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Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Senate 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 sections 54-35-02.7 and 61-02-79 of the North Dakota Century
5 Code, relating to the powers and duties of the water topics overview committee and a Bank of
6 North Dakota line of credit; to provide legislative intent; to provide for a report; to provide for a
7 study; to provide a continuing appropriation; to provide for a transfer; to provide an exemption;
8 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 other funds, derived from special funds and federal
12 funds, to the department of water resources for the purpose of defraying the expenses of the
13 department of water resources, for the period beginning with the effective date of this Act, and
14 ending June 30, 2027, as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
17 Salaries and wages	\$22,998,148	\$2,299,304	\$25,297,452
18 New and vacant FTE pool	0	2,019,682	2,019,682
19 Operating expenses	56,625,923	(26,114,790)	30,511,133
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

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1	Water supply - grants	316,200,000	(316,200,000)	0
2	Rural water supply - grants	52,000,000	(52,000,000)	0
3	Water supply	0	90,000,000	90,000,000
4	Regional water supply	0	185,000,000	185,000,000
5	General water - grants	12,000,000	(12,000,000)	0
6	General water	0	19,750,000	19,750,000
7	Flood control grants	115,700,000	(115,700,000)	0
8	Flood control	0	85,500,000	85,500,000
9	Discretionary funding	<u>0</u>	<u>8,000,000</u>	<u>8,000,000</u>
10	Total other funds	\$699,660,783	(\$43,171,241)	\$656,489,542
11	Full-time equivalent positions	93.00	4.00	97.00

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

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

17	<u>One-Time Funding Description</u>	<u>Other Funds</u>
18	New FTE costs	\$29,500
19	Board of water well contractors costs	30,000
20	Emergency pumps replacement	480,000
21	Excavator replacement	400,000
22	Data logger replacement	60,000
23	Bank of North Dakota line of credit	<u>150,000,000</u>
24	Total other funds	\$150,999,500

25 **SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The
 26 department of water resources may not spend funds appropriated in the new and vacant FTE
 27 pool line item in section 1 of this Act, but may request the office of management and budget to
 28 transfer funds from the new and vacant FTE pool line item to the salaries and wages line item in
 29 accordance with the guidelines and reporting provisions included in House Bill No. 1015, as
 30 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, excluding oil
7 extraction tax revenues deposited in the fund that exceed the amount included in the March
8 2025 legislative revenue forecast, must be allocated equally between municipal water supply
9 grants and rural water supply grants. Any additional amounts in the water commission fund
10 must be allocated to the project for which the funding was intended. Any additional federal funds
11 which become available to the department of water resources must be allocated for the purpose
12 for which the funds were received. The director of the department of water resources shall
13 report to the legislative management on the use of any additional appropriation authority
14 pursuant to this section.

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

19 **SECTION 6. DEPARTMENT OF WATER RESOURCES DISCRETIONARY FUNDING.** The
20 discretionary funding appropriated to the department of water resources in section 1 of this Act
21 or continued in section 23 of this Act may be used as necessary, except for salaries and wages,
22 for the period beginning with the effective date of this Act, and ending June 30, 2027.

23 **SECTION 7. TRANSFERS - WATER PROJECT STABILIZATION FUND.** Notwithstanding
24 subsections 1 and 2 of section 57-51.1-07, any oil extraction tax revenues deposited in the
25 resources trust fund that exceed the amount included in the March 2025 legislative revenue
26 forecast during the period beginning July 1, 2025, and ending June 30, 2027, must be
27 transferred at least quarterly by the office of management and budget from the resources trust
28 fund to the water projects stabilization fund for the period beginning with the effective date of
29 this Act, and ending June 30, 2027.

30 **SECTION 8. TRANSFER - RESOURCES TRUST FUND - WATER INFRASTRUCTURE**
31 **REVOLVING LOAN FUND.** The state treasurer shall transfer \$35,000,000 from the resources

1 trust fund to the water infrastructure revolving loan fund at the Bank of North Dakota for
2 providing loans for water projects, as requested by the director of the department of water
3 resources.

