

HOUSE BILL NO. 1020

Introduced by

Appropriations Committee

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

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 11 as may be necessary, are appropriated from special funds derived from federal funds and other
 12 income, to the state water commission for the purpose of defraying the expenses of the state
 13 water commission, for the ~~biennium period~~ beginning July 1, 2021 with the effective date of this
 14 Act, and ending June 30, 2023, as follows:

	<u>Governor's</u>		
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
17 Salaries and wages	\$19,831,986	\$20,683,144	\$19,831,986
18 Operating expenses	43,855,753	43,366,550	43,855,753
19 Capital assets	105,938,758	165,284,777	105,938,758
20 Project carryover	308,333,818	295,363,183	308,333,818
21 Water supply - grants	128,000,000	54,165,877	128,000,000
22 Rural water supply - grants	37,200,000	20,225,913	37,200,000
23 Fargo area flood control including the	66,500,000	0	66,500,000
24 Fargo-Moorhead diversion			

Sixty-seventh
Legislative Assembly

1	Mouse River flood control	82,500,000	0	82,500,000
2	Flood control projects other than Fargo	48,000,000	94,630,512	48,000,000
3	—area flood control including the			
4	—Fargo-Moorhead diversion			
5	General water – grants	27,093,776	15,327,275	27,093,776
6	Total special funds	\$867,254,091	\$709,047,231	\$867,254,091
7	Full-time equivalent positions	90.00	90.00	90.00
8			Adjustments or	
9		Base Level	Enhancements	Appropriation
10	Salaries and wages	\$19,831,986	\$682,761	\$20,514,747
11	Operating expenses	43,855,753	(489,203)	43,366,550
12	Capital assets	105,938,758	57,528,679	163,467,437
13	Project carryover	308,333,818	(308,333,818)	0
14	Water supply - grants	128,000,000	(32,000,000)	96,000,000
15	Rural water supply - grants	37,200,000	3,400,000	40,600,000
16	Flood control projects	0	38,000,000	38,000,000
17	Fargo area flood control, including the	66,500,000	(66,500,000)	0
18	<u>Fargo-Moorhead diversion</u>			
19	Mouse River flood control	82,500,000	(82,500,000)	0
20	Flood control projects other than Fargo	48,000,000	(48,000,000)	0
21	<u>—area flood control, including the</u>			
22	<u>—Fargo-Moorhead diversion</u>			
23	General water - grants	27,093,776	(12,866,501)	14,227,275
24	Basinwide plan implementation	0	1,100,000	1,100,000
25	Total special funds	\$867,254,091	(\$449,978,082)	\$417,276,009
26	Full-time equivalent positions	90.00	0.00	90.00

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

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
2	Line of credit - Bank of North Dakota	\$75,000,000	\$0
3	Payoff of outstanding debt	25,900,000	0
4	Total special funds	\$100,900,000	\$0
5	<u>Line of credit - Bank of North Dakota</u>	<u>\$75,000,000</u>	<u>\$75,000,000</u>
6	<u>Basinwide plan implementation</u>	<u>0</u>	<u>1,100,000</u>
7	<u>Payoff of outstanding debt</u>	<u>25,900,000</u>	<u>0</u>
8	<u>Total special funds</u>	<u>\$100,900,000</u>	<u>\$76,100,000</u>

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

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.

SECTION 4. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS -

CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding ~~for grants or water-related projects included in the project carryover and new projects line items in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2023~~ 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

1 commission may seek emergency commission and budget section approval under section
2 54-16-04.2 to increase carryover spending authority of funds appropriated in the 2019-21
3 biennium into the 2021-23 biennium. ~~Any unexpended funds appropriated from the resources-~~
4 ~~trust fund after that period has expired must be transferred to the resources trust fund.~~

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

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

8 1. The state water commission shall report quarterly to a legislative committee
9 designated by the legislative management:

10 a. Each project the state water commission has designated as a carryover project
11 for at least three years;

12 b. The amount of funds still committed for each carryover project included in the
13 report;

14 c. The total amount of funds reallocated or made available from carryover projects
15 included in a previous report to other projects since the commission's preceding
16 report; and

17 d. The status of each carryover project for which the committee has made a
18 recommendation under subsection 2 since the commission's preceding report.

