

**State Water Commission  
Budget No. 770  
House Bill No. 1020**

	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 legislative appropriations</b>	<b>93.00</b>	<b>\$0</b>	<b>\$722,173,475</b>	<b>\$722,173,475</b>
2017-19 base budget	97.00	0	868,935,836	868,935,836
Legislative increase (decrease) to base budget	(4.00)	\$0	(\$146,762,361)	(\$146,762,361)

**SUMMARY OF LEGISLATIVE CHANGES TO THE BASE BUDGET AND MAJOR FUNDING ITEMS**

**Salaries and Wages**

The Legislative Assembly did not include funding for employee salary increases.

**Changes to Base Budget**

	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Added funding for base payroll changes for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.			\$322,700	\$322,700
Added funding for employee health insurance premiums to reflect a revised premium rate of \$1,240.83 per month.			257,498	257,498
Removed 4 FTE positions and related funding.	(4.00)		(753,720)	(753,720)
Increased funding for Bank of North Dakota loan payments relating to State Water Commission outstanding bonds refinanced through the Bank during the 2015-17 biennium to provide \$7.5 million per biennium.			3,693,997	3,693,997
Added \$125,000 from the resources trust fund for the Agriculture Commissioner's Wildlife Services program.			125,000	125,000
Adjusted funding for operating expenses and water projects.			(225,437,836)	(225,437,836)
Added funding for a State Engineer study, of which \$15,000 is from the resources trust fund and \$15,000 is other funds received from Ward County.			30,000	30,000
Added <b>one-time</b> funding for projects from a Bank of North Dakota line of credit.			75,000,000	75,000,000
Total	(4.00)	\$0	(\$146,762,361)	(\$146,762,361)

**FTE Changes**

The Legislative Assembly approved 93 FTE positions for the State Water Commission for the 2017-19 biennium, a decrease of 4 FTE positions from the 2015-17 biennium authorized level of 97 FTE positions.

### **One-Time Funding**

In Section 20, the Legislative Assembly authorized the State Water Commission to obtain a \$75 million line of credit from the Bank of North Dakota for water projects.

### **Other Sections in House Bill No. 1020**

**Health insurance increase** - Section 2 identifies the amount of funding included in the agency budget for state employee health insurance premium rate increases during the 2017-19 biennium.

**Resources trust fund and water development trust fund** - Section 3 provides, in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund, any additional amounts that become available in those funds are appropriated, subject to Budget Section approval, to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2017-19 biennium.

**Grant and water project carryover authority** - Section 4 authorizes the State Water Commission to continue any unexpended 2017-19 biennium appropriation authority for grants or water-related projects in the 2019-21 biennium.

**Project funding designations** - In Subsection 1 of Section 5, the Legislative Assembly directed the State Water Commission to provide \$298,875,000 from the water and atmospheric resources line item for the following designated purposes:

- \$120,125,000 for water supply;
- \$27,000,000 for rural water supply;
- \$136,000,000 for flood control; and
- \$15,750,000 for general water.

In Subsection 2 of Section 5 the Legislative Assembly provided that the State Water Commission must receive Budget Section approval to transfer funding between the items identified in this section and notify the Water Topics Overview Committee of any transfers. **The Governor vetoed the provisions in this subsection requiring Budget Section approval.**

**Mouse River Valley water supply project** - Section 6 provides legislative intent that the state provide no more than \$193 million of state funding for Mouse River flood control projects within the city limits of Minot. It provides further intent that the \$193 million be made available during the 2017-19, 2019-21, 2021-23, and 2023-25 bienniums.

**Red River Valley Water Supply Project** - Section 7 provides legislative intent that the State Water Commission provide \$30 million, of which \$17 million is for the completion of the planning and permitting process and \$13 million is to initiate construction of Phase 1 prioritized project features, to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project for the 2017-19 biennium. The section also requires the Garrison Diversion Conservancy District to obtain Budget Section approval prior to changing funding between designations. Section 8 identifies accomplishments the Garrison Diversion Conservancy District must meet regarding the planning and permitting process and requires the district to obtain certification from the State Water Commission and the State Engineer that those items are complete. The section also requires Budget Section approval of the certification and for construction to begin before the funding can be provided to the Garrison Conservancy District for the Red River Valley Water Supply Project.

