

**State Water Commission
Budget No. 770
House Bill Nos. 1020 and 1431**

	FTE Positions	General Fund	Other Funds	Total
2021-23 legislative appropriations¹	90.00	\$0	\$540,799,129	\$540,799,129
2021-23 base budget	90.00	0	867,254,091	867,254,091
Legislative increase (decrease) to base budget	0.00	\$0	(\$326,454,962)	(\$326,454,962)

¹The 2021-23 appropriation does not include carryover funding. Section 5 of House Bill No. 1020 provides authority for the State Water Commission to continue unexpended funds from the 2019-21 biennium into the 2021-23 biennium and as a result the Legislative Assembly removed the carryover appropriation line item from House Bill No. 1020 (2021).

**SUMMARY OF LEGISLATIVE CHANGES TO THE BASE BUDGET AND MAJOR FUNDING ITEMS
Changes to Base Budget**

	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Adjusted funding for base payroll changes			\$230,410	\$230,410
Added funding to provide employee salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100 and 2.0 percent on July 1, 2022			443,344	443,344
Added funding for employee health insurance premiums to reflect a revised premium estimate of \$1,428.77 per month			4,415	4,415
Removed 1 FTE risk mapping position and related federal funds	(1.00)		(183,884)	(183,884)
Added 1 FTE regulatory position and related funding from the resources trust fund	1.00		211,596	211,596
Adjusted funding for state projects in capital assets to provide a total of \$148,467,437			(3,081,566)	(3,081,566)
Removed appropriation of carryover project funding			(308,333,818)	(308,333,818)
Reduced funding for water supply grants to provide a total of \$125,000,000			(3,000,000)	(3,000,000)
Increased funding for rural water supply grants to provide a total of \$59,600,000			22,400,000	22,400,000
Removed funding in the Fargo area flood control line item			(66,500,000)	(66,500,000)
Removed funding in the Mouse River flood control line item			(82,500,000)	(82,500,000)

Removed funding in the flood control projects other than Fargo area flood control including the Fargo Moorhead diversion line item; created and added funding to a new flood control projects line item to provide a total of \$48,000,000		0	0
Reduced funding for general water grants to provide a total of \$14,227,275		(12,866,501)	(12,866,501)
Removed base level funding for debt payments		(7,236,750)	(7,236,750)
Increased funding for professional services to provide a total of \$23,317,420		1,713,735	1,713,735
Increased funding for utility expenses		101,700	101,700
Increased funding for repairs to provide a total of \$1,604,750		497,250	497,250
Increased funding for IT and equipment over \$5,000		14,009	14,009
Added funding for Microsoft Office 365 license expenses		10,245	10,245
Adjusted funding for other operating expenses		20,853	20,853
Added one-time funding from a Bank of North Dakota line of credit for the Northwest Area Water Supply Project		50,000,000	50,000,000
Added one-time funding for basinwide plan implementation		1,100,000	1,100,000
Added one-time funding for State Water Commission discretionary water project funding		6,000,000	6,000,000
Provided one-time funding from the resources trust fund for the Mouse River flood control project (House Bill No. 1431)		74,500,000	74,500,000
Total	<u>0.00</u>	<u>\$0</u>	<u>(\$326,454,962)</u>

FTE Changes

The Legislative Assembly approved 90 FTE positions for the State Water Commission for the 2021-23 biennium, the same as the 2019-21 biennium. The Legislative Assembly removed 1 FTE risk mapping position and related federal funds and added 1 FTE regulatory position and related funding from the resources trust fund.

One-Time Funding

The following is a summary of one-time funding items for the State Water Commission for the 2021-23 biennium:

	General Fund	Other Funds	Total
Bank of North Dakota line of credit for the Northwest Area Water Supply Project		\$50,000,000	\$50,000,000
Basinwide plan implementation		1,100,000	1,100,000
Discretionary water project funding		6,000,000	6,000,000
Mouse River flood control project (House Bill No. 1431)		74,500,000	74,500,000
Total	\$0	\$131,600,000	\$131,600,000

Fargo Flood Control

The schedule below provides a history of funding provided for the Fargo diversion project.

Funding for the Fargo Diversion Project							
	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21	2021-23
State Water Commission approved funding House Bill No. 1431 (2021)	\$45,000,000	\$30,000,000	\$100,000,000	\$129,000,000	\$66,500,000	\$44,000,000 ¹	\$435,500,000
Cumulative state funding commitment	45,000,000	75,000,000	175,000,000	304,000,000	370,500,000	414,500,000	850,000,000
Remaining to be committed	0	0	275,000,000	266,000,000	199,500,000	335,500,000	0
Legislative intent ²	\$45,000,000	\$30,000,000	\$450,000,000	\$570,000,000	\$570,000,000	\$750,000,000	\$850,000,000

¹Due to the reduction in oil tax revenues deposited in the resources trust fund during the 2019-21 biennium, the sponsors of the Fargo Diversion project requested only \$44 million of the \$66.5 million provided by the Legislative Assembly.

