

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 2, replace "and" with "to create and enact a new section to chapter 61-02 and a new section to chapter 61-40, relating to reporting requirements for carryover projects and bonding authority of the western area water supply; to amend and reenact section 61-02-79 of the North Dakota Century Code, relating to the authorization of a Bank of North Dakota line of credit; to provide for an exemption; to provide for legislative management studies; to provide for a report to legislative management; to provide statements of legislative intent; to provide for a pilot project;"

Page 1, line 2, after "application" insert "; and to declare an emergency"

Page 1, line 7, replace "biennium" with "period"

Page 1, line 7, replace "July 1, 2021" with "with the effective date of this Act"

Page 1, remove lines 9 through 23

Page 2, replace lines 1 and 2 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$19,831,986	\$682,761	\$20,514,747
Operating expenses	43,855,753	(489,203)	43,366,550
Capital assets	105,938,758	57,528,679	163,467,437
Project carryover	308,333,818	(308,333,818)	0
Water supply - grants	128,000,000	(32,000,000)	96,000,000
Rural water supply - grants	37,200,000	3,400,000	40,600,000
Flood control projects	0	38,000,000	38,000,000
Fargo area flood control, including the Fargo-Moorhead diversion	66,500,000	(66,500,000)	0
Mouse River flood control	82,500,000	(82,500,000)	0
Flood control projects other than Fargo area flood control, including the Fargo-Moorhead diversion	48,000,000	(48,000,000)	0
General water - grants	27,093,776	(12,866,501)	14,227,275
Basinwide plan implementation	<u>0</u>	<u>1,100,000</u>	<u>1,100,000</u>
Total special funds	\$867,254,091	(\$449,978,082)	\$417,276,009
Full-time equivalent positions	90.00	0.00	90.00"

Page 2, line 3, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 4, after "biennium" insert "and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 6 through 8 with:

"Line of credit - Bank of North Dakota	\$75,000,000	\$75,000,000
Basinwide plan implementation	0	1,100,000
Payoff of outstanding debt	<u>25,900,000</u>	<u>0</u>
Total special funds	\$100,900,000	\$76,100,000

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.

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

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

Page 2, line 9, after the boldface period insert "**EXEMPTION -**"

Page 2, line 10, remove "for grants or water-related projects"

Page 2, remove line 11

Page 2, line 12, replace "this exclusion is only in effect for two years after June 30, 2023" with "of \$22,000,000 in the capital assets line item relating to state-owned projects and \$295,363,183 in the project carryover line item in section 1 of chapter 45 of the 2019 Session Laws. Any unspent funds from these appropriations may be continued into the 2021-23 biennium. Any funds continued may be expended only for the purpose for which it was originally appropriated. The state water commission may seek emergency commission and budget section approval under section 54-16-04.2 to increase carryover spending authority of funds appropriated in the 2019-21 biennium into the 2021-23 biennium"

Page 2, line 12, remove "Any unexpended funds"

Page 2, replace lines 13 and 14 with:

"**SECTION 5.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Carryover projects - Reporting requirements to the legislative management.

1. The state water commission shall report quarterly to a legislative committee designated by the legislative management:
 - a. Each project the state water commission has designated as a carryover project for at least three years;
 - b. The amount of funds still committed for each carryover project included in the report;

- c. The total amount of funds reallocated or made available from carryover projects included in a previous report to other projects since the commission's preceding report; and
 - d. The status of each carryover project for which the committee has made a recommendation under subsection 2 since the commission's preceding report.
2. The legislative committee designated by the legislative management to receive the state water commission's reports may make a recommendation to the state water commission that a carryover project included in a report be terminated under section 61-02-14.3 and any funds remaining for the carryover project be reallocated and made available for projects with the same general purpose as the carryover project.

