,000,000 for water conveyance; and
6 b. ~~\$2,500,000 for sovereign lands; and~~
7 ~~c. \$11,500,000\$3,000,000 for other general water projects.~~

SECTION 17. MISSOURI RIVER AND OTHER WATER SYSTEMS - LEGISLATIVE

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

SECTION 18. LEGISLATIVE MANAGEMENT STUDY - DESIGNATED APPROPRIATIONS

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

SECTION 19. LEGISLATIVE MANAGEMENT STUDY - STORM WATER PROJECTS.

During the 2025-26 interim, the legislative management shall consider studying 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. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

SECTION 20. EXEMPTION - DEPARTMENT OF WATER RESOURCES STUDY -

MISSOURI RIVER INTAKE SITES STUDY PHASE TWO - REPORT. During the 2025-26 interim, the department of water resources shall study or conduct a field investigation as phase two of the department's study of select intake sites identified in phase one of the Missouri

1 River intake sites study conducted during the biennium beginning July 1, 2023, and ending
2 June 30, 2025. The state water commission is not subject to procurement requirements under
3 chapter 54-44 for the purpose of contracting with a consultant for this study. Funding necessary
4 for the study is included in the appropriation in the discretionary funding line item in section 1 of
5 this Act. The department of water resources shall report to the legislative management during
6 the 2025-26 interim and to the appropriations committees of the seventieth legislative assembly
7 regarding the status of and any recommendations from phase two of the Missouri River intake
8 sites study.

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

23 **SECTION 22. EXEMPTION - STATE WATER COMMISSION STUDY - COST-SHARE**
24 **POLICY AND FINANCIAL PLANNING - REPORT TO LEGISLATIVE MANAGEMENT.** During
25 the 2025-26 interim, the state water commission shall study its cost-share policy, including an
26 evaluation of whether projected funding for water projects, in conjunction with the existing
27 cost-share policy, will adequately address anticipated funding needs for water projects through
28 July 1, 2039. The study must also evaluate the schedules and overall work plans of water
29 projects and the state's financial ~~role~~ role in deferred maintenance or replacement projects and
30 must recommend strategies to address any funding shortfalls identified. The state water
31 commission is not subject to procurement requirements under chapter 54-44 for the purpose of

contracting for this study and may contract for the study only with an entity that does not receive direct or indirect benefits from the cost-share program. Funding for the study is included in the appropriation in the discretionary funding line item in section 1 of this Act. The state water commission shall provide a draft report ~~annually~~ to the legislative management ~~during the 2025-26 interim~~ by March 31, 2026, regarding the ~~status~~ results of and any recommendations from the cost-share policy study.

SECTION 23. EXEMPTION - LINE ITEM TRANSFERS - REPORT. Notwithstanding section 54-16-04, the office of management and budget shall transfer up to ~~\$10,000,000~~ \$5,000,000 between the operating expenses and capital assets line items, ~~excluding the salaries and wages line item and the new and vacant FTE pool line item~~, in section 1 of this Act, during the period beginning with the effective date of this Act, and ending June 30, 2027, as requested by the director of the department of water resources. The director of the department of water resources shall report to the legislative management any transfers made pursuant to this section.

SECTION 24. EXEMPTION - GRANTS - WATER-RELATED PROJECTS - UNEXPENDED FUNDS - REPORT. Section 54-44.1-11 does not apply to funding appropriated or continued for grants or water-related projects included in the capital assets, water supply - grants, rural water supply - grants, flood control projects, discretionary funding, and general water - grants line items in sections 1, 3, and 21 of chapter 52 of the 2023 Session Laws. Any unexpended obligated and unobligated funds from these appropriations may be continued into the 2025-27 biennium. Any funds continued, estimated by the department of water resources to be ~~\$522,500,000~~ \$600,000,000, may be expended only for the purpose for which it was originally appropriated. The director of the department of water resources shall report to the legislative management any funding continued pursuant to this section.

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

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