**Western Area Water Supply Authority debt refinancing** - Section 9 directs the refinancing of Western Area Water Supply Authority debt, and provides for the repayment of a \$25 million loan from the general fund. The section also requires the Western Area Water Supply Authority to provide monthly financial reporting and authorizes the Western Area Water Supply Authority to pay only interest on loans from the resources trust fund during the period of July 1, 2017, through June 30, 2018, and changes the interest rate on the \$10 million loan to the Western Area Water Supply Authority from 5 to 2.5 percent.

**Western Area Water Supply Authority debt service shortfall** - Section 10 directs the State Water Commission to provide a payment, subject to Budget Section approval, to the Bank of North Dakota if the Western Area Water Supply Authority defaults on its consolidation loan from the Bank of North Dakota authorized in Section 9 of House Bill No. 1020, or on revenue bonds or other financing provided for in Section 12 of House Bill No. 1020.

**Appropriation - Industrial Commission study** - Section 11 appropriates \$150,000 from the resources trust fund to the Industrial Commission for conducting an independent study of the feasibility and desirability of the sale or lease of the industrial water supply assets of the Western Area Water Supply Authority. The section requires the Industrial Commission to report the findings to the Water Topics Overview Committee by June 1, 2018. Section 12 directs the Industrial Commission, based on the results of the study, to either develop a timeline to complete the lease or the sale of the Western Area Water Supply Authority's assets or assist the Western Area Water Supply Authority in refinancing its outstanding debt through bonding.

**State Engineer - Flood hazard risk management study** - Section 13 provides the water and atmospheric resources line item in Section 1 of House Bill No. 1020 includes \$30,000, of which \$15,000 is from the resources trust fund and \$15,000 is from other funds received from Ward County, to conduct a flood hazard risk management framework study and demonstration to include only Ward County. Section 14 directs the Legislative Management to study issues related to the state's development of a statewide flood hazard risk management framework by granting authority to the State Engineer to perform the study and provides guidance for the completion of the study.

**Allocation of money in the oil extraction tax development fund** - Section 15 amends North Dakota Century Code Section 57-51.1-07 to reduce the resources trust fund allocation to the renewable energy development fund from 5 to 3 percent and the maximum allocation to the energy conservation grant fund from \$1.2 million to \$200,000 for the 2017-19 biennium. Section 16 amends Section 57-51.1-07 to restore the maximum allocation to the energy conservation grant fund to \$1.2 million after July 31, 2019. Section 28 provides that Section 15 is effective for the period of August 1, 2017, through July 31, 2019, and Section 16 becomes effective on August 1, 2019.

**Definitions** - Section 17 amends Section 61-02-02(10), as amended by Section 3 of House Bill No. 1374 as approved by the 65<sup>th</sup> Legislative Assembly, related to the definition of a water conveyance project. Section 28 provides that this section becomes effective on August 1, 2017.

**Meetings of the State Water Commission** - Section 18 amends Section 61-02-08, as amended by Section 6 of House Bill No. 1374 as approved by the 65<sup>th</sup> Legislative Assembly, to designate the Governor as Chairman of the State Water Commission and provide the commission select the Vice Chairman. Section 28 provides that this section becomes effective on August 1, 2017.

**Infrastructure revolving loan fund** - Section 19 amends Section 61-02-78(1) to limit the total allocation to the infrastructure revolving loan fund from the resources trust fund to \$26 million. Section 25 directs the State Treasurer to transfer any oil extraction money exceeding \$26 million which have been deposited in the infrastructure revolving loan fund from the infrastructure revolving loan fund to the resources trust fund.