SECTION 6. 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 a line of credit not to exceed seventy-five million dollars at a rate of one and one-half percent over the three month London interbank offered rate, but may not exceed three percent to the state water commission. The state water commission shall repay the line of credit from funds available in the resources trust fund, water development trust fund, or other funds, as appropriated by the legislative assembly. The state water commission may access the line of credit, as necessary, to provide funding as authorized by the legislative assembly for water supply projects approved before June 30, ~~2021~~2023, and flood control projects that have approval for funding before June 30, ~~2021~~2023.

SECTION 7. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Revenue bonds and bonds exemption from taxation.

- 1. The authority shall have the power and authority to issue revenue bonds, to include refunding bonds, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Revenue bonds issued under this section must be issued as provided in chapter 61-35, and are not subject to section 61-35-15.
- 2. Issuance of revenue bonds must be approved by a majority of the members of the board of directors of the authority.
- 3. The authority shall pledge sufficient revenue from any revenue-producing facility or other revenue sources, excluding industrial water sales, for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level, together with any other available funds, to provide for the operation of the facilities and for the bond payments in the manner provided by section 61-40-11.
- 4. Revenue bonds may not be a general obligation of any participating member entity or the state and may not be secured by property taxes.

5. The revenue bonds may be issued and sold at public or private sale on the terms and conditions determined by the board of directors.
6. Bonds issued under this section and their income are exempt from taxation by the state.

SECTION 8. PILOT PROJECT - BASINWIDE WATER PLAN

IMPLEMENTATION - REPORT TO LEGISLATIVE MANAGEMENT. Of the \$1,100,000 in the basinwide plan implementation line item in section 1 of this Act, up to \$100,000 may be provided as a grant to reimburse water resource districts for costs incurred in the development of a basinwide water plan, and up to \$1,000,000 may be used to provide grants for the pilot project authorized in this section, for the period beginning with the effective date of this Act, and ending June 30, 2023. These funds are not subject to state water commission cost-share policies. Water resource districts and joint water resource districts in a basin may develop a basinwide water plan identifying water conveyance, flood control, and other water projects to be undertaken in the basin, and may jointly apply to the state water commission for a grant of up to \$1,000,000 for implementation of the plan. The state water commission may select a basinwide plan submitted under this section for funding and enter into one cooperative agreement with the water resource districts and joint water resource districts that submitted the plan. The cooperative agreement must include the amount of funding the state water commission will provide, the applicable cost-share requirements, a prohibition on using funds granted for implementation of the plan for planning or any purpose other than implementation of the basinwide plan, and the obligations of the state water commission and each water resource district and joint water resource district in implementing the basinwide plan. The agreement also must provide for monitoring and oversight of the basinwide plan's implementation. The state water commission shall report to the legislative management on the results of this pilot project no later than August 1, 2022.

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

SECTION 10. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Mouse River flood control projects prior to the 2021-23 biennium, the state water commission may not approve state funding for the Mouse River flood control project in excess of a total of \$604,000,000 without legislative approval. It is the intent of the sixty-seventh legislative assembly that of the \$604,000,000, \$74,500,000 is provided from the resources trust fund through bond proceeds used to repay outstanding loans of the resources trust fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. LEGISLATIVE INTENT - RURAL WATER SUPPLY. It is the intent of the sixty-seventh legislative assembly that, in addition to any funds approved for the project by the state water commission in previous bienniums, up to \$1,600,000 of the funding appropriated in the rural water supply - grants line item be made

available during the 2021-23 biennium to the system 4 connection to system 1 rural water supply project sponsored by all seasons water district.

