

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1020  
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to create and enact a new section to chapter 61-02 and a new section to chapter 61-40 of the North Dakota Century Code, 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 a legislative management study; to provide for a report to legislative management; to provide for a statement of legislative intent; to provide for a pilot project; to provide for application; 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 special funds derived from federal funds and other income, to the state water commission for the purpose of defraying the expenses of the state water commission, for the period beginning with the effective date of this Act, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$19,831,986	\$705,881	\$20,537,867
Operating expenses	43,855,753	(489,203)	43,366,550
Capital assets	105,938,758	42,528,679	148,467,437
Project carryover	308,333,818	(308,333,818)	0
Water supply - grants	128,000,000	(3,000,000)	125,000,000
Rural water supply - grants	37,200,000	22,400,000	59,600,000
Flood control projects	0	48,000,000	48,000,000
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	0	1,100,000	1,100,000
Total special funds	\$867,254,091	(\$406,954,962)	\$460,299,129
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>
Line of credit - Bank of North Dakota	\$75,000,000	\$50,000,000
Basinwide plan implementation	0	1,100,000
Payoff of outstanding debt	25,900,000	0
Total special funds	\$100,900,000	\$51,100,000

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.

**SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE WATER COMMISSION DISCRETIONARY FUNDING.** There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing discretionary funds for water project grants, for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered to be a one-time funding item.

**SECTION 5. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.** Section 54-44.1-11 does not apply to funding 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.

**SECTION 6.** 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 that has had a cost-share agreement in place for at least four 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 7. 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~~<sup>fifty</sup> 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, and flood control projects that have approval for funding before the~~northwest area water supply project during the biennium beginning July 1, 2021, and ending June 30, 2024.

**SECTION 8.** A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

**Revenue bonds and bonds exempt 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 9. 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, 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1020 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 92                      Nays 2                      Absent 0

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 47                      Nays 0                      Absent 0

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President of the Senate

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State