**Bank of North Dakota line of credit** - Section 20 amends Section 61-02-79 to reduce the State Water Commission's authority for a Bank of North Dakota line of credit from \$200 million to \$75 million and changes the interest rate from 1.75 to 1.5 percent over the 3-month London InterBank Offered Rate, up to 3 percent for water supply and flood control projects approved before June 30, 2019.

**Economic analysis process** - Section 21 amends a new section to Chapter 61-03, as created by Section 12 of House Bill No. 1374, as approved by the 65<sup>th</sup> Legislative Assembly, to change the dollar threshold for which a project requires an economic analysis from \$750,000 to \$1,000,000. Section 28 provides that this section becomes effective on August 1, 2017.

**Temporary use permits - Little Missouri River** - Section 22 amends Section 61-29-06 to authorize the State Water Commission to issue temporary use permits within the confines of the Little Missouri Scenic River and all Little Missouri River tributary streams.

**Authority of the Western Area Water Supply Authority** - Section 23 amends Section 61-40-05 to authorize the Western Area Water Supply Authority to issue revenue bonds, and that the provisions of Chapters 40-35 and 40-36 apply to the extent necessary and consistent with Section 12 of House Bill No. 1020. Section 29 provides that Section 23 is contingent on certification by the Industrial Commission to the Legislative Council that the Industrial Commission has determined the

Western Area Water Supply Authority shall repay its obligations to the Bank of North Dakota through the issuance of revenue bonds as provided under Subsection 2 of Section 12 of House Bill No. 1020.

**Western Area Water Supply Authority water rates** - Section 24 amends Section 61-40-11 to authorize the Industrial Commission to allow the Western Area Water Supply Authority to contract at competitive, floating, market rates for industrial water depot and lateral retail sales.

**Legislative Management study - Oil and gas industrial water use** - Section 26 requires a Legislative Management study of the industrial water use of the oil and gas industry and taxes or fees other states charge for water used in the oil industry during the 2017-18 interim.

**State Water Commission 2019-21 biennium budget** - Section 27 requires the format of the State Water Commission's 2019-21 biennium agency budget request to include a salaries and wages line item, operating expenses line item, capital assets line item, project carryover line item, and new projects line item. The section provides that the commission may include additional lines as it determines necessary. The section also requires the commission to present funding for projects in a manner consistent with the funding designations identified in the bill. **The Governor vetoed this section.**

**Emergency** - Section 30 provides that Sections 9, 10, 11, 12, 22, 23, and 29 are declared to be emergency measures.

#### **Related Legislation**

**House Bill No. 1055** - Amends Section 61-16.1-16 to increase the maximum allowed outstanding revenue bonds for water resources districts from \$10 million to \$50 million.

**House Bill No. 1374** - Creates new sections to Chapters 61-02 and 61-03 relating to contracts and financial assistance for water projects and duties of the State Engineer and amends various sections in Chapter 61-02 relating to definitions of types of financial assistance for water projects and the composition and operation of the State Water Commission.

**Senate Bill No. 2047** - Amends Section 61-16.1-09(2) to change the process by which water resource boards exercise the power of quick take eminent domain.

**Senate Bill No. 2269** - Creates Section 61-39-04.1 relating to authorization of a state Red River Valley Water Supply Project and amends various sections of Chapters 61-24, 61-24.7, and 61-39, relating to the powers of the Lake Agassiz Water Authority and funding for the Red River Valley Water Supply Project. The bill authorizes the Garrison Diversion Conservancy District to continue studying, planning, developing, and constructing a nonfederal project to meet the water supply needs of eastern and central North Dakota separate and apart from the federal Red River Valley Water Supply Project.

**Senate Bill No. 2270** - Amends various sections of Chapters 61-09.4, 61-24, and 61-24.8 relating to financing options for the Garrison Diversion Conservancy District and notice of assessments. The bill identifies the Garrison Diversion Conservancy District and the Lake Agassiz Water Authority as political subdivisions, authorizing the conservancy district and water authority to bond in accordance with bonding requirements of the state.