SECTION 12. LEGISLATIVE MANAGEMENT STUDY - RED RIVER VALLEY WATER SUPPLY MANAGEMENT STUDY - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the legislative management, with input from the state water commission and from stakeholders of the Red River valley water supply project, shall consider studying the management and operation of the Red River valley water supply project. The study must include consideration of the appropriate entity to own, manage, and operate the project. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 13. LEGISLATIVE MANAGEMENT STUDY - NORTHWEST AREA WATER SUPPLY. During the 2021-23 interim, the legislative management with input from the state water commission shall consider studying the northwest area water supply project. The study must include consideration of an entity, other than the state, to own, manage, and operate the project. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 14. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	House Changes	House Version
Salaries and wages	\$19,831,986	\$682,761	\$20,514,747
Operating expenses	43,855,753	(489,203)	43,366,550
Capital assets	105,938,758	57,528,679	163,467,437
Project carryover	308,333,818	(308,333,818)	
Water supply - Grants	128,000,000	(32,000,000)	96,000,000
Rural water supply - Grants	37,200,000	3,400,000	40,600,000
Fargo area flood control	66,500,000	(66,500,000)	
Mouse River flood control	82,500,000	(82,500,000)	
Other flood control projects	48,000,000	(48,000,000)	
General water - Grants	27,093,776	(12,866,501)	14,227,275
Basinwide plan implementation		1,100,000	1,100,000
Flood control - grants		38,000,000	38,000,000
Total all funds	\$867,254,091	(\$449,978,082)	\$417,276,009
Less estimated income	867,254,091	(449,978,082)	417,276,009
General fund	\$0	\$0	\$0
FTE	90.00	0.00	90.00

Department 770 - State Water Commission - Detail of House Changes

	Adjusts Funding for Base Payroll Changes¹	Adds Funding for Salary and Benefit Increases²	Adjusts FTE Positions³	Adjusts Funding for Operating Expenses⁴	Reduces Funding for Capital Assets⁵	Removes Funding for Project Carryover⁶
Salaries and wages	\$230,410	\$424,639	\$27,712			
Operating expenses				(\$4,889,203)		
Capital assets					(\$13,081,566)	
Project carryover						(\$308,333,818)
Water supply - Grants						
Rural water supply - Grants						
Fargo area flood control						
Mouse River flood control						
Other flood control projects						
General water - Grants						
Basinwide plan implementation						
Flood control - grants						
Total all funds	\$230,410	\$424,639	\$27,712	(\$4,889,203)	(\$13,081,566)	(\$308,333,818)
Less estimated income	230,410	424,639	27,712	(4,889,203)	(13,081,566)	(308,333,818)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	Adjusts Funding for New Water Projects⁴	Adds Funding from Bank of North Dakota Line of Credit⁸	Adds Funding for Basinwide Plan Implementation⁹	Adds Funding for Microsoft Office 365 License Expenses¹⁰	Total House Changes
Salaries and wages					\$682,761
Operating expenses		\$4,400,000			(489,203)
Capital assets		70,600,000		\$10,245	57,528,679
Project carryover					(308,333,818)
Water supply - Grants	(\$32,000,000)				(32,000,000)
Rural water supply - Grants	3,400,000				3,400,000
Fargo area flood control	(66,500,000)				(66,500,000)
Mouse River flood control	(82,500,000)				(82,500,000)
Other flood control projects	(48,000,000)				(48,000,000)
General water - Grants	(12,866,501)				(12,866,501)
Basinwide plan implementation			\$1,100,000		1,100,000
Flood control - grants	38,000,000				38,000,000
Total all funds	(\$200,466,501)	\$75,000,000	\$1,100,000	\$10,245	(\$449,978,082)
Less estimated income	(200,466,501)	75,000,000	1,100,000	10,245	(449,978,082)
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and 1.5 percent on July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250 for both years, and increases in health insurance premiums from \$1,427 to \$1,429 per month:

Other Funds	
Salary increase	\$420,224
Health insurance increase	4,415
Total	\$424,639

³ FTE positions are adjusted as follows:

Description	Other Funds
Removes 1 FTE risk mapping position and related federal funds	(\$183,884)
Adds 1 FTE regulatory position	211,596
Total	\$27,712

⁴ Funding for operating expenses is adjusted as follows:

	<u>Other Funds</u>
Debt payment to Bank of North Dakota	(\$7,236,750)
Professional services	1,713,735
Utility expenses	101,700
Repairs	497,250
IT and equipment over \$5,000	14,009
Other operating expenses	<u>20,853</u>
Total	(\$4,889,203)

⁵ Funding is reduced for state water projects in the capital assets line item to provide a total of \$163,467,437.