4 **SECTION 9. BANK OF NORTH DAKOTA LINE OF CREDIT - WATER**

5 **INFRASTRUCTURE REVOLVING LOAN FUND - TRANSFER.** The department of water
6 resources may request a line of credit from the Bank of North Dakota not to exceed
7 \$100,000,000 to be transferred to the water infrastructure revolving loan fund as requested by
8 the director of the department of water resources to provide local cost-share loans for projects
9 approved by the state water commission pursuant to section 6-09-49.2 for the period beginning
10 with the effective date of this Act and ending June 30, 2027. The interest rate associated with
11 the line of credit must be the prevailing interest rate charged to North Dakota government
12 entities. The department of water resources shall request a deficiency appropriation from the
13 seventieth legislative assembly to repay the line of credit.

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

16 **54-35-02.7. Water topics overview committee - ~~Duties~~Powers and duties.**

- 17 1. The legislative management, during each interimbiennium, shall appoint a water topics
18 overview committee in the same manner as the legislative management appoints
19 other interim committees. The committee must meet quarterly during the interim and is
20 responsible for legislative overview of water topics and related matters, the Garrison
21 diversion project, and for any necessary discussions with adjacent states on water
22 topics. The legislative management shall designate the chairman of the committee.
23 The committee shall operate according to the statutes and procedure governing the
24 operation of other legislative management interim committees.
- 25 2. Any request anticipated to be submitted to the state water commission or to the next
26 legislative assembly for which the state cost share is estimated to be ten million dollars
27 or more must be reported to the water topics overview committee before May
28 thirty-first of each even-numbered year. The committee shall review the request and
29 make a recommendation on the prioritization of the project for consideration by the
30 next legislative assembly. A copy of the committee's report concerning a new water

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1 project request must be provided to the appropriations committees of the legislative
2 assembly.

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

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

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

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

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

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

25 **61-02-79. Bank of North Dakota - Line of credit.**

26 The Bank of North Dakota shall extend department of water resources may request a line of
27 credit from the Bank of North Dakota not to exceed one hundred million one hundred fifty million
28 dollars at the prevailing interest rate charged to North Dakota government entities. The
29 department of water resources shall repay the line of credit from funds available in the
30 resources trust fund or other funds, as appropriated by the legislative assembly. If the moneys
31 available at the end of each biennium are not sufficient to repay the line of credit, the

1 department of water resources shall request from the legislative assembly a deficiency
2 appropriation to repay the line of credit. The department of water resources may access the line
3 of credit, as necessary, to provide up to ~~fifty million dollars for the northwest area water supply~~
4 ~~project and up to fifty million dollars for the southwest pipeline project~~ and one hundred million
5 dollars for water projects during the biennium beginning July 1, 2023, and ending June 30,
6 2025.

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

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

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

15 **SECTION 13. STATE WATER COMMISSION - RED RIVER VALLEY WATER SUPPLY**

16 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Red River
17 valley water supply projects prior to the 2023-25 biennium, the state water commission may not
18 approve state funding for the Red River valley water supply project in excess of a total of
19 \$953,000,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly
20 that of the \$773,000,000 yet to be designated, \$150,000,000 is provided from funds
21 appropriated to the department of water resources for regional water supply in section 1 of this
22 Act.

23 **SECTION 14. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL**

24 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Mouse River
25 flood control projects prior to the 2023-25 biennium, the state water commission may not
26 approve state funding for the Mouse River flood control project in excess of a total of
27 \$380,500,000 without legislative approval. It is the intent of the sixty-ninth legislative assembly
28 that of the \$304,400,000 yet to be designated, \$65,000,000 is provided from funds appropriated
29 to the department of water resources for flood control in section 1 of this Act.

30 **SECTION 15. STATE WATER COMMISSION - GRANTS AND WATER PROJECTS -**

31 **2025-27 BIENNIUM - LEGISLATIVE INTENT.** It is the intent of the sixty-ninth legislative

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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. \$90,000,000 for water supply, including:
 - a. \$35,000,000 for municipal water supply; and
 - b. \$55,000,000 for rural water supply.
2. \$185,000,000 for regional water supply, including:
 - a. \$150,000,000 for Red River valley water supply project; and
 - b. \$35,000,000 for western area water supply project.
3. \$85,500,000 for flood control, including:
 - a. \$65,000,000 for Mouse River flood control;
 - b. \$13,000,000 for Valley City flood control; and
 - c. \$7,500,000 for other flood control projects.
4. \$19,750,000 for general water, including:
 - a. \$15,000,000 for water conveyance; and
 - b. \$4,750,000 for other general water projects.