19 2. The legislative committee designated by the legislative management to receive the
20 state water commission's reports may make a recommendation to the state water
21 commission that a carryover project included in a report be terminated under section
22 61-02-14.3 and any funds remaining for the carryover project be reallocated and made
23 available for projects with the same general purpose as the carryover project.

24 **SECTION 6. AMENDMENT.** Section 61-02-79 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-02-79. Bank of North Dakota - Line of credit.**

27 The Bank of North Dakota shall extend a line of credit not to exceed seventy-five million
28 dollars at a rate of one and one-half percent over the three month London interbank offered
29 rate, but may not exceed three percent to the state water commission. The state water
30 commission shall repay the line of credit from funds available in the resources trust fund, water
31 development trust fund, or other funds, as appropriated by the legislative assembly. The state

1 water commission may access the line of credit, as necessary, to provide funding as authorized
2 by the legislative assembly for water supply projects approved before June 30, ~~2021~~2023, and
3 flood control projects that have approval for funding before June 30, ~~2021~~2023.

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

6 **Revenue bonds and bonds exemption from taxation.**

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

24 **SECTION 8. PILOT PROJECT - BASINWIDE WATER PLAN IMPLEMENTATION -**
25 **REPORT TO LEGISLATIVE MANAGEMENT.** Of the \$1,100,000 in the basinwide plan
26 implementation line item in section 1 of this Act, up to \$100,000 may be provided as a grant to
27 reimburse water resource districts for costs incurred in the development of a basinwide water
28 plan, and up to \$1,000,000 may be used to provide grants for the pilot project authorized in this
29 section, for the period beginning with the effective date of this Act, and ending June 30, 2023.
30 These funds are not subject to state water commission cost-share policies. Water resource
31 districts and joint water resource districts in a basin may develop a basinwide water plan

1 identifying water conveyance, flood control, and other water projects to be undertaken in the
2 basin, and may jointly apply to the state water commission for a grant of up to \$1,000,000 for
3 implementation of the plan. The state water commission may select a basinwide plan submitted
4 under this section for funding and enter into one cooperative agreement with the water resource
5 districts and joint water resource districts that submitted the plan. The cooperative agreement
6 must include the amount of funding the state water commission will provide, the applicable cost-
7 share requirements, a prohibition on using funds granted for implementation of the plan for
8 planning or any purpose other than implementation of the basinwide plan, and the obligations of
9 the state water commission and each water resource district and joint water resource district in
10 implementing the basinwide plan. The agreement also must provide for monitoring and
11 oversight of the basinwide plan's implementation. The state water commission shall report to
12 the legislative management on the results of this pilot project no later than August 1, 2022.

13 **SECTION 9. STATE WATER COMMISSION - FARGO FLOOD CONTROL PROJECT**

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

20 **SECTION 10. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL**

21 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Mouse River
22 flood control projects prior to the 2021-23 biennium, the state water commission may not
23 approve state funding for the Mouse River flood control project in excess of a total of
24 \$604,000,000 without legislative approval. It is the intent of the sixty-seventh legislative
25 assembly that of the \$604,000,000, \$74,500,000 is provided from the resources trust fund
26 through bond proceeds used to repay outstanding loans of the resources trust fund during the
27 biennium beginning July 1, 2021, and ending June 30, 2023.

28 **SECTION 11. LEGISLATIVE INTENT - RURAL WATER SUPPLY.** It is the intent of the

29 sixty-seventh legislative assembly that, in addition to any funds approved for the project by the
30 state water commission in previous bienniums, up to \$1,600,000 of the funding appropriated in
31 the rural water supply - grants line item be made available during the 2021-23 biennium to the

1 system 4 connection to system 1 rural water supply project sponsored by all seasons water
2 district.

3 **SECTION 12. LEGISLATIVE MANAGEMENT STUDY - RED RIVER VALLEY WATER**

4 **SUPPLY MANAGEMENT STUDY - REPORT TO LEGISLATIVE MANAGEMENT.** During the
5 2021-22 interim, the legislative management, with input from the state water commission and
6 from stakeholders of the Red River valley water supply project, shall consider studying the
7 management and operation of the Red River valley water supply project. The study must
8 include consideration of the appropriate entity to own, manage, and operate the project. The
9 legislative management shall report its findings and recommendations, together with any
10 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

11 **SECTION 13. LEGISLATIVE MANAGEMENT STUDY - NORTHWEST AREA WATER**

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

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