²Funding for the Fargo diversion project was appropriated by the 2009, 2011, 2013, 2015, 2019, and 2021 Legislative Assemblies and included legislative intent to provide a total of \$850 million, of which \$414.5 million has been appropriated by the Legislative Assembly and approved by the State Water Commission for the project through the 2019-21 biennium. The 2021 Legislative Assembly increased legislative intent by \$100 million, from \$750 million to \$850 million, for the Fargo diversion project and provided \$435.5 million from bond proceeds to fully fund the \$850 million state commitment for the Fargo diversion project.

Mouse River Flood Control

The schedule below provides a history of funding provided for the Mouse River flood control project.

Funding for the Mouse River Flood Control Project			
	2017-19	2019-21	2021-23
State Water Commission approved funding House Bill No. 1431 (2021)	\$51,232,793	\$49,500,000 ¹	\$74,500,000
Cumulative state funding commitment ²	193,000,000	193,000,000	604,000,000
Remaining to be committed	141,767,207	95,267,207	529,500,000
Legislative intent ²	\$193,000,000	\$193,000,000	\$604,000,000

¹Due to the reduction in oil tax revenues deposited in the resources trust fund during the 2019-21 biennium, the sponsors of the Mouse River flood control project utilized only \$49.5 million of the \$82.5 million provided by the Legislative Assembly and approved by the State Water Commission.

²Funding for the Mouse River flood control project, which focused on flood control within the city limits of Minot, was provided by the 2017 and 2019 Legislative Assemblies and included legislative intent to provide a total of \$193 million, of which \$100.7 million had been provided. The 2021 Legislative Assembly broadened the use of the funding to include both outside and inside the city limits of Minot and provided new legislative intent that the state provide \$604 million which excludes any funding provided prior to the 2021-23 biennium.

Other Sections in House Bill No. 1020

Additional income - Appropriation - Section 3 appropriates any additional amounts that become available in the resources trust fund to the State Water Commission, subject to Budget Section approval, for defraying the expenses of the State Water Commission for the 2021-23 biennium.

Appropriation - Resources trust fund - State Water Commission discretionary funding - Section 4 appropriates one-time funding of \$6 million from the resources trust fund for the purpose of providing discretionary water project funding to the State Water Commission. The State Water Commission may allocate the funding based on the needs of the state.

Grant and water project carryover authority - Section 5 provides 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 and may be carried 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.

Carryover funding reports - Legislative Management - Section 6 creates 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.

Bank of North Dakota - Line of credit - Section 7 amends Section 61-02-79 to continue the authorization of a line of credit at the Bank of North Dakota, not to exceed \$50 million, at the prevailing interest rate charged to North Dakota government entities. The State Water Commission must 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 for the Northwest Area Water Supply Project during the 2021-23 biennium.

Western Area Water Supply Authority - Revenue bonds - Section 8 creates a new section to Chapter 61-40 authorizing the Western Area Water Supply Authority to issue revenue bonds.

Pilot project - Implementation of a basinwide plan - Section 9 provides that \$1.1 million in the basinwide plan implementation line item is to provide up to \$1 million in grants to water resource districts to develop basinwide water plans and up to \$100,000 in the form of grants for local administrative costs associated with the implementation of a basinwide plan.

Directive - Fargo flood control project - Legislative intent - Section 10 provides 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.

Directive - Mouse River flood control project - Legislative intent - Section 11 provides 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.

Rural water supply - Legislative intent - Section 12 provides 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.

Legislative Management - Red River Valley Water Supply Project management - Section 13 provides for a Legislative Management study in conjunction 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 project.

Legislative Management - Northwest Area Water Supply Project management - Section 14 provides for 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.

Emergency - Section 15 declares the bill to be an emergency.

Related Legislation

House Bill No. 1063 - Northwest Area Water Supply Advisory Committee - This bill amends Sections 61-24.6-02 and 61-24.6-10 relating to the membership on the Northwest Area Water Supply Advisory Committee and the areas to be served by the Northwest Area Water Supply Project.

House Bill No. 1353 - State Water Commission Director - This bill creates a director position and renames the State Engineer's office the Department of Water Resources.

House Bill No. 1431 - Bonding - Revolving loan programs - This bill combines the community water development fund and the infrastructure revolving loan fund within the resources trust fund into the water infrastructure revolving loan fund. The bill also provides funds from bonding to repay \$74.5 million to the resources trust fund for outstanding debt of the Western Area Water Supply Authority and appropriates \$74.5 million from the resources trust fund to the State Water Commission to provide grants for Mouse River flood control projects. The bill also provides \$435.5 million of bond proceeds for the Fargo diversion project.

House Bill No. 1437 - Subsurface water management systems - This bill creates Section 61-32-03.2 relating to small subsurface water management systems, provides for the permitting of subsurface water management systems, and provides for cost-share from the State Water Commission.

Senate Bill No. 2081 - Permissible floodway uses - This bill amends Sections 61-16.2-06 and 61-16.2-08 relating to permissible uses in the floodway and flood fringe under the National Flood Insurance Program.