SECTION 16. SOUTHWEST PIPELINE PROJECT LINE OF CREDIT - LEGISLATIVE

INTENT. It is the intent of the sixty-ninth legislative assembly that the department of water resources utilize capital repayments from the southwest pipeline project deposited in the resources trust fund for the repayment of any principal and interest associated with the \$50,000,000 Bank of North Dakota line of credit provided for the southwest pipeline project in section 61-02-79 of the North Dakota Century Code.

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

1 must also consider the appropriate involvement of the legislative management's water topics
2 overview committee in the prioritization of funding for water projects. The legislative
3 management shall report its findings and recommendations, together with any legislation
4 required to implement the recommendations, to the seventieth legislative assembly.

5 **SECTION 19. EXEMPTION - DEPARTMENT OF WATER RESOURCES STUDY -**
6 **MISSOURI RIVER INTAKE SITES STUDY PHASE TWO - REPORT.** During the 2025-26
7 interim, the department of water resources shall study or conduct a field investigation as
8 phase two of the department's study of select intake sites identified in phase one of the Missouri
9 River intake sites study conducted during the biennium beginning July 1, 2023, and ending
10 June 30, 2025. The state water commission is not subject to procurement requirements under
11 chapter 54-44 for the purpose of contracting with a consultant for this study. Funding necessary
12 for the study is included in the appropriation in the discretionary funding line item in section 1 of
13 this Act. The department of water resources shall report to the legislative management during
14 the 2025-26 interim and to the appropriations committees of the seventieth legislative assembly
15 regarding the status of and any recommendations from phase two of the Missouri River intake
16 sites study.

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

30 **SECTION 21. EXEMPTION - STATE WATER COMMISSION STUDY - COST-SHARE**
31 **POLICY AND FINANCIAL PLANNING - REPORT TO LEGISLATIVE MANAGEMENT.** During

1 the 2025-26 interim, the state water commission shall study its cost-share policy, including an
2 evaluation of whether projected funding for water projects, in conjunction with the existing cost-
3 share policy, will adequately address anticipated funding needs for water projects through
4 July 1, 2039. The study must also evaluate the schedules and overall work plans of water
5 projects and the state's financial role in deferred maintenance or replacement projects and must
6 recommend strategies to address any funding shortfalls identified. The state water commission
7 is not subject to procurement requirements under chapter 54-44 for the purpose of contracting
8 for this study and may contract for the study only with an entity that does not receive direct or
9 indirect benefits from the cost-share program. Funding for the study is included in the
10 appropriation in the discretionary funding line item in section 1 of this Act. The state water
11 commission shall provide a draft report to the legislative management by March 31, 2026,
12 regarding the results of and any recommendations from the cost-share policy study.

13 **SECTION 22. EXEMPTION - LINE ITEM TRANSFERS - REPORT.** Notwithstanding section
14 54-16-04, the office of management and budget shall transfer up to \$5,000,000 between the
15 operating expenses and capital assets line items in section 1 of this Act, during the period
16 beginning with the effective date of this Act, and ending June 30, 2027, as requested by the
17 director of the department of water resources. The director of the department of water resources
18 shall report to the legislative management any transfers made pursuant to this section.

19 **SECTION 23. EXEMPTION - GRANTS - WATER-RELATED PROJECTS - UNEXPENDED**
20 **FUNDS - REPORT.** Section 54-44.1-11 does not apply to funding appropriated or continued for
21 grants or water-related projects included in the capital assets, water supply - grants, rural water
22 supply - grants, flood control projects, discretionary funding, and general water - grants line
23 items in sections 1, 3, and 21 of chapter 52 of the 2023 Session Laws. Any unexpended
24 obligated and unobligated funds from these appropriations may be continued into the 2025-27
25 biennium. Any funds continued, estimated by the department of water resources to be
26 \$600,000,000, may be expended only for the purpose for which it was originally appropriated.
27 The director of the department of water resources shall report to the legislative management
28 any funding continued pursuant to this section.

29 **SECTION 24. EMERGENCY.** This Act and House Bill No. 1040, as approved by the
30 sixty-ninth legislative assembly, are declared to be an emergency measure.