⁶ The funding for carryover projects is removed and a section is added providing that the remaining \$22,000,000 in the capital assets line item and \$295,363,183 in the project carryover line item are exempt from North Dakota Century Code Section 54-44.1-11 for 2 years after June 30, 2023. The section also authorizes the State Water Commission to obtain approval from the Emergency Commission and Budget Section to increase carryover authority of funding from previous bienniums.

⁷ Funding for grants for new water projects is adjusted as follows:

	<u>Other Funds</u>
Water supply - grants	(\$32,000,000)
Rural water supply - grants	3,400,000
Fargo area flood control	(66,500,000)
Mouse River flood control	(82,500,000)
Other flood control projects	(48,000,000)
Flood control - grants	38,000,000
General water - grants	<u>(12,866,501)</u>
Total	(\$200,466,501)

⁸ Funding from proceeds received from a Bank of North Dakota line of credit is added to provide funding for the Northwest Area Water Supply Project. A section is also added to amend Section 61-02-79 relating to a Bank line of credit, to continue authorization for a \$75 million Bank line of credit for the 2021-23 biennium.

⁹ Section 8 provides that one-time funding of \$1.1 million is provided for implementation of basinwide water plans, of which up to \$100,000 may be used to reimburse administrative and planning costs incurred by the water resource districts in the development of basinwide water plans.

¹⁰ Funding is added for Microsoft Office 365 license expenses.

This amendment also adds sections to:

- Appropriate any additional amounts in the resources trust fund and water development trust fund which become available to the State Water Commission, subject to Budget Section approval.
- Provide that the remaining \$22,000,000 in the capital assets line item and \$295,363,183 in the project carryover line item are exempt from Section 54-44.1-11 and may be continued into the 2021-23 biennium. This section also authorizes the State Water Commission to obtain approval from the Emergency Commission and Budget Section to increase carryover authority of funding from previous bienniums.
- Create a new section to Chapter 61-02 to require the State Water Commission to report on carryover projects to the Legislative Management on a quarterly basis.
- Amend Section 61-02-79 to extend the \$75 million line of credit authorization from the Bank of North Dakota into the 2021-23 biennium.
- Create a new section to Chapter 61-40 authorizing the Western Area Water Supply Authority to issue revenue bonds.
- Provide a limit on total state funds approved by the State Water Commission for the Fargo flood control project to \$850 million and provides legislative intent the state provide a portion of the local cost-share of the Fargo flood control project not to exceed \$850 million. The section provides legislative intent that of the \$850 million, the state has provided \$414.5 million and the remaining \$435.5 million is to be provided from bond proceeds during the 2021-23 biennium.
- Provide that excluding funding provided for Mouse River flood control projects prior to the 2021-23 biennium, the total state funds approved by the State Water Commission may not exceed a total of \$604 million. The section provides legislative intent that of the \$604 million, \$74.5 million is provided from the resources trust fund through bond proceeds used to repay outstanding loans of the resources trust fund during the 2021-23 biennium.

- Provide legislative intent that the state provide up to \$1.6 million to the system 4 connection to system 1, a rural water supply project sponsored by All Seasons Water District, in addition to any funds approved for the project by the State Water Commission in previous bienniums, during the 2021-23 biennium.
- Provide a Legislative Management study with input from the State Water Commission and stakeholders of the Red River Valley Water Supply Project of an entity to own, manage, and operate the Red River Valley Water Supply Project.
- Provide a Legislative Management study with input from the State Water Commission, of an entity, other than the state, to own, manage, and operate the Northwest Area Water Supply Project.
- Declare an emergency.